

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 76 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Yavat Realty
Indralok Nagari

.... Respondent

MahaRERA Project Registration No.P52100051672

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

Appearance :- Karan Jadhav, A.R. for respondent.

ORDER

5th December, 2023
(Through Video Conferencing)

1. MahaRERA Authority has issued show cause notice, dated 30.05.2023 to the respondent-promoter for publishing advertisement on the pamphlet in respect of project "Indralok Nagari" situated at Gat No.871, 872, 873, 874, Yavat, Tal. Daund, District Pune without registering the said project with MahaRERA and thereby violating the provision of Section 3 of the Maharashtra Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016).
2. The respondent-promoter has filed his reply on 01.12.2023. He has submitted in his reply that he has received N.A. order on 20.04.2023. He has further submitted that he had applied to MahaRERA Authority on 17.05.2023 for registration of this project. He has received registration certificate from MahaRERA Authority on 27.06.2023. According to him, show cause notice from MahaRERA was received to him between the filing of application for registration with RERA and RERA certificate being generated. In view of this, according to him, he has not violated the provision of Section 3 of the Act, 2016.

3. Mr. Karan Jadhav, A.R. for respondent reiterated the contentions mentioned in the reply. According to him, the promoter has received N.A. certificate from the District Collector and Development permission from the Commissioner, P.M.R.D.A. The promoter has submitted copy of letter issued by the Resident District Collector, Pune to the Commissioner, P.M.R.D.A. dated 20.04.2023 and temporary development permission for the said project on 24.04.2023. He has also submitted 7/12 extract of the land Gat Nos. 871, 872, 873, 874, receipt of payment made by the promoter to the MahaRERA Authority, dated 17.05.2023 for registration of his project, registration certificate of the project "Indralok Nagari" issued by MahaRERA Authority dated 27.06.2023, etc.

4. Copy of impugned advertisement is on record. It can be seen from the advertisement that N.A. "bungalow plot" as well as project registered under RERA has been mentioned in the advertisement. The 7/12 extract of this plotted development project manifestly indicates that the said lands are N.A. lands. The letter issued by the Resident Deputy Collector to the Commissioner, P.M.R.D.A. indicates that the said letter has been issued under Section 42(C) of the Maharashtra Land Revenue Code, 1966. Section 42(C) of the Code, 1966 deals with provision for conversion of land use for lands included in the draft Regional Plan. Sub-Sec.(1) thereof reads as under :-

"Sec. 42C(1) – Where a land is situated in an area, for which draft Regional plan has been prepared and necessary notice regarding such Regional draft plan has been duly published in the Official Gazette or such Regional plan has been approved and published in the Official Gazette, the use of such land for the purposes of section 42 of section 44, shall be deemed to have been converted to corresponding non-agricultural use, once development permission on such land under Section 18 of the Maharashtra Regional and Town Planning Act, 1966 is granted, if the conversion tax and non-agricultural assessment, as per the provision of this Act, and, in respect of a land held as

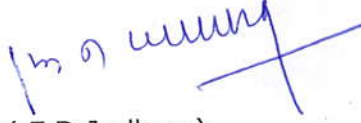
Occupant Class-II, nazarana or premium or other Government dues levied for such conversion, as per the prevailing orders of the Government and the relevant provisions of the law, are paid."

5. It can be seen from the record that the promoter had applied for registration of the said plotted scheme with MahaRERA on 17.05.2023 i.e. prior to issuance of show-cause notice to this promoter i.e. 30.05.2023. It means the application for registration was pending before MahaRERA Authority, when the impugned advertisement was published. However, since the N.A. order was received to the respondent-promoter prior to publishing the advertisement, there was no necessity to register this project with MahaRERA. Despite this fact, the respondent-promoter went to register this project with MahaRERA prior to publishing advertisement. Considering this factual aspect, it can be said, there is no violation of Section 3 of the Act, 2016.
6. Circular No.25/2019, dated 11.10.2019 issued by MahaRERA Authority deals with clarification regarding registration of agreement for sale/sale-deed for real estate projects. Para 1 thereof speaks about "Real estate projects that are excluded from MahaRERA registration". Clause 3 thereunder states that "Real estate projects where promoter has received completion certificate/O.C./N.A. (in case of plotted development) from Competent Authority, anytime before agreement for sale/sale deed registration. Since in this matter N.A. order was received by the promoter against this plotted project, this project squarely falls within the scope of clause 3 of para 1 of Circular No.25/2019. It means this project will get exemption from the registration of the project.
7. Considering the N.A. permission issued by the District Collector in respect of the plots mentioned hereinabove and development permission by Commissioner, P.M.R.D.A., Pune, it can be said that there was no necessity to register the said project with MahaRERA. In spite of this, this promoter had applied to register the said project with MahaRERA prior to issuance of show

cause notice to him. It can also be seen that on 27.06.2023 this promoter has received registration certificate of this project Indralok Nagari from MahaRERA. Therefore, it cannot be said that the said project was not registered with MahaRERA. As such there is no violation on the part of the promoter under Section 3 of the Act, 2016.

8. Taking into consideration the facts of the present case supported with the documents produced on record, it can be said that there is no violation of Section 3 of the Act, 2016. Therefore, this is not a fit case to invoke the provision of Section 59 of the Act, 2016.

9. The matter therefore, stands disposed off without imposing penalty upon the respondent-promoter.


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