

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 25 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

**Kohinoor Development Corporation
Project - Greentastic Wave
Unregistered Project**

.. Respondent-Promoter

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

Appearance :-

Respondent : Adv. Sandeep Dhumal

ORDER

19th March, 2024
(Through Video Conferencing)

1. MahaRERA has issued a show cause notice, dated 29.01.2024 to the respondent-promoter calling upon him as to why penal action should not be taken against him under Section 59 of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as the 'Act, 2016) for publishing advertisement on a hoarding at Pune-Nagar Road of a 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 3 of the Act, 2016.
2. In response to the show cause notice, dated 29.01.2024, the respondent-promoter has filed his reply dated 04.01.2024 (wrongly mentioned month) which is received by the MahaRERA, Pune on 08.02.2024. By the said reply, the respondent has contended that the advertisement referred in the show cause notice is no way calling any person to book or reserve any apartment/unit in any project of Kohinoor Development

Corporation, and the advertisement is a part of branding of the group and a green initiative that is proposed to be adopted by the respondent. The respondent has further contended that he is involved in multiple business and real estate is one of these multiple business, and the advertisement is no way limited to marketing of the real estate wing of respondent, neither this advertisement is calling/proposing for any offer or booking from any one. The respondent has further contended that the respondent has not announced any sales offer hence respondent has not violated any provisions of law, which attracts the penal provisions under Section 59 of the Act.

3. Adv. Sandeep Dhumal appeared on behalf of the respondent. He has reiterated the contentions raised out by the respondent in his reply. Adv.Dhumal has submitted that there is no any project launched by the promoter by name "Greentastic Wave" and the promoter has never proposed any project with the name of Greentastic nor there is any plan to propose/float any real estate project with the said name. Adv. Dhumal has further submitted that it is a strategy adopted by Kohinoor Group to ensure reduction in carbon foot print at the possible extent and hence named as Greentastic, and it has been displayed all over the city being a part of branding process of the respondent and hence it is not related to any specific real estate project.

4. Section 3 of the Act 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. The said Section 3 reads as under :-

"3.(1) – No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act;

5. From the plain reading of Section 3, it is clear that the promoter is under obligation not to advertise, market, book, sell or offer for sale or invite persons to purchase any plot etc. without registering real estate project with MahaRERA. However, in the present case, promoter had contended that the name "Greentastic Wave" is not name of any real estate project, but it is a branding strategy of Kohinoor Group to ensure reduction in carbon foot print at the possible extent. At this juncture, it is necessary to go through the definition of "real estate project" which has been defined under Section 2(zn) of the Act, 2016, which reads as under :-


'Section 2(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto'.

6. In this matter, this promoter has consistently averred that this is not a real estate project. The name Greentastic is given in accordance to the policy of respondent to ensure reduction in carbon footprint at the possible extent. This promoter has assured this Authority that they (promoter) have never proposed any project with the name of "Greentastic" nor they have any plans in future to propose/float any real estate project with the name of "Greentastic".
7. In support of the contentions of respondent, he has filed affidavit-cum-declaration, dated 01.03.2024, wherein he has reiterated that this project is not a 'real estate project' and in future also he will not float any real estate project with the name of 'Greentastic'. This promoter has also

filed permission letter of Licence Holder of Pune Municipal Corporation to advertise his policy "Greentastic" on the hoardings. This permission letter also states the purpose of hoarding as "Central Branding Campaign". It does not specifically state the purpose as "Real Estate Project Campaign". In these backgrounds, the version of promoter as stated hereinabove appears to be acceptable. There appears no sufficient proof to hold that this promoter has violated the provision of Section 3 of the Act, 2016.

8. The impugned advertisement mentioned "A Greentastic Wave coming to Kharadi". The location has been mentioned Near IT Parks. However, there is nothing to show in the impugned advertisement that it is of a real estate project. Therefore, there is no any concrete evidence on record to suggest that the respondent-promoter had advertised, marketed, booked, sold or offered for sale, or invited persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it. Thus as the impugned advertisement is not of a real estate project, the question of violation of provision of Section 3 of the Act of 2016 on the part of respondent-promoter does not arise. Consequently, the imposition of penalty under Section 59 of the Act of 2016 also does not arise in the present case.

9. The present matter therefore, disposed off accordingly.


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