



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

Complaint no. : 2776 of 2021
Date of first hearing : 15.07.2021
Date of decision : 11.10.2021

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

Complainant

Versus

M3M India Pvt Ltd
6th Floor, M3M Tee Point,
Sector-65, Gurugram Manesar Urban Complex,
Gurugram 122102

Respondent

CORAM:

Shri KK Khandelwal
Shri Samir Kumar

**Chairman
Member**

APPEARANCE:

Ms. Shriya Takkar
Sh. Vineet Maheswari
Ms. Anisha Mitra

Advocate for the respondent
VP Legal for the respondent
Manager Legal for the
respondent

ORDER

1. The present matter relates to the violation of section 3(1) of the Real Estate (Regulation and Development) Act, 2016 wherein it is inter alia prescribed that no promoter shall advertise, market, book, sell or offer for sell 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 the Act.

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

S.No.	Heads	Information
1.	Project name and location	"Boutique Floors at City of Dreams", Sector-89, Gurugram
2.	Area of project	30 acres
3.	Nature of the project	Residential floors
4.	No. of units in the project	1600
5.	Registered/ not registered	Not registered

3. It has come to the notice of the authority that several advertisements have been published on online portals (i.e., m3mgurgaon.co.in/m3m-boutique-floor, <https://m3mindia.com/sec89/>, <https://www.reiasindia.com/properties/M3M-Boutique->



Floors.html, <https://www.m3mgurgaon.in/residential/m3m-gold-rush-boutique-floors-at-city-of-dreams-sector-89-gurgaon/>, <https://www.m3mcityofdreams.co.in/>, <https://www.magicbricks.com/m3m-boutique-floors-sector-89-gurgaon>, <https://www.axiomlandbase.in/m3m-gold-rush-boutique-floors-city-of-dreams-sector-89-gurgaon/>, m3msales.com/m3m-floors-sec-89.php, <https://www.99acres.com/m3m-boutique-floors-sector-89-gurgaon>, <https://www.skjlandbase.com/property/m3m-boutique-floors/> and m3m-boutiquefloors.co.in etc) for selling of low rise residential floors in the residential floor project namely "Boutique Floors at City of Dreams" situated in Sector-89, Gurugram. The same fact is also corroborated through brochure downloaded on 06.07.2021. It is a matter of fact that the advertisements issued by the promoter are floating all over the virtual space. In pursuance of the same, the project site was visited by the team of engineers of the authority, and it was observed that canopies have been placed outside the project site along with hoardings wherein the project and promoter name have been mentioned clearly for the purpose of marketing the project. However, it was also observed that RERA registration number/website address, which is a



mandatory condition precedent to market, advertise or to sell any real estate project were not mentioned on any of the advertisements, either it be the advertisements on social media, online portals or on the canopies and the hoardings.

4. The advertisements describes the project in the following words **"M3M Boutique Floors are low rise luxury floors located at sec-89, New Gurugram. Gold Rush in the next growth corridor of Gurugram is touted as Gurugram's most futuristic residential address. An exceptional three and half bedroom residences, benefitting from the unmatched amenities of modern living"**. It further describes that **"This upcoming residential project provides you luxury with comfort where one can lead their life with ease, built a home of their dreams and where they love spending time in with their near ones. M3M Residential Project sector-89 Gurgaon is planned according to modern architecture and comes with provision of every facility that one needs to lead ideal life"**.
5. As mentioned in the advertisements issued by the promoter, **"M3M India Pvt. Ltd. is on number 2 in India and number 1 in North India with a reputation for identifying**



emerging real estate markets. In less than a decade M3M has made a remarkable position in realty by surpassing customer's expectation. M3M low rise floors in sector 89 are planned in a way to provide landscaped-view parks that serve both as providing calm and tranquillity and also can be used as open reading corners".

6. As per section 3(1) of the Real Estate (Regulation and Development) Act, 2016, prior registration of real estate project with the Real Estate Regulatory Authority is mandated. However, the promoter has neither registered the project nor applied for registration of their real estate project with the Haryana Real Estate Regulatory Authority, Gurugram till date. This advertising, marketing, booking, selling or offering for sell or inviting 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 is in violation of section 3 (1) of the Act *ibid* which provides as under: -

"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.”

7. Accordingly, a show cause notice no. RERA-GRG-2776-2021 dated 09.07.2021 to M/s M3M India Pvt Ltd was issued for above violations of the Real Estate (Regulation and Development) Act, 2016.
8. The promoter had submitted his reply on 02.08.2021 against the show cause notice stating that the company is not advertising the project and the alleged advertisements are being published by third parties/brokers. The websites on which the said project is being advertised belongs to third parties on which the company has no control. The company is also aggrieved by such acts of third parties and have already filed civil suit no. CS/2304/2021 for permanent, mandatory, and interim injunction against the third parties inter alia restraining them from publishing such advertisements and removal of the same from the website.
9. The LR appointed by the promoter appeared on the behalf of the promoter before the authority and submitted that the reply submitted by the promoter needs to be considered.



Further, the LR submitted that the advertisements on different portals are being published by third parties/brokers against whom the company had filed a civil suit. The authority on this point is of the considered view that it cannot be denied that the project is being advertised with the connivance of the promoter or on behalf of the promoter, otherwise how the third parties came to know about the complete details of the project which is not made open even for public viewing and the project is in pipeline with the promoter for future development.

10. Further another pamphlet has come to the notice of the authority wherein the same project is being advertised by the real estate agent named "Axiom Landbase Pvt Ltd" and the matter is still pending for adjudication. Therefore, another show cause notice was issued to the promoter for the same cause of action which is pending before the authority. However, such act of allowing/authorizing real estate agents/channel partners to advertise a real estate project on promoter's behalf, which is not yet registered and for which penal proceedings are already pending prima facie shows that



the promoter has no fear of law and deliberately and repeatedly flouting the provisions of section 3 of the Act *ibid*.

11. On consideration of the circumstances, the evidence and other record and submissions made by the promoter during the course of hearings, the authority is satisfied that the promoter has violated the provisions of section 3(1) of the Real Estate (Regulation and Development) Act, 2016. This omission of the promoter is punishable under section 59 (1) of the Act *ibid*.


Section 59(1) of the Act is reproduced below: -

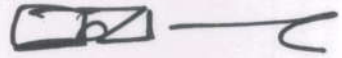
"If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority."

12. Therefore, the authority in the light of the above-mentioned reasons decided to impose a penalty of Rs. Two crore fifty lakh (2,50,00,000/-) on the promoter under section 59(1) for violating the provisions of section 3(1) of the Real Estate (Regulation and Development) Act, 2016 which shall be deposited with the authority within one month and shall be credited in the government account within a prescribed period as per the Rules. The promoter is also directed to file an

application for registration of the project in the authority and stop all illegal activities like advertising, marketing, booking, selling of apartments in the project till the project get registered with authority.

13. The matter stands disposed off.


(Samir Kumar)
Member


(Dr. KK Khandelwal)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 11.10.2021


HARERA
GURUGRAM

