

**REAL ESTATE REGULATORY AUTHORITY,  
HIMACHAL PRADESH**

**In the matter of:-**

Suo Moto Cognizance by HP RERA

.....Complainant

Versus

Shri Sanjay Madan (Hotel East Bourne)

.....Non-complainant/ Respondents

**Complaint (Suo Moto) no. HP/RERA/ dated 03.07.2020**

**Present: -** Shri Sanjay Madan in person with Senior Advocate Shri  
Bipin C. Negi for the respondent  
Shri Mayank Manta, Assistant District Attorney for State of  
Himachal Pradesh/ RERA Himachal Pradesh.

**Date of Order: - 22.08.2020**

**ORDER**

**CORAM: - Shrikant Baldi ----- Chairperson**  
**B.C. Badalia ----- Member**  
**Rajeev Verma ----- Member**

**BRIEF FACTS OF THE CASE**

1

That an advertisement on the web portal of Facebook was published  
by Shri Sanjay Madan in June,2020 inviting the public at large to  
make investment in serviced suites on perpetual lease ( 100 years )  
with an option of freehold and buy back facility at Hotel Eastbourne,  
Khalini, Shimla 171002 in respect of the 1BHK, 2BHK and 3BHK fully

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Badalia

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furnished suites. The brochure / advertisement uploaded on the Facebook also provided the details of available facilities, location & pictures of resort.

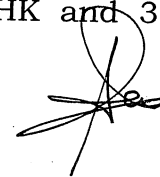
2 That the Authority, after due consideration to the above facts and materials took suo moto cognizance of the case and issued a notice under Section 3 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as 'Act') on 3<sup>rd</sup> July' 2020. Accordingly, reply to the notice under Section 3 of the RERA Act was filed by the respondent on 4<sup>th</sup> July' 2020, which was not found satisfactory.

3 That the Authority then issued a Show-cause notice on dated 08.07.2020 to the respondent to appear on 18.07.2020, either in person or through authorized representative to show-cause why action be not taken against the respondent for the acts and commission in violation of the provisions of the H.P. Real Estate (Regulation and Development) Act. 2016

4 That the matter was listed for hearing on 18.07.2020 before this Authority. The Ld. Senior Counsel appearing on behalf of the respondent had contended that the present suo moto cognizance taken by the Authority is beyond the scope and purview of the Real Estate (Regulation and Development) Act, 2016 as the respondent is only licensing ( time sharing ) the 1 BHK, 2 BHK and 3 BHK fully

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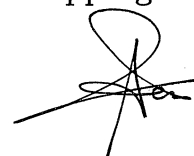


furnished luxury suites of the Hotel premises. The Ld. Senior Counsel had further contended that this Authority under the provisions of the Act *ibid* is only limited to the sale of apartments and not to leasing out of the property. The Ld. Senior Counsel representing the respondent had sought time for placing on record certain additional documents and written submissions for proper adjudication of the aforesaid Complaint, which was allowed by the Authority.

5. That on 25.07.2020, during the course of hearing, the Authority had observed that additional documents purported to be filed by the respondent was not done. The Authority had granted one more opportunity for filing the same to the respondent.
6. That accordingly, the respondent had filed amended reply with annexures, which were placed on record on 29.07.2020. The matter was partly heard on 04.08.2020. The Ld. Sr. Counsel had sought further time to file additional documents before this Authority. In order to adjudicate upon the matter, this Authority was of the opinion that it is necessary and proper to afford the respondent one more opportunity to file the additional documents.
7. That the respondent moved an application before this Authority on 20.08.2020 conveying that the said advertisement has been withdrawn and requested the authority for dropping the proceedings in view of subsequent development.

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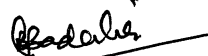
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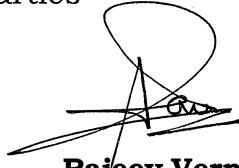


8. We have perused the record pertaining to the case minutely. We have duly considered the entire submissions and contentions submitted before us during the course of hearing(s). In view of the submissions advanced by the respondent today on 22.08.2020, whereby it has been categorically submitted that the advertisement issued by the respondent has been withdrawn and no transactions of any kind have been entered upon by the respondent in furtherance to the advertisement. This Authority finds merits in the submission made by the Ld. Sr. Counsel on behalf of the respondent.
9. Keeping in view the above mentioned facts, the matter is disposed of and the Authority hereby drops the suo moto proceedings initiated against the respondent with a direction that in future, if the respondent intends to use his said hotel/resort property for any different purpose that may attract the provisions of the RERA Act and rules, he will place the draft of such business plan before the Authority to seek clarification/ guidelines whether the provisions of RERA Act are applicable before making any advertisement.

Announced. Copies may be sent to all the parties

  
**Dr. Shrikant Baldi**  
**CHAIRPERSON**

  
**B.C. Badalia**  
**MEMBER**

  
**Rajeev Verma**  
**MEMBER**