

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 61 OF 2024**

MahaRERA on its own Motion Complainant

Versus

Mittal Project (Mittal Group) Respondent-Promoter

**NAME OF THE PROJECT : SUN CITY AMBEGAON PHASE-1
MahaRERA Project Registration No.P52100026141**

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

Appearance :- Mr. Parmeshwar Telang, A.R. for Respondent-promoter.

ORDER

18th June, 2024

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued an intimation letter, dated 19.03.2024 to the respondent and thereby informed that the advertisement published by the respondent on Instagram of a real estate project under the name "Sun City Ambegaon Phase-1" does not contain MahaRERA Registration number, MahaRERA website address and QR Code and the same is considered to be prima facie in contravention of Real Estate (Regulation & Development) Act, 2016. ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than April 01, 2024.
2. Since the respondent has not complied with the directions issued by the ASCI vide intimation letter, dated 19.03.2024, the ASCI has sent mail, dated 15.04.2024 and referred the matter to MahaRERA, Pune for initiating the suo-motu

- complaint/proceeding against the respondent for disposal according to law.
3. On the basis of mail dated 15.04.2024 sent by ASCI, a notice of hearing has been sent to the respondent on 25.04.2024 for attending the virtual hearing, dated 31.05.2024.
 4. Respondent-promoter has filed his reply, dated 31.05.2024 and denied the contentions in the notice. It is contended by the respondent that they have complied with the provisions of Maharashtra Real Estate Regulatory Authority, Pune in respect of their website mentioned in the said reply and have uploaded QR Codes/MahaRERA Registration Number of the subject site on the website. Respondent has further contended that they have made all the changes and compliances as per directions.
 5. Mr.Parmeshwar Telang, A.R. appeared on behalf of respondent. He has submitted that they have already complied with the directions issued by ASCI and the ASCI has informed them that the matter is resolved. This office has received email, dated June 14, 2024 from ASCI and thereby ASCI has informed that total 9 complaints were processed with regard to 'Mittal Group', out of which ASCI has received compliance for 5 matters and for the remaining 4 complaints were marked as non-compliance and their updates were included in March 2024 report. ASCI has further stated that compliance for these 4 matters was received on June 3, 2024, which is after the due date prescribed and after the March report had been released.
 6. Perused the impugned advertisement on record. From reading the said advertisement, it appears it does not contain the MahaRERA Registration number and QR Code. It certainly denotes violations of the said mandatory provisions by the respondent.

7. The charges are leveled against the respondent-promoter for violation of Section 11(2) of the Act, 2016 and violation of directions issued in MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023. In the reply, the respondent has contended that they have already complied with the directions issued by the ASCI and made the necessary changes and compliance in the impugned advertisement and informed the ASCI accordingly. However, during the course of hearing, Mr. Parmeshwar Telang, A.R. on behalf of the respondent has voluntarily admitted that the compliance was made in June, 2024 i.e. after the due date mentioned in the intimation letter issued by ASCI.

9. So far as violation of QR Code is concerned, it can be said MahaRERA Order No.46/2023 and 46A/2023 is required to be discussed for deciding that whether there is violation of the same on the part of the respondent. By MahaRERA Order No. 46/2023, dated 29.05.2023, MahaRERA issued following directions to the promoters.

- The promoter shall prominently display QR Code on each and every real estate project promotion/advertisement published after "1st August, 2023".
- The QR Code must be published in a manner that is legible, readable, and detectable with software application.
- The QR Code must be published besides the MahaRERA Registration Number and the Website address.

The mediums of the promotion/advertisement have also been described in the said Order.

10. MahaRERA has further issued directions vide MahaRERA Order No.46A/2023, dated 25.07.2023, whereby penalty which may be extended upto Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs. 10,000/- is to be imposed under Section 63 of the Act,

2016 against the promoter who fails to comply with the directions issued by MahaRERA Order No.46/2023.

11. Admittedly, the impugned advertisement does not contain the QR Code of the aforesaid real estate project. As such it is proved that by publishing the said advertisement in question without mentioning QR Code, the respondent has contravened the directions issued in the MahaRERA Order No.46/2023, dated 29.05.2023 and Order No. 46A/2023, dated 25.07.2023.

12. Now the next charge against the respondent is Section 11(2) of the Act 2016. Section 11(2) of the Act, 2016 reads as under :-

"Section 11(2) The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."

13. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the MahaRERA Registration number of the project prominently in the advertisement issued by him. Perused the impugned advertisement. It does not contain RERA Registration Number of the said real estate project. Mr. Parmeshwar Telang, A.R. for respondent has also admitted this charge while arguing with the matter before the Authority. There is documentary evidence on record which unequivocally shows that MahaRERA Registration Number as well as MahaRERA Website Address was not mentioned in the impugned advertisement. The Promoter has also admitted to have published the impugned advertisement. Therefore, by publishing the said advertisement in question without mentioning MahaRERA registration number, manifestly

shows that promoter has breached Section 11(2) of the Act, 2016 and therefore, liable for penalty under Section 61 of the Act, 2016.

14. Considering the facts *vis-a-vis* law discussed hereinabove and the voluntary admission of the respondent-promoter, it can be said that it has been proved beyond reasonable doubt that the promoter has violated the provision of Section 11(2) of the Act, 2016 for publishing the advertisement without MahaRERA registration number and also contravened the directions issued under MahaRERA Order No.46/2023 and 46A/2023, as stated supra.
15. Mr. Parmeshwar Telang, A.R. on behalf of the respondent has submitted that the respondent has changed/modified the impugned advertisement as per directions of ASCI, though belatedly and urged to show leniency while imposing the penalty. In this matter, the ASCI has also informed to this Authority that the respondent has complied with directions on June 3, 2024. Considering the compliance of the requirement by the respondent though at later date, this is a fit case to take lenient view while imposing penalty against the respondent.
16. Penalty of Rs.10,000/- under Section 63 of the Act, 2016 has been imposed against the respondent-promoter for contravention of the directions issued by the MahaRERA Authority by Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
17. Penalty of Rs.10,000/-has also been imposed against the respondent-promoter under Section 61 of the Act, 2016 for violation of the provision of Section 11(2) of the Act, 2016.
18. Both the aforesaid penalties shall be payable by the respondent within 15 days from the date of this order, failing which respondent shall be liable to penalty of Rs.1000/- per day in addition, till the compliance.

19. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by promoter for extension, corrections, change of name etc., with respect to the said project.



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