

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE**

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 33 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

**Key Mansions Pvt.Ltd.
Project - Greentastic Wave
Unregistered Project**

.. Respondent-Agent

MahaRERA Agent Registration No.A51900001761

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :-

Respondent : Absent

ORDER

22nd March, 2024

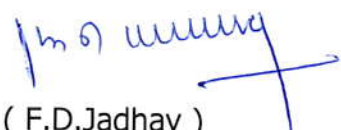
(Through Video Conferencing)

1. MahaRERA has issued a show cause notice, dated 29.01.2024 to the respondent- Agent calling upon him as to why penal action should not be taken against him under Section 62 of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as the 'Act, 2016) for publishing advertisement on a website <https://housiey.com/projects/kohinoor-greentastic> in respect of real estate project by name "Greentastic Wave" situated at Next to Yoo Villa, Kharadi, Pune, without registering the same with MahaRERA, and thereby violating the provision of Section 10(a) of the Act, 2016. The said show cause notice returned unserved with postal remarks "Left". Therefore, the show cause notice was served to the respondent through his email id registered with MahaRERA.

2. In spite of service of show cause notice through email, the respondent has failed to furnish his reply to the same. Therefore, notice of hearing was issued to the respondent on 22.02.2024 and he was called to attend the virtual hearing on 27.02.2024. However, on the said date respondent choose to remain absent. Therefore, again notice of hearing was issued to the respondent to attend the virtual hearing on 27.02.2024 and 12.03.2024. On both these dates also respondent remained absent. Today the matter was posted for appearance of respondent and for hearing. However, today also the respondent remained absent. Therefore, this matter is decided exparte.
3. Judicial note can be taken of the views and decisions of this Authority on same project I another two matters. This Authority has already held in Suo-Motu Advertisement/Pune Case No. 25/2024 that there is no real estate project at Kharadi by name "Greentastic Waive" and the promoter in this matter has been absolved of the charges under Section 3 of the Act, 2016. In another Suo-Motu Advertisement/Pune Case No. 27/2024 against the agent under Section 10(a) of the Act of 2016 in respect of same project, it has been held by this Authority that Section 10(a) of the Act, 2016 has not been proved as there is no sufficient evidence to prove that "Greentastic Wave" is a real estate project, and the agent had facilitated the sale or purchase of apartment, being sold by the promoter, which is not registered with the Authority.
4. Considering the aforesaid two decisions of this Authority wherein it has been clearly held that "Greentastic Wave" is not a real estate project, the same ratio will apply in this matter too as the facts in this matter are same as that of in the above stated two matters. The principle of jurisprudence requires that the person/Authority, who has initiated the proceeding has to prove his case beyond reasonable doubt. In this matter though the respondent did not appear before this Authority, it is the onus on the complainant to prove its case beyond reasonable doubt. As in this case, the earlier decisions of this Authority manifestly indicates that "Greentastic Wave" is not the real estate project, it can be said that there is no prima

facie evidence to prove the contraventions of provision of Section 10(a) of the Act, 2016 against this respondent-agent.

5. In view of the discussions made hereinabove, it can be said that there is no iota of evidence to prove that this agent has violated the provision of Section 10(a) of the Act, 2016. It appears, this agent might have published impugned advertisement on the presumption that "Greentastic Wave" is real estate project. And he might have made such hurry to grab the customers as early as possible for the purpose of brokerage. By virtue of this haste he might have published impugned advertisement without ascertaining the reality. But his anticipation about the project went wrong as "Greentastic Wave" is not real estate project and it is not in existence as held in another two matters mentioned above. Considering this fact there appears no prima facie evidence to prove violation on the part of this agent.
6. Considering the facts of this case as well as two final orders passed by this Authority involving same project and question of law, it can be said contravention of Section 10(a) of the Act of 2016 by agent is not proved. Consequently, the imposition of penalty under Section 62 of the Act of 2016 does not arise in the present case.
7. The present matter therefore, disposed off accordingly.


(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune