

**BEFORE THE MAHARASHTRA**

**REAL ESTATE REGULATORY AUTHORITY, MUMBAI**

Physical Hearing held at MahaRERA, Churchgate office

**SUO-MOTU CASE NO. 290 OF 2022**

MARVEL AQUANAS ...PROJECT NAME  
MARVEL AQUANAS CHSL ... SOCIETY  
MARVEL REALTORS & DEVELOPERS LTD. ... PROMOTER

**MAHARERA PROJECT REGISTRATION NO. P52100001521**

**Order**

*(Extension Application)*

**January 02, 2023**

*(Hearing dated – 08.12.2022, matter reserved for order)*

**Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA**

Saurabh Ratan, Rujan Panjwani, Dara Damania,

Eizadpur Faridani, Vishal Popat (*Secretary of the Society*)

Advocate Nilesh Borate along with representative of the Promoter.

1. MARVEL REALTORS & DEVELOPERS LTD. is the Promoter/Developer within the meaning of Section 2 (zk) of the Real Estate (Regulation and Development) Act, 2016 (“**said Act**”) of Real Estate Regulatory Authority (“**RERA**”) and had registered the project “MARVEL AQUANAS” under section 5 of the said Act bearing MAHARERA **Registration No. P52100001521** (hereinafter referred to as the “**said Project**”).
2. The Promoter filed an extension application No. EXT52100012903 on 19.11.2022 (hereinafter referred to as the “**said extension application**”) seeking extension of the said Project under section 7(3) of the said Act which was heard by this Authority on 08.12.2022, vide a virtual hearing wherein the following roznama was passed:

*“Hearing on Extension Application EXT52100012903*

*The Parties are present along-with the Promoter. The Members of the Society present before this Authority (“said Members”) state, that a series of extensions were given to*

*the Project. However, none of the dates have been adhered to. The said Members further mention that they are not a signatory to the consents for extension. The main grievance of the said Members appears to be;*

- 1. That once again the extension sought by the Developer/Promoter may not be adhered to, leading to further delays.*
- 2. That the Promoter is likely to discriminate between those who have given consents and those who have not given consents, while completing the work. They seek a non-discriminatory approach from the Developer/Promoter.*
- 3. The said Members also bring to the notice of this Authority that they are neither being allowed access to the site, nor are they aware of the progress.*
- 4. That they have put in their life savings and due to lack of a house, they have to stay in rental and other premises. They also seek interest for the delay in completion.*

*The Developer/Promoter avers that he already has the consent of nearly 61% of the Allottees. In view of the above, legally nothing restrains him from seeking and being granted an extension. The Developer/Promoter further avers that he is making all efforts and shall ensure completion by the fresh date being sought. Ld. Advocate on behalf of the Promoter commits that his client will not indulge in any discriminatory behaviour and that all Allottees would be treated equally. He further avers that his client is making all efforts to settle and address the grievances of the various Allottees.*

*Heard the Parties. The captioned regulatory matter relating to grant of extension is hereby reserved for orders."*

3. The Promoter has submitted the said extension application on 19.11.2022 whereby the Promoter submitted consents of around 61% of the Allottees of the said Project agreeing to the grant of extension for completion of the said Project. The Promoter till date has sought the following extensions:
  - a. While seeking registration of the said Project the date of completion sought by the Promoter was upto 31.12.2019.
  - b. The first extension under section 6 of the said Act was sought by the Promoter and the said Project was extended upto 30.12.2020.
  - c. Thereafter three extensions on ground of Covid - 19 pandemic was granted by this Authority to the Promoter extending the completion date of the said Project up to 30.12.2021.

- d. The Promoter further sought extension under section 7(3) of the said Act by submitting around 51% of consents from the Allottees which was allowed and the extension of the said Project was granted upto 31.10.2022.
  - e. Once again, the Promoter has applied for extension of the said Project vide the said extension application from 01.11.2022 to 30.04.2023.
4. The Society herein objected to the grant of extension to the Promoter which grounds are briefly noted by this Authority in the roznama reproduced herein above. However, with regard to the issue of the extension sought by the Promoter, section 7 (3) of the said Act needs to be examined. The relevant extract of section 7 (3) is reproduced hereinbelow:
- “7 (3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.”*
5. On the plain reading of section 7(3) of the said Act, it is clear that instead of revoking the registration this Authority can impose certain terms and conditions as it thinks fit to let the registration remain in force. It is observed that the Promoter is seeking extension for completion of the said Project from 01.11.2022 up to 30.04.2023. In this regard the Promoter has complied with all the requirements provided for by MahaRERA. In view thereof, this Authority allows the said extension application with certain directions hereinbelow.

#### **FINAL ORDER**

Thus, the said extension application is allowed and the extension for the said Project is granted from 01.11.2022 to 30.04.2023 with the following conditions:

- a. The Promoter shall complete the balance construction work and handover possession with occupation certificate (OC) to the Allottees of the said Project by 30.04.2023. Needless to say, that the Promoter shall complete the said Project with all amenities and facilities as promised. Further the Promoter shall ensure that there is no discrimination in obtaining OCs for the apartments (flats).

- b. The Promoter is directed to submit within 21 days of this order the PERT CPM / BAR charts about the milestones to be achieved with respect to the completion of the said Project, to the Authority and all the Allottees including the ones who have approached this Authority.
- c. The Promoter is also directed submit monthly progress reports of achievements of such milestones and/ or delay if any, to MahaRERA, the Society and the Allottees of the said Project. The Promoter shall also ensure that a common code for visit to the site by the Allottees is drawn up within 21 days and submitted to the Authority and the Allottees including the Complainants before this Authority in the said Project. The common code should be drawn up in a manner to ensure that there is no discrimination between the Allottees while allowing access to visit the site.
- d. Needless to say, that while the Authority is concerned with ensuring that the Promoter fulfils its duties towards the Allottees, it would also like to make it clear that this is done in a non-discriminatory manner. Discrimination in the process of implementing the law amounts to subversion of justice. The Authority makes it clear that while mandate of the said Act is implemented the process of doing the same shall not be contaminated with discrimination.
- e. In case of failure to complete the said Project by 30.04.2023, the Promoter shall be liable to a penalty and such other action under the said Act.

**(Ajoy Mehta)**  
**Chairperson, MahaRERA**