

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

SUO MOTU ADVERTISEMENT CASE NO. 36 OF 2023

MahaRERA on its own Motion Complainant

Versus

Jain & Associates Respondent/ Promoter

**MahaRERA Project Registration No. – Unregistered with
MahaRERA**

Coram: Shri.Sanjay Bhimanwar,Dy.Secretary, MahaRERA

Mr.Pritam Kandi appeared for the respondent/ promoter.

ORDER

02nd February 2024

(Through Video Conferencing)

1. The Maharashtra Real Estate Regulatory Authority has delegated certain powers on me dated 26/04/2023 under Section -81 of the Real Estate (R&D)Act 2016(hereinafter called as " Act 2016").The said powers, inter alia, contains imposing of penalty under section-59 of the Act-2016 for contravention of section -3 of the Act,2016 by the promoter and to impose penalty under section-61 of the Act,2016 for contravention of section-11(2) of the Act,2016 by the promoter. In Exercise of the powers delegated to me under section 81 of the Act,2016, notices were served to the parties, heard the parties and thereafter matter is disposed of.
2. The MahaRERA authority had issued a show cause notice dated 20/11/2023 to the promoter above named for publishing an advertisement dated 23/10/2023 & 24/10/2023, in Prajawani, Daily Newspapers, Nanded in regard to the projects 1) Jagannath Residency , 2) Sai Apartment 3)

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Abhinandan Vatika situated at Malegaon road, Nanded without registering the said projects with the MahaRERA which is in violation of section 3 of the Act-2016.

3. The promoter, by its reply dated 02/02/2024 to the said show cause notice dated 20/11/2023 had submitted that the aforesaid projects were built on plot area less than 500sq.mt. and hence MahaRERA registration was not applicable to the aforesaid projects. The Promoter had also submitted the sanction plans of the aforesaid projects sanctioned by Nanded -Waghala Municipal corporation and other supporting documents.
4. In this regard, the hearing was scheduled on 02/02/2024 through video conferencing as per the MahaRERA Circular No. 27/2020 and MahaRERA Order No. 593/2023, when the promoter appeared and made its submissions.
5. During the hearing, the promoter reiterated that the aforementioned projects are built on plot area less than 500Sq.mt. and hence, the project does not require to comply with RERA.
6. In this regard, it is necessary to peruse the provision of Section 3 of the RERA which reads as under:

(1) "No Promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment, or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act."

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required— (a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

7. From the plain reading of Section 3(1), the Promoter is under obligation not to advertise, market, book, sell or offer for sale, or invite persons to purchase any plot, apartment or building, without registering the real estate project with MahaRERA. Further, according to section 3(2) registration of real estate project shall not be required where area of land proposed to be developed does not exceed five hundreds square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases.
8. Also, in this regard, it is necessary to pursue the Circular No 25A / 2023 which reads as under:
- 1) Real Estate Projects where the area of land proposed to be developed is less or equal to five hundred square meters shall not require MahaRERA Project Registration irrespective whether the numbers of apartments / units proposed to be developed is less than or more than eight apartments/units as the case may be inclusive of all phases.***
9. In the present case, the Promoter had published a quarter page advertisement dated 23/10/2023 & 24/10/2023 in Prajawani, Daily newspaper, Nanded without registering the said project with MahaRERA. However, it has been established from the supporting documents that the aforesaid projects have a land area of less than 500sq.m. Hence, the promoter is not in violation of section 3 of the Act 2016.
10. In view of the above, the present case stands closed.


(Sanjay Bhimanwar)
**Dy.Secretary,
MahaRERA,Nagpur.**