

**BEFORE THE HARYANA REAL ESTATE REGULATORY  
AUTHORITY, GURUGRAM**

Complaint no. : 2895-2021

Date of first hearing : 02.08.2021

Date of decision : 11.08.2021

HARERA, Gurugram  
R/o New PWD Rest House, Civil Lines,  
Gurugram.

**Complainants**

Versus

M/s M3M India Private Limited  
Unit No. SB/C/5L/Office/008, M3M Urbana,  
Sector-67, Gurugram Manesar Urban Complex  
Gurugram Gurgaon HR 122102 IN

**Respondent**

**CORAM:**

Shri KK Khandelwal  
Shri Samir Kumar  
Shri Vijay Kumar Goyal

**Chairman**  
**Member**  
**Member**

**APPEARANCE:**

Ms. Shriya Takkar

Authorized representatives  
for the respondent

**ORDER**

- Matter pertaining to:** M3M India Private Limited for contravention of section 11(2) of the Real Estate (Regulation and Development) Act, 2016 and non-compliance of *"Haryana Real Estate Regulatory Authority, Gurugram directions to the builders/promoters with regard to advertisement of real estate project"* by issuing misleading advertisement.

2. The particulars of the project have been detailed in the following tabular form:

Sr No.	Project	Nature of project
1.	M3M GOLF Estate, Sector 65, Gurugram	Residential
2.	M3M Heights @65 Avenue Sector Gurugram	Residential
3.	M3M Corner Walk, Sector 74, Gurugram	Commercial
4.	M3M 65 Avenue, Sector 65, Gurugram	Commercial
5.	M3M GOLF 113 Market, Sector 113 Gurugram	Shops cum office plots
6.	M3M Heights 84 Market Sector 84, Gurugram	Shops cum office plots

3. Earlier, in the month of February 2021, the Haryana Real Estate Regulatory Authority, Gurugram came up with Directions aiming at regulating and keeping a check on misleading advertisement of real estate projects. Thereafter, the Authority has released the "*Haryana Real Estate Regulatory Authority, Gurugram directions to the builders/promoters with regard to advertisement of real estate*





*project*” thereby taking a substantial step towards curbing misleading advertisements and with the aim of protecting the consumers, who may be exploited or affected by such advertisements.(copy enclosed for ready reference).

4. The full directions namely **‘Haryana Real Estate Regulatory Authority, Gurugram direction to the builders/promoters’** with regard to advertisement of real estate project (hereinafter referred to as ‘directions’) has been released in the public domain after notification in the Haryana Government Gazette vide notification No. 3/RERA GGM Directions 2021 dated 22<sup>nd</sup> February, 2021. These directions were uploaded on the website of the Authority for information of general public and to make promoters/developers well acquainted with the procedure of issuing an advertisement of real estate project in newspapers or any other media.
5. In violation/ non-compliance of the above stated directions the promoter (M3M Limited) have published newspaper advertisement in Hindustan Times dated 11.06.2021, 13.06.2021 and The Times of India dated 12<sup>th</sup> June 2021. for marketing of the real estate projects namely Golfstate, Heights 65th Avenue, Corner Walk, 65th Avenue, 113 Market, 84 Market. In the said advertisement, the RERA registration number allotted to the projects mentioned above was not prominently mentioned and the promoter clearly violated the provisions of section



11(2) of the Real Estate (Regulation and Development) Act, 2016 and the directions made by virtue of section 37 of the Act i.e. Haryana Real Estate Regulatory Authority, Gurugram direction to the builders/promoters with regard to advertisement of real estate project". Upon scrutiny of the advertisement the following defaults came to the notice of the Authority:

- a. The RERA Registration number is not clearly visible due to small font size and light font color.
  - b. The letters are not written in a legitimate manner which makes it difficult to read.
  - c. The RERA registration should be written on the top right side of each individual project and not together in a consolidated manner.
6. As per the provisions of the Real Estate (Regulation and Development) Act, 2016 the promoter of the real estate project is obligated to mention "prominently" the website address of the authority and the project registration number allotted by the authority for the real estate project.

Section 11(2) of the Act is quoted below for ready reference

*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."*





7. Keeping in view the above facts, the promoter was issued a show cause notice in this regard vide no HARERA/GGM/SHOW CAUSE/ADV/1/2021 dated 11.06.2021 for which no response was received by the Authority, again show cause notice was sent by the authority to the registered office address of the promoter vide No. HARERA GGM SHOW CAUSE ADV/1A/2021 dated 19.06.2021 in response to which the promoter (M3M Limited) submitted their reply dated 25.06.2021.

8. The submissions that the promoter made in the reply for contravening section 11(2) of the Real Estate (Regulation and Development) 2016 and the Haryana Real Estate Regulatory Authority, Gurugram directions to the builders/promoters with regard to advertisement of real estate project" are as under.

- i. *"That the projects advertised by the company vide the said advertisements are duly registered with the Authority (unless exempted from registration vide the Haryana Real Estate (Regulation and Development) Rules, 2017) in compliance of section 3 of the Real Estate (Regulation and Development) Act, 2016.*
- ii. *That all the information with respect to the projects are already available with this Hon'ble Authority and any buyer can go on the website of this Hon'ble Authority and get all the information of the project by just entering the RERA registration no. Thus, the conduct of the Company was bonafide in providing all information to the buyer and no prejudice would be caused to any buyer.*
- iii. *The Company would like to humbly submit that the said direction was not within the knowledge of the Company and*



*had the same been brought to the notice of the Company, the Company would have strictly adhered to the directions issued by this Hon'ble Authority.*

9. In this context, the Authority is of the view that mere mentioning the RERA REGISTRATION number in the advertisement does not fulfil the compliance criteria as laid down in the Act, Rules, Regulations and *"Directions to the builders/promoters with regard to advertisements of real estate Projects" vide notification No. 3/RERA GGM Directions 2021 dated 22<sup>nd</sup> February, 2021*, rather it falls in the category of "misleading advertisements". The advertisement should bear the RERA registration number in a manner that is easily readable by the innocent buyers.

#### **Misleading Advertisements**

- a) Advertisements must be truthful. All descriptions, claims and comparisons which relate to matters of objectively ascertainable fact should be capable of substantiation. Advertisers and advertising agencies are required to produce such substantiation as and when called upon to do so by the Advertising Standards Council of India.
- b) Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions. *"Advertisements shall not contain statements or visual presentation which directly or by implication or by omission or by ambiguity or by exaggeration are likely to mislead the consumer about the product advertised or the advertiser or about any other product or advertiser."*
- c) *"RERA registration number and website address of the Authority should be written in a legitimate manner in BOLD LETTERS and on the top right side of the advertisement."* The first mention of the misleading advertisement finds place in the effect of revocation of registration granted under RERA.





10. The submission made by the promoter in their reply that they were not aware of the directions made by the authority is not acceptable as the said directions were available on the website of the authority [www.haryanarera.gov.in](http://www.haryanarera.gov.in) for the information of promoters for compliance. The Haryana Real Estate Regulatory Authority, Gurugram was established in the year 2018 and since then, the authority has been making necessary regulations and directions from time to time to carry out the purposes of the Real Estate (Regulation and Development) Act, 2016 and the promoters are bound to be aware and comply with the directions of the authority as per section 37 of the Real Estate (Regulation and Development) Act, 2016 which states as under:

Section 37

**Powers of Authority to issue directions.**

*"The authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned."*

10. Moreover, statement in the advertisement under reference that "visuals shown are artistic impressions of developer's intent. All facilities and amenities are just indicative and are subject to change without prior notice." It is an attempt to mislead the innocent consumer. Hence, the intention of the promoter is very clear that the visuals are artistic and not one which the promoter intended to offer.



11. Upon scrutiny of the reply submitted by M3M, the Authority is of the view that mere mentioning of the RERA REGISTRATION number in the advertisement does not fulfil the compliance criteria as laid down in the act, rules, regulations and **"Directions to the builders/promoters with regard to advertisements of real estate Projects" vide notification No. 3/RERA GGM Directions 2021 dated 22<sup>nd</sup> February,2021**, rather it falls in the category of "misleading advertisements". The advertisement needs to bear the RERA Registration number in a manner that is easily readable by the innocent buyers.

The following advertisements tantamount to misleading Advertisements:

- a) Advertisements must be truthful. All descriptions, claims and comparisons which relate to matters of objectively ascertainable fact should be capable of substantiation. Advertisers and advertising agencies are required to produce such substantiation as and when called upon to do so by the Advertising Standards Council of India.
- b) Advertisements shall neither distort facts nor mislead the consumer by means of implications or omissions. "Advertisements shall not contain statements or visual presentation which directly or by implication or by omission or by ambiguity or by exaggeration are likely to





mislead the consumer about the product advertised or the advertiser or about any other product or advertiser.”

c) “RERA registration number and website address of the Authority should be written in a legitimate manner in **BOLD LETTERS** and on the top right side of the advertisement.” The first mention of the misleading advertisement finds place in the effect of revocation of registration granted under RERA.

12. In the reply dated 25.06.,2021 the promoter has taken stand that as per sec 11(1) and 11(2) of RERA Act, the promoter is not bound to mention the RERA registration number to form the page of advertisement and website address of RERA is sufficient for all the information. It is pertinent to mention here that Sec 11(2) of RERA Act specifically states that the details of registration shall be provided by promoter to allottees and as per section 11(2), it specifically states that the advertisement should include registration no. obtained from the authority, the word “should” mandate for the promoter to mention the RERA registration no. clearly and visibly to a common prudence man upon the advertisement. Thus, as contended by you (promoter M3M) the obligation v/s 11(2) is not optional, it is mandatory and compulsory to compile. Hence, the promoter has contravened Section 11 of the Act by not mentioning the RERA registration number clearly.





13. The submission made by the promoter in their reply that they were not aware of the directions made by the authority is not acceptable as the said directions were available on the website of the authority [www.haryanarera.gov.in](http://www.haryanarera.gov.in) for the information of promoters for compliance. The Haryana Real Estate Regulatory Authority, Gurugram was established in the year 2018 and since then the authority has been making necessary regulations and directions from time to time to carry out the distinct purposes of the Real Estate (Regulation and Development) Act, 2016 and the promoters are bound to be aware and comply with the directions of the authority as per section 37 of the Real Estate (Regulation and Development) Act, 2016 which states as under:

### **Section 37**

Powers of Authority to issue directions.

“The authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned.”

14. Through scrutiny of the reply submitted by M3M, the Authority is of the view that the reply submitted by the promoter was unreasonable





and unsatisfactory and the promoter was called up on for hearing dated 02.08.2021, The authorized representative of the promoter appeared before the Authority and made submissions that the promoter was ignorant of the fact that the directions to the builders/promoters with regard to advertisement of the real estate project have been notified in the Haryana Government official gazette. Upon the submission by the authorized representative of the promoter the authority is of the opinion that 'ignorantia juris non-excusat,'

Which means that the promoter cannot make an excuse for non-compliance of law by stating that he was not aware of the law as it is his duty to be well acquainted with the Act, Rules, Regulations and Directions made from time to time by the authority casting obligations upon the Promoter in order to fulfil the purpose of Act.

15. In view of the above facts, the Authority is of the opinion that the promoter M3M is in default by contravening the provisions of section 11(2) of the Real Estate (Regulation and Development) Act, 2016 and *Haryana Real Estate Regulatory Authority, Gurugram directions to the builders/promoters with regard to advertisement of real estate project*. The mentioned act on their part is contravention of orders and directions of the authority which is punishable u/s 63 of




the Act. Section 63 of the Real Estate (Regulation and Development) Act, 2016 states that:

**63 Penalty for failure to comply with orders of Authority by promoter.-**

*"If any promoter, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend upto five per cent, of the estimated cost of the real estate project as determined by the Authority".*

16. Accordingly, the authority decides to impose a penalty of Rs. 5 Lakh on the promoter which shall be deposited with the Authority and shall be credited in the government account within a prescribed period as per rules.

  
(Samir Kumar)  
Member

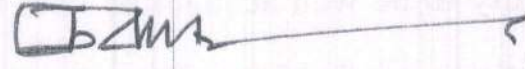


**HARERA**  
**GURUGRAM**

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 11.08.2021

V.I - 5  
(Vijay Kumar Goyal)  
Member

  
(Dr. KK Khandelwal)  
Chairman