

Dejin Construction Co., Ltd. & Qianren Advertising Co., Ltd.

1391st Commissioners' Meeting (2018)

Case: Dejin Construction and Qianren Advertising violated the Fair Trade Law for posting false advertisements for the "Eagle Sky View" housing project

Keyword(s): Real estate, parking space, planned use, false advertising

Reference: Fair Trade Commission Decision of July 4, 2018 (the 1391st Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 107059

Industry: Real Estate Development Activities (6700), Real Estate Agencies Activities (6812)

Relevant Law(s): Article 21(1) of the Fair Trade Law

Summary:

1. The FTC received complaints from citizens about Dejin Construction Co., Ltd. (hereinafter referred to as "Dejin Construction") and Qianren Advertising Co., Ltd. (hereinafter referred to as "Qianren Advertising") posting false advertisements for the "Eagle Sky View" housing project. The ground floor living room indicated in the advertisement was actually the parking space while the outer wall was an illegal structure.
2. Findings of the FTC after investigation:
The FTC sent written requests for the informers to provide further evidences and also asked Dejin Construction and Qianren Advertising to present their arguments in writing as well as give their statements in person at the FTC. Taichung City Government was also requested to provide professional opinions and related evidences.
3. Grounds for disposition:
 - (1) The use of buildings described in real estate advertisements is an important factor when consumers consider and decide whether they would make purchases. Normally, consumers only know they could use the facilities as advertised after making purchases. There is no way for them to find out the contents of advertisement or use of facilities indicated in such advertisements is actually in violation of building regulations. The advertiser could deliver as advertised, but there would be the risk of getting administrative penalties such as being fined, being ordered to dismantle illegal structures, forbidden to use certain facilities, or being demanded to restore illegal structures to the original condition because of violations of building regulations.
 - (2) The housing project was a group of villas in Taichung City. The living room and parents' bedroom on the first floor, kitchen, parking space in the front yard, community archway and walls posted in the advertisements gave the general public the impression that buyers would be able to use the facilities legally as suggested. However, according to Taichung City Government, the living room and the parents' bedroom on the first floor were indicated in the as-built drawings as parking space. Turning it into the living room and bedroom as

shown in the advertisements would be in violation of the regulation against unauthorized changes specified in Article 73(2) of the Building Act. Meanwhile, the kitchen, community archway and walls were also in violation of the regulation against unauthorized extension set forth in Article 25 of the Building Act while the use of the front yard statutorily to be reserved for receded pedestrian arcade as parking space would be in violation of the Road Traffic Management and Penalty Act. In other words, the contents of the advertisements could mislead consumers to believe the use of the space as planned was legal, and the difference from the actual condition was great enough to cause the public to have wrong perceptions. Therefore, the practice was a false and misleading representation likely to affect transaction decision in violation of Article 21(1) of the Fair Trade Law. For this reason, the FTC imposed an administrative fine of NT\$1.2 million on Dejin Construction and NT\$450,000 on Qianren Advertising

Appendix:

Dejin Construction Co., Ltd.'s Uniform Invoice Number: 22121984

Qianren Advertising Co., Ltd.'s Uniform Invoice Number: 24827255

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