

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

Complaint No.WBRERA/COM 000053

Avijit Kumar Majumder and Soma Majumder.....Complainants

Vs

M/s. Cancun Construction Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
Execution (3) ----- 05.08.2024	<p>Today is the 3rd day of Execution Hearing of the final order passed in this matter dated 20.07.2023.</p> <p>Advocate Mr. Proteek Debnath (Mobile – 9007862686 and email id – proteek.debnath@gmail.com) is present in the physical hearing and signed the Attendance Sheet.</p> <p>Advocate Sanjita Mondal (Mobile – 6290968651 and email – dasankita511@gmail.com) is present in the physical hearing on behalf of the Respondent filing vakalatnama and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>Complainant stated that no amount has been paid by the Respondent as per the last order of the Authority dated 09.05.2024 in execution order no.2 and he prayed for immediate complete execution of the final order dated 20.07.2023.</p> <p>Advocate of the Respondent stated that they could not make the payment as they have not found readily the Bank Account Number of the Complainant and stated that they will make payment of Rs.50,000/- today if the Account number of the Complainant is made available to them immediately.</p>	

The Advocate of the Complainant stated that the Bank Account Number of the Complainant has been duly sent to the Respondent by the Complainant after receipt of the final order of the Authority dated 20.07.2023 and also it has been provided by the Complainant in his Execution Application dated 06.12.2023 and copy served to the Respondent.

The Authority is of the considered opinion that the Respondent is completely failed and he is also totally negligent about the compliance of the final order of this Authority dated 20.07.2023 and the order passed in the execution dated 05.04.2024 and 09.05.2024. Mr. Debashis Biswas and Mrs. Tapasi Biswas being Partners of the Respondent Company M/s Cancun Constructions did not appear on the last date of hearing when personal appearance of the partners of the Respondent firm was specifically ordered by this Authority by an order dated 05.04.2024 in Execution order no.1. It is clear that the Respondents are intentionally avoiding this Authority and they are intentionally violating the orders of this Authority passed in this matter. Therefore, the Authority has no other option but to take stringent action against them for recovery of the hard-earned money paid by the Complainants to the Respondent as per section 40 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as RERA Act) read with Rule 26 of the West Bengal Real Estate (Regulation and Development) Rules, 2021.


As per the records of this Authority the instant project named Cancun Skylark / Skylark is registered with erstwhile WBHIRA by Registration No. HIRA/P/NOR/2019/000704 dated 03.12.2019 and the RERA Account / Escrow Account / Separate Account, as per section 4(2)(l)(D) of the RERA Act lies with the **Axis Bank, Baguiati Branch**. As per section 4(2)(l)(D) of the RERA Act, seventy percent of the amounts realized for a real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to covered the cost of construction and the land cost and shall be used only for that purpose. Therefore the Authority is of the considered opinion that it is to be confirmed from the said Bank that which is the RERA Account of the instant project and the amount to be paid by the

Respondent to the Complainant is required to be recovered from the said RERA Account by giving necessary direction to the concerned Bank.

Hence, after hearing both the parties and taking into consideration the documents placed on record, the Authority is hereby pleased to give the following directions:-

- a) **The Bank Manager of the Axis Bank, Baguiati Branch** is hereby directed to **freeze** the Account No. **915020028171280**, **916020004928542** and **917030054191804** and also **freeze** other Accounts, if any, in the name of **M/s Cancun Constructions / Cancun Constructions** in the said Branch; and
- b) **The Bank Manager of the Axis Bank, Baguiati Branch** is also hereby directed to send a **Report on Notarized Affidavit** to this Authority by email and also by post within **7 days**, from the date of receipt of this order of the Authority through email, stating that which Account of the said Branch is the **RERA Account / Escrow Account** of **M/s Cancun Constructions / Cancun Constructions** for the project named **Cancun Skylark / Skylark**.

Fix **21.08.2024** for further hearing and order.


(BHOLANATH DAS)
Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)
Member

West Bengal Real Estate Regulatory Authority