

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Single Bench of Mr. Ved Prakash,
Special Presiding Officer
Case No: RERA/SM/241/2018

Authorised Representative of RERA

...Complainant

Versus

M/s. 99 Acres.com

.... Respondent

Project: Land

Present: For Authority: Shri Ankit Kumar & Ms. Ojaswi Ishani, Advocate.

For Respondent: Shri Dhananjay Kashyap, Advocate

26.06.2025

ORDER

1. The Real Estate Regulatory Authority, Bihar, issued a *suo motu* show-cause notice on 13.04.2018 to the Director of the respondent company for contravening Sections 9 and 10 of the Real Estate (Regulation and Development) Act, 2016. The contraventions pertain to various plots, projects, apartments, and buildings displayed or advertised on the respondent's website/portal, which were not registered with the Authority as required for agents. Furthermore, while advertising both unregistered and registered projects, the respondent failed to display the RERA registration number of such projects, as mandated under Section 11(2) of the Act. The respondent was

directed to show cause as to why proceedings under Section 62 of the Real Estate (Regulation and Development) Act, 2016, should not be initiated against them.

2. The learned counsel for the Respondent by filing replies on 21.11.2024 and 04.12.2024, submits that the Respondent, operating the platform “99acres.com”, does not fall within the statutory definition of a “*real estate agent*” under Section 2(zm) of the Real Estate (Regulation and Development) Act, 2016. It is contended that the Respondent neither negotiates nor finalizes transactions of sale or purchase, nor does it earn commission therefrom. Rather, it functions solely as an advertising medium, comparable to newspapers, billboards, television, or search engines hosting advertisements. The Respondent merely provides a platform for listing advertisements accessible to the public at large and does not introduce or connect any specific buyer with any seller for negotiation. To treat such an intermediary as a “*real estate agent*” would amount to wrongly including all media and advertising platforms within the scope of the Act. It is further submitted that the Respondent’s activities fall within the ambit of the Information Technology Act, 2000, which defines an “*intermediary*” and protects such entities under Section 79 from liability for third-party content hosted on

their platforms. Publication of contact details in advertisements, it is argued, cannot be construed as facilitation by the Respondent, just as newspapers publishing similar details cannot be deemed to be real estate agents.

3. It is further submitted that, far from undermining the objectives of the RERA Act, *99acres.com* advances them by enhancing transparency in the real estate sector. The platform provides users with market trends, locality insights, comparative tools, and information relating to schools, hospitals, and infrastructure, thereby empowering buyers and tenants to make informed decisions. According to the Respondent, the platform operates as a directory of information arranged in a user-friendly manner and is aligned with the legislative intent of promoting accountability and fair practices in real estate.
4. The learned counsel for the Complainant/Authority has filed a rejoinder dated 28.05.2025 to the reply of the respondent and has denied all averments made therein. It is urged that nothing stated in the reply ought to be deemed admitted, and the contents of the original notice are incorporated by reference into the rejoinder. The Respondent's contention that it does not act as a "*real estate agent*" within the meaning of Section 2(zm) of the Act is assailed as vague and untenable. The definition of "*real estate agent*" is

broad and covers any person who introduces prospective buyers and sellers through any medium and receives remuneration for such services. By its own admission, *99acres.com* is an online portal focused exclusively on real estate, deriving revenue through subscription fees from promoters for advertising their projects. Such an arrangement, it is submitted, clearly falls within the statutory definition. The Ministry of Housing has also clarified that Section 2(zm) is inclusive in nature and applies to all agencies, including web portals. Hence, the Respondent cannot escape the responsibilities and obligations of real estate agents under the Act. Further, the plea that a notice is invalid for want of contemporaneous evidence is termed misconceived, since the record demonstrates that the Respondent continues to display advertisements of unregistered projects.

5. It is further submitted by the learned counsel that the Respondent's reliance on *safe harbour* protection under Section 79 of the Information Technology Act, 2000 is misplaced. Such immunity applies only to intermediaries performing a purely passive and technical role, without initiating or modifying transmissions. By its own disclosure, the Respondent facilitates communication between buyers and sellers by providing calling options and earns revenue from promoters for such services.

Hence, it plays an active role in the transaction process and cannot claim immunity. Judicial precedents, including rulings of the Delhi High Court, have made it clear that intermediaries cannot feign helplessness in disseminating unlawful content and have a social obligation to act responsibly. The Respondent's reliance on orders likening it to newspapers or search engines is rejected, as even newspapers and other media cannot lawfully publish advertisements that contravene statutory provisions. Allowing online portals like *99acres.com* to advertise unregistered projects poses grave risks to homebuyers, undermines the purpose of the Act, and facilitates fraud by developers. Sections 9 and 10 of the Act explicitly prohibit the advertisement or facilitation of unregistered projects. The evidence on record, it is submitted, demonstrates that the Respondent has indeed advertised multiple unregistered projects in contravention of law.

6. In light of these submissions, the learned counsel for the Authority/Complainant asserts that the Respondent falls squarely within the definition of "*real estate agent*" under Section 2(zm) of the Act, as has facilitated unregistered projects in violation of Sections 9 and 10, and cannot claim protection under the IT Act. It is therefore prayed that the Hon'ble

Authority bench may impose penalty on the Respondent under Section 62 of the RERA Act or pass such other orders as may be deemed fit in the interest of justice.

7. The learned counsel for the Authority further submits that the Respondent has advertised several unregistered projects on its website and portal, in clear contravention of Sections 9 & 10 of the RERA Act, 2016, and has also failed to display the RERA registration numbers of registered projects as mandated by Section 11(2) of the Act. In support of this submission, reliance has been placed on advertisements filed as evidence on record, which are said to establish such contraventions.
8. Perused the record. The term Real Estate Agent has been defined in section 2(zm) of RERA Act, 2016 as: “real estate agent” means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as a commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot,

apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called.

9. The respondent, namely 99Acres.com, is an online portal/website which is involved and primarily focused in the real estate industry. It connects buyers, sellers, and renters to various properties, including apartments, homes, and commercial spaces. The respondent has actively acted as a real estate agent and has advertised various properties, including plots and buildings on their website, facilitating and enabling the prospective buyer to purchase properties from the seller/promoter. The advertisement placed on record by the learned counsel of the Authority shows that the respondent has published properties on their website.

10. Further, in the case of M/s Prem Steels Pvt. Ltd., Vs. CCE, Meerut - 2006 (10) LCX - 0129, it was held that receiving an amount in respect of the introduction of two clients for sale of real estate is liable to Service Tax under Real Estate Agent service head. This demonstrates that any amount in any form taken in any stage of the transaction which took place in respect of the promoter introducing the buyer to the seller is a service amount as mentioned in section 2(zm) of the Real Estate (Regulation & Development) Act, 2016.

11. The functioning of online property portals and a traditional agent or broker is more or less similar. Portals use information technology for reaching the buyers for clients, namely the promoters, and they facilitate the transaction of sale by introducing and acting through digital mediums, as when these portals advertise real estate projects, they enable buyers to engage in negotiations for the sale or purchase of said properties. In many cases, the promoter is charged a fee to advertise their project on the website, and the buyer has to reach out to the website for the seller's contact details.

12. Hence, by adopting purposive rule of interpretation and keeping in mind the functioning of web portals, these web portals come under the purview of the definition of real estate agent defined under RERA Act 2016.

13. Moreover, despite being classified as an intermediary as per Section 2(1)(w) of the IT Act 2000, which states that “any person who receives, stores, or transmits electronic records on behalf of another person, or provides services related to such records. This definition includes various entities like telecom service providers, internet service providers, web hosting services, search engines, online payment sites, online auction sites, online marketplaces” and cyber cafes, Section 79 of the IT Act which

provide intermediaries with a "safe harbor" provision, granting them immunity from liability for third-party content is not applicable in this instance case of respondent.

14. Further, the respondent does not enjoy the protection of good harbour provided to an intermediary under section 79 of the IT Act 2000 since the immunity is limited by section 79(2) and (3) of the IT Act, which states that such immunity applies only when the intermediary's role is passive and technical. Moreover, intermediaries cannot claim immunity if they have been involved in any form of unlawful activity.

15. Section 79(2) of Information Technology Act 2000 reads as follows

(2) The provisions of sub-section (1) shall apply if –

(b) the intermediary does not –

1. initiate the transmission,
2. select the receiver of the transmission, and
3. select or modify the information contained in the transmission

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

16. Further, an advertiser or intermediary governed by IT Act 2000 must observe due care while conducting business to ensure it does not disseminate or advertise content that it knows to be contrary to any applicable law or has been so intimated by the court or appropriate government or its authority. In the instant case, despite various notices and opportunities given to the respondent, they failed to adhere to the intimation of the authority.

17. Additionally, Rule 3 of Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 requires intermediaries to observe due diligence. This due diligence includes the publication of rules and regulations, such as user agreements and privacy policies, warning users against uploading misleading or fake information, as well as content that violates intellectual property rights. Not only did the respondent fail to exercise due diligence when disseminating information about projects on their website and portal, but they also failed to comply with the other requirements of Rule 3 of the IT Rules. Furthermore, Section 9 of RERA Act 2016 states that (1) No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project

or part of it, being the part of the real estate project registered under section 3, being sold by the promoter in any planning area, without obtaining registration under this section.

18. Likewise, Section 10 of RERA Act 2016 mandates that every real estate agent registered under section 9 shall (a) not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority.

19. The Bench observes that it is evident from the advertisements placed on the record that the respondent has advertised various unregistered projects on their website and have advertised the registered projects without displaying the RERA registration number of such project and the same are in contravention of sections 9, 10 of the Real Estate (Regulation & Development) Act, 2016.

20. The primary purpose of the Real Estate (Regulation and Development) Act, 2016, is to safeguard the interests of homebuyers. If online portals functioning as real estate agents are not properly regulated, allowing them to advertise unregistered projects, it poses a significant risk to homebuyers. Such unregulated projects increase the likelihood of fraud and

the potential for developers to abscond with the funds, and it might eventually defeat the purpose of the Act alone, since the reach of online sites is much wider than the traditional agents.

21.Hence, in the light of observations made above, it is established that respondent company has advertised various unregistered projects on their website and have also advertised the registered projects without displaying the Rera registration number of such projects, thereby contravened the provisions of Sections 9 and 10 of the Real Estate (Regulation and Development) Act, 2016. Therefore, the Bench imposes a penalty of Rs.5,00,000/-, (five Lakh) under the provisions of Section 62 of the RERA Act, 2016 against the respondent. This amount has to be paid by the respondent company within sixty days of the order Non-compliance with this directive will result an action under Section 40(1) of the RERA Act, 2016.

With these observations and directions, the matter is disposed of.

Sd/-
(Ved Prakash)
Special Presiding Officer
RERA, Bihar