

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 04 OF 2024**

MahaRERA on its own Motion Complainant

Versus

Tulsi Developers. Respondent
"Tirupati Park"
Unregistered Project

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

Appearance :- C.A. Mr. Yash Nagar for Respondent.

ORDER

13th February, 2024
(Through Video Conferencing)

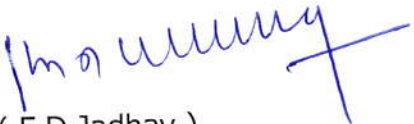
1. MahaRERA has issued show cause notice, dated 21.12.2023 to the Respondent-Promoter as to why penalty should not be imposed upon him under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") for publishing advertisement of his real estate project "Tirupati Park" situated at Balapur Kaman, Beed Bypass, Chhatrapati Sambhaji Nagar in daily newspaper "Lokmat" on dt. 26.11.2023 without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Act, 2016.
2. In pursuance of the aforesaid show-cause notice, Respondent-Promoter has filed his reply, dated 01.01.2024. The respondent has contended that the project is plotting project wherein he has completed the internal work such as roads, drainage, pipeline and other work as mandated by commencement certificate. The respondent has further contended that N.A. Order as well as the final approval letter has been received and as per MahaRERA Circular once N.A. order is received in case of plotting project, no RERA Registration is required.

3. C.A. Mr. Yash Nagar for respondent appeared in the matter. Heard Mr. Yash Nagar on behalf of respondent. He has reiterated the contentions made out in the reply by the promoter. Mr. Yash Nagar has submitted that the project has received N.A. order and final layout approval and therefore, according to him there is no any breach on the part of the promoter as per the Circular No.25/2019 and 25A/2023.
4. Perused the impugned advertisement. It has been mentioned therein the words CIDCO NA-44 Layout and ready plots for construction. The promoter has furnished documents on record in support of his reply including Final Layout Permission, dated 23.10.2023 and No Objection Certificate for sale of plots, dated 23.10.2023 issued by the Senior Planner (New Towns), Aurangabad Fringe Area, CIDCO, New Aurangabad, N.A. Sanad/order, dated 21.08.2023 issued by the Addl. Tahsildar, Aurangabad and 7/12 extract of the land under the project. The 7/12 extract of land bearing Gat No.13 of village Balapur, Tal. Aurangabd, District Aurangabad wherein in owner's column, names of Vijay Mhaslekar and Sureshchandra Tarachand Sankhla have been mentioned. The final layout permission dated 23.10.2023 shows that the final approval has been given for the land from Gat No. 13 (P) of village Balapur, Tal. Aurangabad, District Aurangabad under Section 45 of the Maharashtra Regional and Town Planning Act, 1966 in the name of the said land owners on certain terms and conditions mentioned therein. The said Authority has also issued No Objection Certificate, dated 23.10.2023 for sale of plots under the said project. The N.A. Sanad/Order, dated 21.08.2023 issued by the Addl. Tahsildar, Aurangabad shows that it has been issued under Section 42-A of the Maharashtra Land Revenue Code, 1966 for using the said land for Non-Agricultural/Residential purpose.
5. Maharashtra Real Estate Regulatory Authority (hereinafter referred to as 'MahaRERA') has issued Circular No. 25/2019, dated 11.10.2019 regarding clarification in respect of registration of agreement for sale/sale-deed for real estate projects. It has been mentioned in the said circular in

regards to real estate projects that are excluded from MahaRERA Registration. Para 1 of said Circular deals with "Real estate projects that are excluded from MahaRERA Registration". Serial No.3 therein specifically states that real estate projects where promoter has received completion certificate/occupancy certificate/N.A. order (in case of plotted development) from competent authority, any time before agreement for sale/sale-deed registration, are excluded from MahaRERA registration (emphasis supplied). In other words, real estate project where promoter has received completion certificate/occupancy certificate/N.A. order in relation to plotted development prior to the date of advertisement, the said project can be said to be exempted from MahaRERA Registration. MahaRERA has issued another Circular No. 25A/2023, dated 09.06.2023 regarding real estate projects that are excluded from MahaRERA Registration. This circular supplements circular No.25/2019, dated 11.10.2019 regarding serial Nos.1 and 2 enumerated therein. However, Serial No.3 in the earlier circular, dated 11.10.2019, remained unchanged and still in force till the date. The impugned advertisement has been published by the promoter in daily newspaper "Lokmat", dated 26.11.2023 viz after receiving N.A. order. Therefore, considering Serial No.3 from circular No.25/2019, dated 11.10.2019, it can be said this project squarely falls within the scope of serial No.3 of Para 1 and consequently this project need no registration as it has already received N.A. order, final layout permission and N.O.C. to sale the plots from Competent Authority prior to publishing advertisement.

6. Considering the evidence on record adduced by the respondent-promoter and the provisions of the Act, 2016 it can be said, no case is made out against the respondent-promoter for violation of Section 3 of the Act, 2016. There is no iota of evidence to prove that this respondent has breached the Section 3 of the Act of 2016. Under these circumstances, Section 59 of the Act of 2016 cannot be invoked in the matter. Consequently, the penalty under Section 59 of the Act, 2016 cannot be imposed in the present matter.

7. The matter therefore, stands disposed off without imposing any penalty.


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