BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, MUMBAI

Complaint No. CC12400723

Prashant Jain ... Complainant

Versus

Arihant Superstructures Limited ... Respondent

MahaRERA Project Registration No. P51700077377

Coram: **Shri. Mahesh Pathak, Hon'ble Member – I/MahaRERA.**

Ld. Adv. Mily Ghoshal appeared for the complainant.

Ld. Adv. Vishal Janbandhu appeared for the respondent.

INTERIM ORDER

(Order Pronounced on Thursday, 27th November 2025)

(Matter reserved for orders on 04-09-2025)

(Hearing Through Hybrid Mode)

1. The complainant above named has filed this online complaint before the MahaRERA on 10-11-2024 mainly seeking directions from the MahaRERA, to direct the respondent, to pay refund along with interest and compensation, as prescribed under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of booking of a Flat (hereinafter referred to as "the said flat"), in the respondent's registered project known as "**ARIHANT AVANTI**" bearing MahaRERA registration No. **P51700077377** located at Survey No. 57/3 Village Padale, Survey No. 18/2 Village Shil & Survey No. 109/1/A, 109/1/B & 108/2 Village Daighar, Dist. Thane (hereinafter referred to as the 'said project').

2. This complaint was heard by MahaRERA on several occasions and the same was heard finally on 04-09-2025 as per Circular No. 48 dated 11-08-2025 issued by MahaRERA for hearing of complaints through Hybrid Mode. Both the parties have been issued prior intimation of this hearing, and they were also informed to file their written submissions if any. On the said dates of hearing, both the parties appeared as per their appearances recorded in the Roznamas and made their respective

submissions. The MahaRERA heard the submissions of both the parties as per their appearances and also perused the available record.

3. After hearing the arguments of both the parties, the following Roznamas were recorded in this complaint:–

i) **<u>On 22-07-2025 :</u>**

"Both the parties are present. The complainant is directed to upload the necessary documents in the complaint within a period of one week i.e. by 29-07-2025 since no document has been uploaded so far neither AFS nor booking application form nor allotment letter. According to the complainant, an amount of Rs.35,00,000 has been paid in cash. However, no details have been provided. According to the respondent, it has no privity with the complainant since the amount has been paid in cash to one Mr. Bhanushali who is the landowner in the project. According to the respondent, the project was registered in August 2024 on the basis of CC of April 2024 however, the complainant is unable to provide the details as to, when the said cash payment of Rs. 35 lakhs has been made. Therefore, the respondent may file a reply to the complaint on the issue of maintainability of this complaint within a further period of one week i.e. by 05-08-2025. The complainant may file a rejoinder to the reply of the respondent on the issue of maintainability within a further period of one week i.e. by 12-08-2025. The registry is also directed to verify the details of the promoters mentioned in the said project. The matter is adjourned to 19-08-2025 for final arguments by both sides on maintainability of this complaint."

ii) **<u>On 04-09-2025:</u>**

"Both the parties are absent. The matter was kept today for final arguments on the issue of maintainability of this complaint. The respondent has already filed its reply on 08-08-2025. However, the complainant has not filed any rejoinder to the said reply. Therefore, the complainant may do so with written submission within a period of one week i.e. by 11-09-2025. The respondent may also file its written submissions within a further period of one week i.e. by 18-09-2025. It is expected that the complainant would throw light on the allegation that there is a relation between Arihant Superstructure as well as Marvel. Since the allotment letters uploaded in the complaint are issued by Marvel in favor of the complainant. In

view of the above, the matter is reserved for order suitably after 18-09-2025 on the issue of maintainability of this complaint based on the arguments in the hearing as well as the reply, rejoinder and written submissions filed in the complaint. In case the complainant doesn't file any rejoinder or written submissions, the MahaRERA will be constrained to decide the matter, ex-parte against the complainant based on the reply of the respondent as well as additional affidavit of the complainant dated 29-07-2025 and the documents uploaded. The future course of action in this complaint would be decided once such an order on maintainability is issued."

4. Pursuant to directions in the aforesaid hearing, the complainant has filed his written submissions on 17-09-2025. The same is accepted and taken on record. However, the respondent has not filed any written submissions despite directions. Hence, the MahaRERA has perused the available record.

5. The complainant has not filed the complaint in the prescribed format. However, in the facts column, the complainant has stated that the project was originally conceived by Marvel Lifespaces LLP, led by Shri Dinesh Shankarlal Bhanushali and Shri Mukesh Shankarlal Bhanushali, in the year 2015. Later, they defaulted and became bankrupt. Although they gave false assurances to the flat buyers that they were seeking investors to revive the project, they failed to inform them of the actual developments and kept them in the dark. It is further stated that they secretly entered into a deal with the present promoter, who is now registered as the promoter under this RERA ID. The complainant has stated that the current promoter, Arihant Superstructures Ltd., has entered into a concealed arrangement with Marvel Lifespaces LLP and that neither the present nor the erstwhile promoter is honouring the old allotment letters issued by Marvel Lifespaces LLP. Hence, he has lodged the present complaint.

6. The complainant has filed an additional affidavit on 29-07-2025, the contents of which are illegible.

7. The respondent has filed its reply to the complaint on 08-08-2025, wherein it has submitted that the complainant is not an allottee within the meaning of the RERA Act, 2016. The respondent has submitted that the complainant allegedly paid amounts to Marvel Lifespaces LLP for a project named "Shanti Greens" situated at

Village Shilphata in the year 2015. The respondent has further submitted that it executed a registered Development Agreement with Marvel Lifespaces LLP in respect of land bearing Survey No. 57/3 at Village Padle, Taluka and District Thane, in the year 2024. Pursuant to the said agreement, the respondent obtained the Commencement Certificate dated 29-04-2024 for the above survey number and adjoining survey numbers for the project registered under RERA as "Arihant Avanti." The respondent has submitted that it has neither issued any booking or allotment letter to the complainant nor received any payment from him towards any flat booking in the said project. Hence, the complaint is not maintainable under RERA. The respondent has submitted that the complainant allegedly made payments to Marvel Lifespaces LLP for another project, the details of which have not been provided. The provisional reservation letter issued by Marvel Lifespaces LLP pertains to the project "Shanti Green," which predates the Development Agreement executed with the present respondent. The respondent has therefore submitted that the complainant has no privity of contract with it, and the present complaint pertains to refund of money allegedly paid for a flat in "Shanti Green," which is not a RERA-registered project. Thus, the respondent has prayed for dismissal of the complaint.

8. The complainant has uploaded written submissions on 17-09-2025, wherein he has stated that he reserved a 2 BHK flat on the 8th floor in Shanti Greens Building on 21-11-2015 by paying a token amount of Rs. 5,000/-. Thereafter, on 27-11-2015, he made a payment of Rs. 35,51,000/- towards the total cost of the reserved flat. In respect thereof, Marvel Lifespaces LLP issued a provisional reservation letter dated 27-11-2015 confirming the reservation. He has submitted that no development activity was undertaken on the said project and, despite repeated assurances, the promoter failed to commence construction. When he contemplated cancelling the booking, Marvel Lifespaces LLP reassured him that the project would begin shortly, but no further update was provided. Upon inquiry, he learned that Marvel Lifespaces LLP had transferred the development rights of the said project through a Development Agreement dated 08-09-2022 to Arihant Superstructures Ltd. for a consideration of Rs. 3,50,00,000/-. He has submitted that neither Marvel Lifespaces LLP nor Arihant Superstructures Ltd. is willing to recognize his reservation or refund the amount

paid. He issued a legal notice dated 30-03-2024 seeking refund with interest, but no response was received. Hence, he has prayed for the reliefs sought in the complaint.

9. The MahaRERA has examined the rival submissions made by both the parties and also perused the available record. The complainant, who claims to be an allottee of the said project registered by the respondent, has filed the present complaint under Section 31 of the RERA, mainly seeking refund of the entire amount paid by him along with interest and compensation under the provisions of the RERA.

10. The complainant has agitated his claims by virtue of the provisional reservation letter dated 27-11-2015 issued by M/s. Marvel Lifespaces LLP through its partner, Mr. Mukesh Bhanushali. He has contended that the said flat was reserved for a total consideration amount of Rs. 36,31,780/-, out of which he has paid an amount of Rs.30,51,000/- (Rs. 4,51,000/- paid through cheques and Rs. 26,00,000/- paid in cash). However, till date, possession has not been handed over to him. Hence, he has filed this complaint seeking reliefs under the provisions of the RERA.

11. The respondent has refuted the complaint by raising a preliminary objection regarding the maintainability of the complaint on the ground of lack of privity of contract between it and the complainant. It has contended that the booking was made with M/s. Marvel Lifespaces LLP and that the monies were paid to the said promoter in the year 2015 itself. It has further stated that it took over the said project by virtue of the registered development agreement dated 12-09-2022 executed with M/s. Marvel Lifespaces LLP, and thereafter registered the said project with MahaRERA upon obtaining the CC dated 29-04-2024. Hence, it has prayed for dismissal of the complaint against it on the ground of absence of privity of contract between it and the complainant.

12. In view of the above, before dealing with the facts of this complaint on merits, the MahaRERA is required to decide the issue of maintainability of this complaint, as raised by the respondent, being a preliminary issue.

13. Accordingly, both the parties were directed to file their respective written submissions, such as reply, rejoinder, and written submissions, on the record of MahaRERA on the said issue of maintainability. Further, the complainant was also directed to explain the relationship between the respondent and M/s. Marvel Lifespaces LLP.

14. Pursuant to the aforesaid directions of the MahaRERA, the complainant, by filing his written submissions, has explained the relationship between the respondent and M/s. Marvel Lifespaces LLP, which is the owner of the project land and which assigned the development rights in respect of the said project land to the respondent by executing the registered development agreement dated 12-09-2022. The complainant therefore submitted that this complaint is maintainable and that the respondent is liable to refund the entire money paid by him along with interest.

15. The respondent has not filed any written submissions on the record of MahaRERA as directed during the hearing on the issue of maintainability. Hence, it has impliedly reiterated the facts stated in its reply.

16. Be that as it may, in the present case, admittedly, the complainant made the said booking pursuant to the provisional reservation letter dated 27-11-2015 issued by M/s. Marvel Lifespaces LLP. Admittedly, as per the said letter, the complainant has paid an amount of Rs. 30,51,000/- towards the said provisional booking (out of the total consideration amount of Rs. 36,31,780/-), which includes payments made through cheques as well as in cash

17. The record also shows that the respondent has undertaken the said project by virtue of a registered Development Agreement dated 12-09-2022 executed with M/s. Marvel Lifespaces LLP. This clearly establishes that M/s. Marvel Lifespaces LLP is the owner of the project land. Further, while registering the said project with MahaRERA, the respondent has disclosed the landowner, viz. M/s. Marvel Lifespaces LLP, as a promoter (owner) having an area share in the said project.

18. Hence, it is evident that both the respondent as well as M/s. Marvel Lifespaces LLP fall within the definition of "promoter" under Section 2(zk) of the RERA. However, in the present case, since the complainant has admittedly paid the booking amount to the owner-promoter, i.e., M/s. Marvel Lifespaces LLP, which has also been shown as promoter of the said project, the MahaRERA is of the prima facie view that the complainant is an allottee of the said project registered with the MahaRERA. The complainant, therefore, has privity of contract with the said owner-promoter to whom the payment has been made towards the reservation of the said flat.

19. As far as the issue of privity of contract raised by the respondent is concerned, the MahaRERA has perused the judgment dated 16-02-2024 passed by the Hon'ble Bombay High Court in Second Appeal (St) No. 21842 of 2023. In that judgment, while deciding the refund claims of allottees, the Hon'ble High Court has elaborately dealt with the joint liabilities of multiple promoters associated with a project. Relevant observations of the Hon'ble High Court are reproduced below:

"17. Thus, definition of the term 'Promoter' under Section 2(zk) of RERA is wide enough to include every person who is associated with construction of the building such as builder, coloniser, contractor, developer, estate developer or by any other name or even one who claims to be acting as a power-of-attorney holder from the owner of the land… While registering the project as ongoing under Section 3 of RERA, the Appellant's name has been included in the list of promoters. Therefore, the Appellant cannot run away from the fact that it is the promoter… Explanation to Section 2(zk) makes all persons who construct or cause to be constructed a building, or sell flats, to be promoters and jointly liable for the responsibilities under the RERA 18. …RERA does not demarcate or restrict liabilities of different promoters in different areas. The liability is joint for all purposes under the Act, Rules and Regulations."

In view of the aforesaid observations of the Hon'ble High Court, the joint duties and liabilities of both the respondent and M/s. Marvel Lifespaces LLP (as promoters of the said project), stand clearly established under the provisions of RERA. Therefore, the respondent cannot avoid or disclaim its responsibilities under RERA merely on the ground that it has no direct privity of contract with the complainant. Once both entities are shown as promoters in the registration of the project, their liability towards allottees becomes joint as per Sections 2(zk), 11 and 18 of RERA.

20. However, considering that the crucial fact that the complainant has paid the booking amount directly to M/s. Marvel Lifespaces LLP, the said entity, being the owner-promoter of the said project, shall be primarily liable to refund the money received from the complainant. Nevertheless, in the event the said owner-promoter fails to refund the amount, the respondent-promoter (Arihant Superstructures Ltd.) shall also be liable, jointly and severally, in accordance with the provisions of the RERA and the aforesaid law laid down by the Hon'ble Bombay High Court. The respondent being the promoter cannot shift or dilute its obligations under the guise of a development agreement signed subsequent to the said booking. Hence, the MahaRERA holds that the present complaint is maintainable under the provisions of the RERA in respect of the said project, and therefore the same is required to be adjudicated on its own merits against the owner-promoter, viz., M/s. Marvel Lifespaces LLP.

21. In view of the above, the following order is passed:-

a) The present complaint is held to be maintainable in respect of the said project registered by the respondent as well as the owner-promoter viz. M/s. Marvel Lifespaces LLP.

b) The complainant is hereby directed to implead the said owner-promoter viz. M/s. Marvel Lifespaces LLP as *respondent no. 2* to this complaint and amend the complaint accordingly within a period of one week from the date of this order.

c) The complainant is also directed to serve a copy of the amended complaint upon the said owner-promoter within a period of one week.

d) The said owner-promoter viz. M/s. Marvel Lifespaces LLP is directed to file its reply to the amended complaint within a further period of one week. The respondent herein may also file its additional reply within the said period, if it so desires. The complainant may file his rejoinder/written submissions to the reply/additional reply (if any) within a further period of one week.

e) All parties are directed to complete their pleadings before the next date of hearing.

f) The Registry of this Bench is directed to list this complaint for final hearing on **24-12-2025**.

g) The Registry of this Bench is also directed to forthwith serve a copy of this interim

order upon the owner-promoter viz. M/s. Marvel Lifespaces LLP, by way of abundant precaution.

MAHESH DINKAR PATHAK
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Date: 2025.11.27 18:09:23 +05'30'

(Mahesh Pathak)

Member – 1/MahaRERA