

West Bengal Real Estate Regulatory Authority
Calcutta Greens Commercial Complex (1st Floor)
1050/2, Survey Park, Kolkata- 700 075

Complaint No.WBRERA/COM(PHYSICAL)000074

Bhaskar Bandhopadhyay..... Complainant

Vs

Eden Real Estates Pvt. Ltd..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
03 29.10.2024	Complainant Mr. Bhaskar Bandhopadhyay (Mob. No. 9830993454 & email Id: bhaskarbandyopadhyay@yahoo.com) is present in the physical hearing and signed the Attendance Sheet. Advocate Smt. Sanjukta Ray (Mob. No. 9830248307 & email Id: sanjukray@gmail.com) being the Authorized Representative of the Respondent Company is present in the hearing through online mode filing hazira and vakalatnama through email. Heard both the parties in detail. The Respondent was directed to submit supplementary Notarized Affidavit regarding steps which have been taken by the Promoter for formation of Association. Till date no such Supplementary Affidavit has been submitted by the Respondent. At the time of hearing the Advocate of the Respondent stated that they have already submitted application for Formation of Association of Allottees before the Competent Authority under the West Bengal Apartment Ownership Act, 1972, as amended, vide application no. AINI2108524077000000 but she could not state the date of submission of the said Application. Respondent also stated that some of the Allottees are now co-operating in Formation of Association and therefore they have prayed for expunging the name of those Allottees before the civil court in which they had filed a Civil Suit for the reason that earlier most of the allottees were not co-operating in Formation of Association of Allottees. There are 1018 defendants in the said suit. She also stated that OC has been received for the instant project Eden City Mahestala Phase - I during the period 2012 to 2022. She could not able to state anything about the issuance of the C.C of the project. She also stated that as per para 16 and 17 of the Agreement for Sale there is a provision of Caution Money and the said amount may be used by the Respondent Promoter only in case of emergency where Allottee is not paying money and to manage the said emergency situation the Respondent Promoter may use the amount partially or fully and the promoter shall handover the amount to the Association of Allottees at the time of delivery of the project and	

common areas to the Association.

Complainant stated that he has made no. of emails to the Respondent in this regard but they have not replied at any time that the caution money cannot be used or adjusted with the unpaid maintenance charges at the instance of the Complainant.

After hearing both the parties, the Authority is hereby pleased to give the following directions:-

a) Respondent shall submit a **Supplementary Notarized Affidavit** stating that whether the project **Eden City Mahestala Phase I** has received C.C or not? if yes, then the date of issuance of the C.C and if the C.C has not been issued before the enforcement of RERA Act in May 2017, then the project is liable to be mandatorily registered with the WBRERA Authority. Respondent shall state in its Affidavit why they have not registered the project with the WBRERA Authority? Respondent shall also state the details of the steps they have taken for formation of Association of Allottees stating the number and date of submission of Application before the Competent Authority under the West Bengal Apartment Ownership Act, 1972.

b) Complainant is not entitled to ask for refund / adjustment of caution money with the unpaid maintenance charges as the Caution Money should be used in emergency situation by the Promoter when Complainant Allottee did not pay maintenance or other charges. Complainant cannot ask for adjustment of the same because this will against the logic and significance of the 'Caution Money'.

c) Respondent shall take all endeavour to complete the process of Formation of Association of Allottees, within **90 days** from the date of receipt of this order of the Authority through email.

Fix **29.07.2025** for further hearing and order.


(BHOLANATH DAS)
Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)
Member

West Bengal Real Estate Regulatory Authority