

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

Complaint No. COM000011

Moniruddin MandalComplainant

Vs.

Tapas Kumar Bhagat..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
Execution (03) ----- 12.03.2024	<p>Complainant (Mobile – 9732144725) is present in the physical hearing today and signed the Attendance Sheet.</p> <p>Advocate Sayantan Gayan (Mobile No. 8981460203 & email Id: rajib722@outlook.com) who is the junior of Mr. Rajib Roy, Advocate on record of the Respondent, is present in the physical hearing on behalf of the Respondent and signed the attendance sheet.</p> <p>Heard both the parties in detail.</p> <p>The Complainant stated that, he could not submit the affidavit as per the last order of the Authority dated 16.01.2024 as the Respondent did not submit any affidavit as per direction (a) in the last order of the Authority dated 16.01.2024.</p> <p>The Complainant stated in his Affidavit dated 11.01.2024 that the instant flat booked by him has already been sold by the Respondent to some third party namely Mr. Nani Gopal Majumdar by committing fraud upon the Complainant even though there was an existing order in favour of the Complainant passed by the erstwhile WBHIRA on 29.05.2019.</p> <p>The deed of conveyance has been executed on 18.10.2016 by the Respondent in favour of the third party Mr. Nani Gopal Majumdar which is duly registered in book-1, volume no. 1904-2016 pages from 368465 to 368500 being no. 190409902 for the year 2016.</p> <p>The Complainant further stated in his Affidavit that since the</p>	

flat in question has already been transferred to some third party, therefore he prays for an order of repayment of the Principal Amount of Rs.17,43,300/- paid by him for purchasing the flat in question alongwith statutory interest as per RERA Act and Rules.

The Respondent stated at the time of hearing that they will refund the Principal Amount paid by the Complainant alongwith interest but they need some time and prayed for a time of 5-6 months for paying the principal amount paid by the Complainant alongwith statutory interest.

After hearing both the parties, the Authority is of the considered view that the Respondent violated the final order of this Authority dated 29.05.2019, in which the Respondent was directed to immediately deliver possession of the flat to the Complainant and within 30 days from the date of communication of the said order, register the said flat in favour of the Complainant and pay him the interest for the delay period in providing possession.

The Authority took serious exception in this regard. As per the considered opinion of this Authority, the Respondent suppressed the material fact of sale of the flat in question to a third party at time of hearing before erstwhile WBHIRA. Also the Respondent did not comply the final order passed by the erstwhile WBHIRA Authority on 29.05.2019. The Respondent undoubtedly played fraud with the erstwhile WBHIRA Authority and also with this Authority.

Also, the Authority is of the view that as the flat in question has already been sold to a third party in the year 2016 therefore repayment of the Principal Amount of Rs.17,43,300/- alongwith Statutory Interest at the rate of SBI PLR + 2% per annum is the only relief that can be provided to the Complainant in execution of the final order dated 29.05.2019 passed in this matter, as per section 18 of the Real Estate (Regulation and Development) Act, 2016 read with Rule 17 of the West Bengal Real Estate (Regulation and Development) Rules, 2021. As per the prayer of the Respondent, he can be given an opportunity of paying the aforementioned amount within a period of 90 days as the Complainant also consented to this proposal of the Respondent at the time of hearing.

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

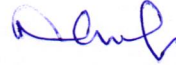
- a) The Respondent shall make refund of the Principal Amount

of Rs. **17,43,300/-** (Rupees seventeen lakhs forty-three thousand three hundred) only alongwith interest @**SBI +PLR 2% per annum** from the respective dates of payment made by the Complainant till the date of realization and the payment shall be made through bank transfer to the bank account of the Complainant, within **90 (ninety)** days from the date of receipt of this order through email; and

- b) The Complainant shall send his bank details to the Respondent in which he wants to take the refund by the Respondent, within 3 days from the date of receipt of this order of this Authority by email; and
- c) If the Respondent fails to make the payment as per the direction given at (a) above, penalty may be imposed upon the Respondent by this Authority as per section 38 read with section 61 of the Real Estate (Regulation & Development) Act, 2016.

The Authority shall review the matter in the month of June'2024

Fix **19.06.2024** for further hearing and order.



(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority