

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 157 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Shree Properties

.. Respondent-Promoter

Project – Shree Arihant

Maharera Real Estate Project Registration No. P53100021546

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

Appearance :- Poonam Sameer Kulkarni and Amol Mahadeo Badodekar,
Partners of Respondent.

ORDER

8th October, 2024
(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued an intimation letter, dated 19.07.2024 to the respondent and thereby informed that the advertisement published by the respondent on Property Portal i.e. Housing.com in respect of a real estate project under the name "Shree Arihant" does not contain 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 ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than July 30, 2024.
2. Since the respondent has not complied with the directions issued by the ASCI vide intimation letter, dated 19.07.2024, the ASCI has sent mail, dated 09.08.2024 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 09.08.2024 sent by ASCI and on perusal of the impugned advertisement, it has been transpired that the impugned advertisement though contains RERA Registration number, but it does not contain the Maharera website address beside the RERA Registration number and as such there is violation of Section 11(2) of the Act, 2016. Perusal of the impugned order further transpires that the QR Code has not been displayed in it. Therefore, it prima-facie discloses contravention of the MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023 on the part of the respondent-promoter. In the set of facts, a notice of hearing has been sent to the respondent on 26.08.2024 for attending the virtual hearing, dated 10.09.2024 at 11.30 a.m. and respondent-promoter was called upon to furnish his reply.
4. Respondent-promoter has appeared virtually and filed his reply, dated 10.09.2024. It is contended by the respondent that after receiving the notice of hearing, he came to know that he has mistakenly omitted to add the RERA number and QR Code, but due to an unfortunate incident he had in August was unable to see the submission mail and he immediately closed the advertisement after receiving the notice of hearing.
5. Poonam Sameer Kulkarni and Amol Mahadeo Badodekar, appeared on behalf of the respondent-promoter. They have reiterated the same contentions raised out by the respondent in his say. They voluntarily admitted the charges levelled in the notice of hearing, dated 26.08.2024.
6. The charges are leveled against the respondent-promoter for not mentioning the Maharera website address beside the RERA Registration number in the impugned advertisement and thereby violating provision of Section 11(2) of the Act, 2016 and for not displaying the QR Code in the impugned advertisement and thereby

dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023.

7. So far as 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 QR Code on the part of the respondent. By MahaRERA Order No. 46/2023, dated 29.05.2023, MahaRERA has 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.

8. The purpose and object for issuing directions by the MahaRERA Authority by MahaRERA Order No. 46/2023 is to bring greater transparency through disclosure of information on regular basis for public viewing, through online portal ensuring that maximum required information is available for public viewing in the most feasible manner, thereby empowering homebuyers/allottees to make informed choice/decisions in the ever-changing real estate market. Considering the aforesaid directions and the voluntary admission by the respondent-promoter, it can be said contravention of said directions under Order No. 46/2023 appears to have been proved that the impugned advertisement does not contain QR Code.

9. MahaRERA has further issued directions vide MahaRERA Order No.46A/2023, dated 25.07.2023, whereby penalty which may be extended up to 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.
10. Perusal of the impugned advertisement on record it can be seen that QR Code is not displayed in the impugned advertisement. Respondent has also unequivocally admitted that QR Code was not displayed. It certainly proves the violation of MahaRERA Order No. 46/2023 and Order No. 46A/2023 on the part of the respondent. Consequently this promoter is liable for violation of mandatory provision of QR Code.
11. The further charge against the respondent is that the impugned advertisement doesn't contain MahaRERA website address as required, and thereby it violated the provision of Section 11(2) of the RERA Act, 2016. Section 11(2) of the Act, 2016 reads as under :-

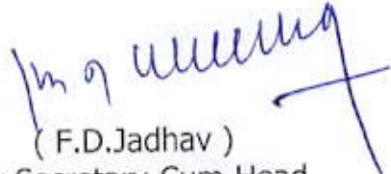
"Section 11(2) :- The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters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

12. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the RERA Registration number of the project as well as MahaRERA website address prominently in the advertisement issued by him. Perused

the impugned advertisement. It does not contain MahaRERA website address, as required. So also, the respondent-promoter in his reply and also during the course of hearing, has voluntarily admitted that the impugned advertisement does not contain the MahaRERA website address. Therefore, it has been explicitly proved that the respondent has violated the provision of Section 11(2) of the RERA Act, 2016 by publishing the impugned advertisement without containing the MahaRERA website address of his real estate project. As such provision of Section 61 of the Act, 2016 is to be invoked in the present matter.

13. 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 contravened the directions issued under MahaRERA Order No.46/2023 and 46A/2023 as well as provision of Section 11(2) of the RERA Act, 2016, as stated hereinabove. Therefore, penalty will have to be imposed for contravention of the said directions and violation of the said legal provision of the Act, 2016.
14. Penalty of Rs.20,000/- 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.
15. Further Penalty of Rs.20,000/- under Section 61 of the Act, 2016 has been imposed against the respondent-promoter for violation of Section 11(2) of the RERA Act, 2016.
16. Both the aforestated penalties shall be payable by the respondent within 15 days from the date of this order.

17. 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