

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 27 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

**Propertypistol Realty Pvt.Ltd.
Project - Greentastic Wave
Unregistered Project**

.. Respondent-Agent

MahaRERA Agent Registration No.A51700000043

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

Appearance :-

Respondent : Adv. Mr. Nilesh Borate

ORDER

19th 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 59 of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as the 'Act, 2016) for publishing advertisement on a website <https://greentastic-kharadi.in/kohinoor//> 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 3 of the Act, 2016.
2. In response to the show cause notice, dated 29.01.2024, the respondent- Agent has filed his reply dated 03.02.2024, which is received by the MahaRERA, Pune on 05.02.2024. By the said reply, the respondent has admitted to have posted information about Kohinoor Greentastic by Kohinoor

Group at Kharadi, Pune. The respondent has further contended that he did not show any intention to mislead the buyers nor provide any content suggesting that the buyer can book or purchase a flat. It is further contended by the respondent that it was merely an expression of interest in the project through polling, with the clear consent of the visitors to said webpage stated as "I acknowledge that the project has not yet received the RERA No." The respondent has further contended that he is well aware that the said project is not currently registered with MahaRERA but is in the process of registration with the Authority. It is also contended in the reply of respondent that he has clearly indicated this on the webpage, placing the information under the project name as "RERA is coming soon" and at the header of the project name as "Coming soon" and at the bottom of the webpage, it is clearly stated that all contents are solely for informational purposes. The respondent has further contended that he did not facilitate any sale or purchase within the said project and hence, he did not violate Section 10(a) of the Act, 2016.

3. In the supplementary reply filed on behalf of respondent, dated 04.03.2024, it has been contended by the respondent that "Greentastic Wave" is anonymous and does not correspond to any existing project of the promoter and there is no such kind of real estate project in existence and therefore, the question of registering the project with MahaRERA Authority does not arise. The respondent has referred the final order, dated 03.11.2023 by the MahaRERA Authority in Suo-Motu Advertisement/Pune Case No. 126 of 2023 in the matter of Macrotech Developers Pvt.Ltd. And Anr. passed on the identical issue of non-existence of project.
4. Adv. Mr. Nilesh Borate and Mr. Jitendra Kumar appeared on behalf of the respondent. Mr. Nilesh Borate has reiterated the contentions raised in the supplementary reply of the respondent and has submitted that there is no any project by name "Greentastic Wave" and the impugned advertisement published on the webpage was just for informational purpose and the

respondent has not facilitated the sale or purchase of any apartment/flat by way of impugned advertisement.

5. Section 10(a) of the Act, 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. The said Section 10(a) reads as under :-

"10(a). Every real estate agent registered under Section 9 shall 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."


6. In the present case, the respondent-agent has contended that there is no any project by name "Greentastic Wave" in existence and therefore, the question of registering the said project with MahaRERA does not arise. Consequently, Section 10(a) would not attract in his case.

7. According to the respondent there is no real estate project by name "Greentastic" and therefore, there is no violation of Section 10(a) on their part. This Authority has decided this issue today only i.e. 19.03.2024 in another matter 25/2024 wherein proceeding was initiated against the promoter under Section 3 of the Act, 2016. In the said matter also, the promoter's contention was that 'Greentastic' is not a real estate project and thus does not fall within the scope of definition of "real estate project" defined under Section 2(zn). In that matter, this Authority has accepted the defence of the promoter, and held that violation of Section 3 on the part of promoter was not proved. In other words, this Authority has accepted the contention of promoter that "Greentastic" is not the real estate project.

8. Considering the aforesaid decision, it can be said that there is no sufficient evidence to prove that this respondent has facilitated to sale and purchase of the flats from the real estate project "Greentastic". There

appears no any real estate project by name "Greentastic". Therefore, there is no proof to show that the respondent has facilitated the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it mentioned in the impugned advertisement.

9. In view of the above, the question of violation of provision of Section 10(a) of the Act of 2016 on the part of respondent-agent does not arise. Consequently, the imposition of penalty under Section 62 of the Act of 2016 also does not arise in the present case.
10. The present matter therefore, disposed off accordingly.


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