

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

Complaint No. COM 000367

Anindya Bhukta..... Complainant

Vs.

Riverbank Developers Private Limited..... Respondents

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
04 21.06.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocate Aritra Deb is present in the online hearing on behalf of the Respondent.</p> <p>Be it mentioned here that by the Order of the Hon'ble Supreme Court dated 12.05.2023 in the Case No. Special Leave to Appeal (C) No(s). 16908/2022 in the matter of Saptaparna Ray Vs. District Magistrate North 24 Parganas & Ors., the Apex Court has been pleased to direct-</p> <p><i>"This Court observed that the "striking down of WB-HIRA will not affect the registrations, sanctions and permissions previously granted under the legislation prior to the date of this judgment". This principle shall also apply to orders which were passed whether in original or in the course of execution prior to the date of the judgment. All such orders shall be executed in accordance with law, as if they were issued under the RERA.</i></p> <p><i>Moreover, we clarify that all complaints which were filed before the erstwhile authority constituted under WB-HIRA shall stand transferred to and be disposed of in accordance with law by the authority which is constituted under the Central Act. Any person aggrieved by an order passed under WB-HIRA will be at liberty to pursue the corresponding remedy which is available under the RERA."</i></p> <p>Therefore, as per the above direction of the Hon'ble Supreme Court, this Authority shall proceed with the hearing of the Complaint Case No. COM000367 from the stage up to which</p>	

hearing was conducted by the WBHIRA Authority and today the matter bearing no. COM-000367 is fixed for hearing.

Heard both the parties in detail.

Complainant present in the hearing today stated that no payment has been made by the Respondent after the order dated 25.03.2021 of erstwhile WBHIRA mentioned above.

Advocate Deb today prayed for a short adjournment of the matter on the ground that a process is going on at their end for change of advocate on behalf of the Respondent in the matter of COM 000367.

Considered and rejected the prayer of the Respondent as the Respondent violated the last order of the erstwhile WBHIRA Authority dated 25.03.2021 and made no refund to the Complainant till date. Also on 24.05.2023 at the time hearing of the selfsame matter in WBREARA / COM 000108, it was specifically stated by the Authority in the order that today the matter of COM-000367 shall be taken up for hearing. Therefore reasonable opportunity and time has been given to the Respondent to prepare for today's hearing.

In Complaint Case no. COM-000367, last order was passed by the erstwhile WBHIRA Authority on 25.03.2021.

This Authority shall today take up the hearing of this matter from this stage.

In the said order, the Respondent was directed to submit a revised refund schedule mentioning the date/month and amount of payment to be made by the Respondent in each installment. The total refund amount shall contain the principal amount paid by the Complainant amounting to Rs. 25,98,014/-, after deducting amount paid by service tax amounting to Rs. 96,954/-, and shall include interest at the rate of SBI Prime Lending Rate + 2% during the period starting from the date of payment by the Complainant till the date of refund by the Respondent. Therefore the balance amount of Rs. 25,01,060/- (Rs. 25,98,014 - Rs. 96,954) shall be refunded by the Respondent. Respondent was also directed to start payment of the total refund amount immediately in 5 (five) consecutive monthly installment starting from April 2021.

After examination of the Notarized Affidavits of both the parties and Notary Attested documents placed on record in the matter of COM 000367 and after hearing both the parties in the online hearing, the Authority is of the considered view that the Respondent has failed miserably in his obligation to hand over possession of the Apartment to the Complainant within the scheduled time line and therefore he is liable to refund back the principal amount paid by the Complainant along with interest at the rate of SBI PLR +2% starting from the date of respective payments made by the Complainant till the date of realisation, as per the provisions contained in section 18 of the Real Estate (Regulation and Development) Act, 2016 read with rule 17 and 18 of the West Bengal Real Estate (Regulation and Development) Rules, 2021.

Hence it is hereby,

Ordered,

That the Respondent shall refund the principal amount of Rs. 25,01,060/- (Rupees twenty-five lakhs one thousand sixty only) along with interest @SBI Prime Lending Rate + 2% starting from the respective dates of payments made by the Complainant till the date of realisation. The Respondent shall also handover the Complainant the Receipt / Certificate of the GST / Service tax paid by him.

The refund shall be made by bank transfer to the bank account of the Complainant, within 45 days from the date of receipt of this order of the Authority by email.

The Complainant shall send his bank account details in which he wants to take the refund amount, to the Respondent by email within, 3 days from the date of receipt of this order of the Authority by email.

Complainant is at liberty to file an Execution Application on any plain paper annexing a copy of this Order, to this Authority, if the Respondent defaults to comply this order either

in full or in part within the specified time period as mentioned in this order. In that case Respondent shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five percent of the estimated cost of the real estate project named 'Hiland Greens Phase-2', as determined by this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

Let copy of this order be sent to both the parties through speed post and also by email immediately.

With the above directions the matter is hereby disposed of.



(SANDIPAN MUKHERJEE)
Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS) 21/6/2023
Member

West Bengal Real Estate Regulatory Authority