

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

MUMBAI

SUO MOTO COMPLAINT NO : 7/2018

Secretary, MahaRERA Versus Ms Kabra & Associates

MahaRERA Reg. No: P51800000307, P51800000499, P51800002483

Coram: Shri Gautam Chatterjee, Hon'ble Chairperson

Order

08<sup>th</sup> February 2018

1. Section 3(1) of the Real Estate (Regulation and Development) Act, 2016 states that "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. Section 11(2) of the Real Estate (Regulation and Development) Act, 2016, states that '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'
3. Section 14 states that (1) the proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities. (2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the promoter shall not make— (i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:..... (ii) any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project




without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building.

4. With a view to having uniformity, MahaRERA had through scrolls on its website <https://maharera.mahaonline.gov.in> and also by sending emails, informed all the promoters of registered project, the manner MahaRERA Regn No. and MahaRERA website address should be displayed in various advertisements or brochures made by registered promoters.
5. In spite of the same, it has come to the notice of MahaRERA that the aforementioned promoter has published an advertisement in the newspaper Bombay Times dated 2<sup>nd</sup> February 2018. The mentioned advertisement has prima facie violated section 3(1) by advertising a non-registered project and section 11 (2) of the Act by not mentioning the website address of MahaRERA. In addition, the advertisement has carried a "Disclaimer" which also prima facie violates the provision of Section 14(2) of the Act.
6. Taking suo moto cognizance of the matter, the promoter was called upon on 8<sup>th</sup> February 2018, by a notice, to explain why they should not be penalized for the alleged violation of the provisions of the Act.
7. On the date of the hearing, the promoter appeared and was represented by their advocate. They accepted that the alleged violations of the provisions of the Act are totally inadvertent and they did not have any intention to show non-compliance towards the provisions of the Act or rules or regulations made there under. They offered unconditional apology and requested of not imposing any penalty for the alleged violation. They have further provided an undertaking that no such violation of the Act would happen in the future and the promoter will strictly comply with the provisions of the Act, rules, regulations and orders/circulars issued there under.
8. Section 59(1) of the Act states: If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority.
9. Section 61 of the Act states: If any promoter contravenes any other provisions of this Act, other than that provided under section 3 or section 4, or the rules or regulations made thereunder, he shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project as determined by the Authority.



10. MahaRERA accepts the contention of the promoter that the aforesaid violations of the provisions of the Act have happened unintentionally. Therefore, only a token penalty, under the provisions of section 59(1) penalty of Rs. 10,00,000/-and under section 61 of the Act Rs. 2,00,000/- is imposed and the Promoter is hereby directed to pay a penalty of Rs 12,00,000/- (Rupees twelve lakh only) and further warned to ensure that such violation is not repeated in future.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA