

Suo-Moto Case No. 1 of 2017.

Before Maharashtra Real Estate Regulatory Authority, Mumbai

Maharashtra Real Estate Regulatory Authority.....Complainant.

VS.

Sai Estate Consultant Chembur Pvt. Ltd.Respondent.

Order of suo-moto complaint

QUORAM

- 1) Shri Gautam Chatterjee
- 2) Dr. Vijay Satbir Singh
- 3) Shri B.D. Kapadnis

This is a suo-moto matter taken up by the Maharashtra Real Estate Regulatory Authority, when it has come to the notice of the Authority that the respondent Sai Estate Consultant Chembur Pvt. Ltd., a registered Real Estate Agent having MahaRERA registration No. REA 51800000147, has published advertisements of unregistered Real Estate Projects including that of Haware Builders, in various newspapers and also displayed their billboards/hoardings all -over the City.



pg 1 of 5

2. Documents placed before the Authority by the office do reveal that the respondent did not mention its registration number on some advertisements and mentioned incorrectly in some other advertisements. This prima facie appears to be the violation of Section 9(5) of Real Estate (Regulation and Development) Act, 2016 and rule 14 (1) and (2) of Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interest and disclosure on website) Rules 2017. These provisions require, every Real Estate Agent who has registered as per the provisions of the Act or Rules & Regulations made thereunder shall be granted registration number by the Authority, which shall be quoted by the Real Estate Agent in every sale facilitated by him under the Act.

3. The material placed before the Authority prima facie shows that the respondent advertised for Real Estate Projects, though the same had not been registered with MahaRERA. Section 10(a) of the Act mandates that the Real Estate Agent shall not facilitate sale or purchase of any plot or apartment or building in any Real Estate Project or part of it, situated in planning area which is not registered with the Authority.

4. After considering these facts, the Authority has decided to take suo moto cognizance in exercise of its powers conferred by Section 35 and the notice to the respondent has been issued to appear before the Authority and explain their stand in the matter.

5. Today in pursuance of the notice issued by the Authority, the respondent has appeared before us through their representative, Advocate Mr. Chaturvedi and Director Mr. Vicky Wadhwani.

6. Hon'ble Chairperson of the Authority has explained the contravention alleged to have been committed by the respondent. Learned Advocate Mr. Chaturvedi has admitted certain facts which are put on record by the Director with his signature. Therefore these facts are taken to be the admitted facts. They are as under:

1. The respondent admits it has registered as Real Estate Agent with MahaRERA and registration stipulates that the agent shall advertise only those projects which are registered with the Authority, if their registration is required u/s 3 of the Act. They admit that they published advertisements in the print media to advertise for marketing, booking, selling or offering for sale and inviting persons to purchase building, apartments out of the Real Estate project of Haware Builders, Thane as well as other builders. They also admitted to having displayed billboards in various part of Mumbai
2. The respondent also admits that the said project is in planning area and the promoter/developer has not registered the project with MahaRERA, though required.

7. The Authority has heard the learned representatives of the respondent and its Director. They have admitted the fact that the respondent committed an error in not mentioning the registration number of the Agent in some of their advertisements and mentioned it incompletely in some other advertisements. They have admitted that they have also advertised Real Estate Projects which have not been registered with MahaRERA.

8. The learned Advocate Mr. Chaturvedi as well as Mr. Wadhvani have explained that respondent had no ill intention or any oblique motive. Real Estate (Regulation and Development) Act, 2016 being a new Act, they have committed mistakes which are not deliberate.

A

pg 3 of 5

9. After hearing their arguments the Authority agrees with the fact that though the above mentioned statutory provisions have been violated, respondent did not have any mens rea.

10. It has been brought to the notice of the Authority that the violation continued for almost 12 days. The learned representative also submits that the respondent is ready to rectify his mistake. He further submits that the matter may be closed today and final order may be passed. Authority has given full opportunity to the respondent to defend by following the principles of natural justice. It is in these circumstances after giving full hearing, the Authority also agrees to conclude the matter.

The Authority, therefore holds that the respondent has violated provisions of section 9(5) of the Act r/w rule 14 of Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interest and disclosure on website) Rules 2017 as well as of section 10(a) of the Act, 2016. Section 36 and 37 empower the Authority to issue necessary directions in this regard at interim and final stages respectively. The Authority can impose penalty in case of violation of section 9 or 10 of the Act under section 62 thereof, to the extent of Rs. Ten thousand for every day during which such default continues. So in exercise of these powers the Authority proceeds to pass the following order.

pg 4 of 5

ORDER

In exercise of powers conferred by Section 36 of the Act the Authority hereby direct Sai Estate Consultant Chembur Pvt.Ltd as under:

- 1) To withhold the advertisements with immediate effect and rectify all the hoardings by putting MahaRERA registration number on the said hoardings.
- 2) Sai Estate Consultant Chembur Pvt. Ltd. is hereby restrained from advertising any project for marketing, booking and selling or offer for sale or inviting persons for purchase of any building / apartment which is not registered with MahaRERA, though required to be registered.
- 3) Sai Estate Consultant Chembur Pvt. Ltd. shall put stickers on the future advertisements that as per the directions of MahaRERA, the advertisement of the project which has not been registered is being withdrawn and they apologise for the same.
- 4) The Sai Estate Consultant Chembur Pvt. Ltd. Shall pay a penalty at the rate of Rs. 10,000/- per day in the office of MahaRERA for the violation period of 12 days by depositing Rs. 1,20,000/- in MahaRERA Account No. 00000036809683287 – State Bank of India, BKC Branch by RTGS or NEFT.

The proceedings stands closed.

Date: 5th June 2017.

Place: Mumbai.



Hon'ble Member-I



Hon'ble Member-II



Hon'ble Chairperson/MahaRERA.