

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE**

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.75 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Vrundavan Realtors
"Lake Attic" - Unregistered

.... Respondent

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :- Adv. Aniket Thormote

ORDER

24th November, 2023
(Through Video Conferencing)

1. MahaRERA Authority has issued show-cause notice on dated 28.06.2023 to the respondent-promoter for publishing the advertisement in daily newspaper "Maharashtra Times" on 04.06.2023 in respect of real estate project by name "Lake Attic" situated near Bhatghar Dam, village Harnas, Tal. Bhore, District Pune, without registering the same with MahaRERA, and thereby violated Section 3 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016").
2. The respondent-promoter has submitted his reply on 10.11.2023 contending therein that aforesaid project being agricultural plotting scheme the same is not required to be registered under RERA Act with MahaRERA Authority. The respondent-promoter has admitted that he has published advertisement of his project, but denied the allegations of non-registration of the real estate project under RERA for the reason that the said project is an agricultural plotting scheme and he had not obtained any sanction or approval from any competent authority. The respondent-promoter has referred the findings of MahaRERA Authority in complaint No. SC10000227 and MahaRERA Real Estate Appellate Tribunal Appeal No.

U-21 in SC10000227. According to him, aforesaid judgment of the Appellate Tribunal clearly states that project without sanction/approval i.e. agricultural plots, do not require to be registered with MahaRERA. In view of this, the respondent-promoter prayed for dismissal of this case.

3. The respondent-promoter has furnished on record copies of the 7/12 extracts of Gat No.736 of village Harnas, Tal. Bhore, District Pune, partnership deed, dated 17.03.2022 and affidavit of the Vrundavan Realtors, dated 18.11.2023. It can be seen from the 7/12 extracts that the names of the partners of Vrundavan Realtors i.e. promoters, have been entered in the 7/12 extracts of Gat No.736 of village Harnas, Tal. Bhore, District Pune. The said lands are agricultural lands. In the affidavit submitted by the respondent-promoter dated 18.11.2023 it has been specifically stated that the project named "Lake Attic", Gat No.736, village Harnas, Tal. Bhore, District Pune is an agricultural plotting scheme. As such the documents on record indicates that the lands in question are agricultural lands.
4. Heard learned Advocate Aniket Thormote for the respondent-promoter. He has also submitted that the project of the respondent-promoter is an agricultural plotting scheme and therefore, do not require registration under the Act, 2016. According to him, this is not a 'real estate project' being the plot of lands is agricultural lands and the project on agricultural land need not be registered under the Act of 2016.
5. Section 2 of the Act, 2016 deals with definitions. Section 2(zn) of the said Act, 2016, defines the expression '**real estate project**', which means ***"the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all***

improvements and structures thereon, and all easement, rights and appurtenances belonging thereto."

6. MahaRERA Authority in the complaint No. SC10000227 has held that, "the subject plot purchased by the complainant is an agricultural land as no Competent Authority has granted any N.A. order or permission otherwise for development of the said land". It was further held that the subject project was not a real estate project and is therefore, not liable for registration under Section 3 of the Act." This order of MahaRERA Authority was challenged before the MahaRERA Appellate Tribunal. The Hon'ble Appellate Tribunal in the case of Mohammed Zain Khan v/s. Emnoy Properties India and others, has held as under :-

"Since the first project continues to be an agricultural land in the absence of any orders, there is no need to register the said projects with the MahaRERA Authority."

7. The Hon'ble Appellate Tribunal in the aforesaid matter, in para 13(v) has held as under :-

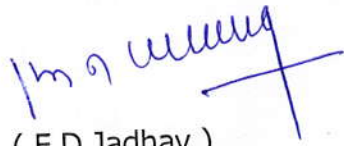
"In above circumstances, in agreement with the Authority and limited to the facts of this case, it is concluded that land pertaining to the First Project continues to be an agricultural land in the absence of any N.A. orders for its development. Therefore, we find no illegality or infirmity as such in the view taken by the Authority to hold that the First Project is not a real estate project for the reasons stated in the impugned order and therefore, the same is not liable to be registered under the Act."

8. The Hon'ble Appellate Tribunal has further *inter-alia*, held in para 13(vii) as under :-

"The contention of the Complainant, that he has been denied reliefs under the Act by the Authority by taking erroneous view (in para 13 of the Order) that provisions of the Act are applicable to the registered projects only, itself appears to be erroneous. Simply put, in our view, provisions of the Act shall apply to i) Registered projects, being liable to be registered and ii) projects liable to be registered but not registered (unregistered). However, in case a project is unregistered being not liable to be registered, as is the case in this appeal, provisions of the Act shall not apply to such a project. (Emphasis supplied).

9. Considering the documentary evidence adduced by the respondent viz. the 7/12 extracts of the lands, affidavit of partners as well as judgment and order passed by the MahaRERA Authority as well as Appellate Tribunal in the aforesaid matter, it is crystal clear that the lands of this project are agricultural lands and therefore, do not fall within the four corners of the definition of the 'real estate project', as defined under Section 2(zn) of the Act of 2016. Consequently, this project is not required to be registered with MahaRERA Authority.

10. In view of the above, it can be said that the case against the respondent is not established. As such there is no violation of Section 3 of the Act of 2016 in regards to this project. Considering this, the penalty provision of Section 59 of the Act of 2016 for the purpose of imposing penalty would not attract in this matter. The matter stands disposed off accordingly.


(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune