

## Mingfa Construction

### 1635<sup>th</sup> Commissioners' Meeting (2023)

Case: Mingfa Construction violated the Fair Trade Law by posting false advertisements to market Mingfa Tianju housing project

Keyword(s): Housing project, false advertisement

Reference: Fair Trade Commission Decision of February 1, 2023 (the 1635<sup>th</sup> Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 112005

Industry: Real Estate Development Activities (6700)

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

#### Summary:

1. When marketing the Mingfa Tianju housing project (hereinafter referred to as the housing project in question) located in Zhubei City, Hsinchu County, Mingfa Construction and Development Co., Ltd. (hereinafter referred to as Mingfa Construction) posted in advertisements the text of “gym, semi-outdoor swimming pool and spa pool in basement level 1.” As a matter of fact, the space for the rainwater collection pond and the surrounding area were used for the gym, semi-outdoor pool and spa pool. It was false advertising.
2. Findings of the FTC after investigation:
  - (1) Mingfa Construction built and sold the housing project and posted advertisements on 591.com, a real estate transaction website. The advertisements carried the text of “gym, semi-outdoor swimming pool and spa pool in basement level 1.” As a matter of fact, the semi-outdoor swimming pool and the spa pool were in the space indicated on the B1 layout as the rainwater collection pond while the gym was in an area beside the rainwater collection pond.
  - (2) According to Hsinchu County Government, it is specified in Paragraph 2, Article 73 of the Building Act that “buildings shall be used according to the approved usage classification. In case of alteration of usage class, or main structure, fire-protection segment, fire-protection refuge facilities, fire-fighting equipment and parking spaces other than prescribed in Article 9, or other alteration to the originally approved usage, usage alteration license shall be applied for, unless the building is under a certain scale.”

Use of a building with alterations without permission would be sanctioned according to Article 91 of the Building Act. The county government found no record of application for change of building use permit and the competent authority would exercise its duty and look into the matter.

### 3. Grounds for disposition:

- (1) Mingfa Construction marketed the housing project in question and posted the text of “gym, semi-outdoor swimming pool and spa pool in B1” on 591.com between June 10, 2019 and June 29, 2022. The overall advertisement was able to mislead people to believe the gym, semi-outdoor swimming pool and spa pool could be used legally as advertised. However, according to Hsinchu County Government, unauthorized use of a building with alterations could be sanctioned in accordance with Article 91 of the Building Act. Since there was no record of application for approval to change the building use permit, the competent authority would exercise its duty and look into the matter. In other words, the advertised building use was inconsistent with what was indicated in the original approved plan. Trading counterparts would not be able to enjoy the space arrangement as advertised. The representation in the advertisement was inconsistent with the fact and it could make the general public to have wrong perceptions about the content and use of the housing project or make wrong decisions. It would cause market competition order to lose its original function and lead to unfair market competition. The practice was in violation of Paragraph 1, Article 21 of the Fair Trade Law.
- (2) After assessing the motive behind Mingfa Construction’s illegal conduct, the level of harm, the seriousness of the unlawful act, the business scale of the company, and the level of remorse of the company, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed an administrative fine of NT\$800,000 on the company.

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