

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

Complaint No.WBRERA/COM000931

Sukla Banerjee..... Complainant

Vs

Mr. Aditya Agarwal..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 17.01.2025	<p>Complainant is present in the physical hearing today and signed the Attendance Sheet.</p> <p>Advocate Abdool Masood (Email: abdulmasood.advocate@gmail.com and Mobile No. 9831195071) is present on behalf of the Respondent Promoter Company filing vakalatnama and signed the Attendance Sheet.</p> <p>Heard both the parties in details.</p> <p>As per the Complainant, the fact and details of the case is that,-</p> <p>Complainant: Ms Shukla Banerjee, R/o House No-35, Sector-9, Gurugram Haryana-122001.</p> <p>Respondent: Managing Director/CEO through Director, Mr Aditya Agarwal, ID- aditya.agarwal@edengroup.in</p> <p>Office Address: 17/1 Lansdowne Terrace, Kolkata 700026</p> <p>Eden Group Registered office: 6C, Elgin Road, 4th Floor, PS: Bhowanipore, Kolkata 700020.</p> <p>Real Estate: Residential Flat at Eden Flora-2 with Open Garage, Unit No- 4-C, 4th Floor, Block-I/Block-A; 4946 Nayabad; Kolkata with super built area of 1160 Sq. Ft.</p> <p>Date of Booking & Allotment: 10-03-2012 Date of Execution of Agreement to Sale: 13-04-2012 Due date of possession as per Cl. 7.6 of Agreement to Sale: 13-10-2014. Offer of possession: 21-11-2014</p> <p>Total Sales consideration paid: Rs.40,83,890/- including service tax. [Rs 39,62,000/- excluding Service tax]</p> <p>Physical possession Illegally without Completion Certificate (CC) and Occupation Certificate (OC): 12-12-2014</p>	

Eden Flora-2, run by Eden Group has not till date furnished the requisite CC/ OC, thereby making the possession & Occupation illegal. Complainant is not able to use (being illegal) /rent/monetise the property in absence of CC & OC

Eden Flora-2 is also not registered with WB RERA whereas its mandatory as per Section 3 of Real Estate (Regulation and Development) Act, 2016 when the CC is not obtained. Handing over possession for occupation in absence of CC is also violation of KMC rule 32.

Thus, the completion of the project is delayed from its schedule date of possession by 113 months till 31-03-2024 & this petition is towards seeking appropriate relief as permitted by law.

Complainant wishes to continue to hold the said unit and not withdraw from the project. Complainant is seeking delayed possession interest as per Section 18 of the Real Estate (Regulation and Development) Act, 2016.

The Complainant prays before the Authority for the following reliefs:-

1. Direct the Respondent to obtain Completion Certificate (CC) and Occupation Certificate (OC) for the unit/project in question and issue fresh offer of possession to the Complainant.

2. Impose a penalty upon the Respondent to the extent of 10% of the total cost of the project as per Section 59 of Real Estate (Regulation and Development) Act, 2016, for not registering an ongoing project Eden Flora-2 with WBRERA/WBHRA, where CC has not been obtained.

3. Impose additional penalty upon the Respondent to the extent of 5% of the total cost of the project for violation of Section 11(4)(b) of Real Estate (Regulation and Development) Act, 2016 and as per Section 61 of Real Estate (Regulation and Development) Act, 2016 for offering possession without obtaining CC/ OC. Additionally, direct the Respondent to register the project with Hon'ble Authority.

4. Direct the Respondent to pay interest charges on delayed possession under Section 17 of West Bengal Real Estate (Regulation and Development) Rules, 2021 and as per Section 18 of Real Estate (Regulation and Development) Act, 2016 to the Complainants on the principal amount Rs 40,83,890/- from the due date of possession of 13-10-2014 till the date of receipt of valid CC and OC.

5. Direct the respondents refund the principal amount and also to pay interest as per Section 17 of West Bengal Real Estate (Regulation and Development) Rules, 2021 and as per Section 18 of Real Estate (Regulation and Development) Act, 2016, which was paid towards EDC, Security and Maintenance plus service tax (Rs 102,350/-). These charges are due only after receipt of CC/OC for the project.

6. Pass order restraining the Respondent from taking any coercive

actions against the Complainant, from cancelling/ altering/ modifying/ raising illegal charges/ creating own- or third-party rights in regard to the claimant's allotment/ possession.

7. Any other relief as the Hon'ble Authority may deem fit and proper in the facts and circumstances

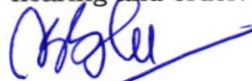
After hearing both the parties, the Authority is pleased to admit this matter for further hearing and order as per the provisions contained in Section 31 of the Real Estate (Regulation and Development) Act, 2016 read with Rule 36 of the West Bengal Real Estate (Regulation and Development) Rules, 2021 and give the following directions:-

The Complainant is directed to submit his total submission regarding the Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested supporting documents and a signed copy of the Complaint Petition and send the Affidavit (in original) to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within **10 (ten)** days from the date of receipt of this order of the Authority by email.

The Respondent is hereby directed to submit its Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested/self-attested supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Complainant, both in hard and soft copies, within **10 (ten)** days from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

The Respondent shall also specifically state in its Affidavit whether they have taken registration of the project with erstwhile WBHIRA/WBRERA and if not taken, the grounds / reasons for not taking the registration. They shall also state in their Affidavit why possession has been delivered to the Complainant without obtaining the C.C.

Fix **18.02.2025** for further hearing and order.



(JAYANTA KR. BASU)

Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority