BEFORE THE MAHARASHTRA

REAL ESTATE REGULATORY AUTHORITY, MUMBAI

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

COMPLAINT NO. CC006000000375178

M/S SHRADDHA LANDMARK PVT. LTD. …COMPLAINANT/S

VS

MR. MOHAMMED IBRAHIM SHAHUL HAMEED RAWOTAR & MRS.ZAINAB BEGUM M. RAWOTAR …RESPONDENT/S

MAHARERA PROJECT REGISTRATION NO. "P51800021957"

Order

September 25th, 2025

(*Date of hearing – 16.07.2025, matters were reserved for order*)

Coram: Manoj Saunik, Chairperson, MahaRERA

Appearance of the Parties

Appearance of the Complainant	Appearance of the Respondent
Advocate Jayshree Gilra i/b Sanjay Chaturvedi Associates	Absent

1. The complainant is the promoter within the meaning of Section 2 (zk) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the **"said Act"**) of Real Estate Regulatory Authority (hereinafter referred to as the **"RERA"**) who has registered the project namely ***"SHRADDHA PINNACLE"*** under Section 5 of the said Act bearing **MahaRERA Project Registration No. P51800021957** (hereinafter referred to as the "**said project**"). The respondents are the allottees within the meaning of Section 2(d) of the Act.

2. On the MahaRERA project registration webpage, the proposed date of completion is 30.12.2024. The said project has received the full occupancy certificate dated 04.04.2024.

3. The complainant is seeking the following reliefs:

a) *The Hon'ble Authority may allow the complainant to terminate the said agreement for sale dated 25.02.2020 executed between the complainant and the respondent for the said flat.*

b) *The Hon'ble Authority may direct the respondent to come forward and participate in termination procedure.*

c) *The Hon'ble Authority may direct the respondent to pay Rs. 2,00,000/- towards cost of litigation.*

d) *Any other relief this Hon'ble Authority deems fit.*

4. The captioned complaints were heard on 16.07.2025, wherein the following roznama was recorded by the Authority:

" The respondent has remained absent for the fifth consecutive hearing. Accordingly, the matter is proceeded ex parte and reserved for orders."

5. The brief submission of the complainant is as hereunder:

A. That, the complainant is the promoter of the said project and have filed complaint against the respondents seeking appropriate reliefs following repeated defaults in payment obligations under registered agreement for sale.

B. The complainant states that, the respondents had executed duly registered agreement for sale dated 25.02.2020 for purchase of unit no. 706 in the said project for a total consideration of Rs. 56,46,500/-.

C. That, payment reminders were served to the respondents, granting them opportunities to cure their breaches. The complainant issued reminder letter dated 05.08.2020. Despite repeated reminders and notices issued to the respondents, they failed to comply with the instalment obligations as stipulated under the agreement for sale, including a significant instalment of Rs. 38,09,747/- payable upon completion of the 19th slab.

D. That, the complainant was compelled to exercise its contractual right to terminate the agreement for sale. Pursuant to Clause 8 of the said agreement, the complainant duly deducted liquidated damages and a 10% forfeiture amount, along with other recoverable charges, from the

payments made by the respondent and issued letter for intimation of termination of flat no. 706 dated 22.10.2020 to the respondents via email. However, the respondents failed to comply their payment obligations and defaulted on the agreed instalments.

E. That, the complainant sent a legal notice dated 03.02.2023 and informed the respondents to collect a refund cheque amounting to Rs. 4,51,720/-. The complainant submits that this refund was made strictly in accordance with the terms and conditions of the agreement, considering the costs and losses incurred due to the respondent's wilful non-performance. Additionally, the complainants granted a period of 7 days from the receipt of the notice to collect the said original cheque. However, the respondents remained non-compliant, leaving the complainant with no option but to terminate the respective agreements under Clause 10, in accordance with Section 11(5) of the Act.

F. The complainants have continued developing the said project as per the approved plans and have obtained a full occupation certificate dated 04.04.2024.

G. The complainant states that the respondents have neither challenged the legality of the termination nor complied with the demand for executing the deeds of cancellation.

6. The respondents remained absent for five consecutive hearings, and hence, the matters have been proceeded ex-parte. Furthermore, the respondents have failed to place on record any written submissions to counter the claims made by the complainant.

7. From the facts and submissions made by the parties the issue that needs to be answered is *Whether the complainant is entitled to the reliefs claimed under the provisions of the Act?*

8. Before answering the issue framed herein above the following observations are noteworthy:

A. It is observed that the project has received occupation certificate dated 04.04.2024.

B. It is pertinent to note that the respondents have persistently defaulted on the stage-wise payment obligations stipulated under the agreement for sale. The respondents were duly issued reminder letter dated 05.08.2020, followed by a termination notice dated 22.10.2020 communicated via email. Subsequently, a legal notice dated 03.02.2023 was also served upon the respondents.

C. It is noted that the complainant issued a formal legal notice dated 03.02.2023, notifying the respondents to collect a refund cheque of Rs. 4,51,720/-, the remaining balance after adjustment for the deductions in accordance with the terms and conditions of the agreement, considering the costs and losses incurred due to the respondent's wilful non-performance.

D. It is observed that the complainant has placed on record comprehensive documentation, including payment reminders and notices, establishing the procedural steps undertaken to enforce its contractual rights and affording the respondents ample opportunity to cure the defaults.

E. It is also recorded that the respondents have abstained from participating in the proceedings and have failed to produce any evidence substantiating compliance with the payment obligations under the Agreement.

9. Further, the Authority shall examine the obligations of the allottees under the said Act. In this context it would now thus be imperative to examine section 19 of the said Act which deals with the rights and duties of the allottees. For ease of reference, section 19(6) is reproduced hereinbelow:

19. RIGHTS AND DUTIES OF ALLOTTEES

"(6) Every allottee, who has entered into an agreement for sale to take a flat, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale

and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any."

10. It is observed that the respondents have failed to perform their duties of paying the balance instalments under the agreement for sale in time under section 19(6) of the Act. The respondents thus, are in violation of section 19(6).

11. In such a case, section 34(f) of the Act states the functions of the Authority, the section is reproduced herein below for ease of reference:

34. The functions of the Authority shall include—

"*(f) to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder;*"

12. Thus, one of the functions of the Authority is to ensure compliance of the obligations cast upon the allottees. The Authority finds that the complainant has granted several opportunities to the respondents to make the remaining payment in terms of the agreement for sale. However, the respondents have failed to do so and, consequently, have not fulfilled the obligations imposed upon them under the agreement for sale.

13. The Authority holds that the termination of the agreement for sale by the complainant is valid under section 11(5) of the Act. Accordingly, the complainant is directed to proceed with the termination of the agreement for sale, and the respondents are directed to execute the cancellation deed.

14. In view of the above observations the issue at **paragraph no. 7** is answered in **affirmative**.

FINAL ORDER

15. Therefore, after considering the aforementioned observations and provisions of the Act, the materials placed on record, the facts of the case and submissions made by the parties, the Authority passes the following order:

A. The captioned complaint is **allowed**.

B. The complainant to take recourse of section 11(5) of the RERA Act for cancellation of the articles of agreements and the respondents are directed to execute the cancellation deed.

C. The complainant is directed to refund the amounts to the respondents strictly adhering to the covenants of the agreement for sale.

D. If the respondents fail to appear for the execution of the said cancellation deed, the complainant shall file non-execution (non-compliance) application against the respondents before this Authority for further appropriate action.

E. All other reliefs claimed by the complainant stand rejected, save and except what has been mentioned in paragraph 15.a.-15.d. hereinabove.

F. No order as to costs.

MANOJ SAUNIK Digitally signed by MANOJ SAUNIK Date: 2025.09.25 17:39:54 +05'30'

Manoj Saunik

Chairperson, MahaRERA