

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

Complaint No. WBRERA/COM000775

Manish Srivastava Complainant

Vs

Bengal Emami Housing Limited.....Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 16.07.2024	<p>Advocate Badrul Karim (Mobile - 7076994749, email - badrulkarimadv2016@gmail.com) is present on behalf of the Complainant filing vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Vedika Sureka (Mobile - 9831260549, email - vedika@gaggarcollp.com) is present on behalf of the Respondent Company in the physical hearing today filing vakalatnama and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complaint Petition:-</p> <ol style="list-style-type: none">1. The Complainant applied to purchase a flat in the project named 'Swan Court' initiated by the West Bengal Housing Board.2. This project, overseen by the Respondent Promoter Company, aimed to fulfill the Govt. of West Bengal's policy for a large township development in Rajarhat, Kolkata, particularly in New Town.3. It was intended to cater to the housing needs of various income groups, as outlined in a notification dated 05.02.2010, reflecting the WB Housing Board's mission to provide affordable shelter.4. Despite entering into an agreement for the purchase of a flat in the 'Swan Court' project, the complainant faced delays in receiving possession and the execution of the final conveyance deed.5. Being Emami Housing limited is a joint-sector company, with 49.5% ownership each by the West Bengal Housing Board and Emami, while the remaining 1% is held by the public.6. As the stipulated timeframe for possession elapsed, the complainant suffered financial difficulties, including the loss of House Rent Allowance (HRA) and continued payment of EMIs.	

7. The complainant lodged complaints against Bengal Emami Housing Limited for charging unauthorized rates, unjustified 'interests, and delays in possession. These issues were brought before the GST Appellate Authority (NAA), which found the company's actions amounting to profiteering.
8. Despite the complaint's representations, Bengal Emami Housing Limited treated them unfairly compared to other buyers in the project.
9. The complainant faced obstacles in registering the flat, despite having paid over 90% of the agreed-upon amount, as per the agreement for sale and statutory guidelines.
10. Despite requests, the company withheld the draft conveyance deed, obstructing the completion of the sale and hindering the implementation of the housing scheme.
11. Furthermore, the complainant was denied the right to inspect and sign the agreement, a legal entitlement that was consistently denied by Bengal Emami Housing Limited.
12. Instead of addressing the complainant's concerns, the company sent notices demanding interest payments, disregarding the compensation owed for the prolonged delay in delivering the flat.
13. Even without possession of the flat, the Respondent arbitrarily levied maintenance charges on the complainant.
14. Despite having paid more than 90% of the flat's price and availing a loan from the SBI, the complainant continued to bear the burden of EMIs and suffered financial losses, including the loss of HRA.
15. Frustrated with the company's actions, the complainant filed a writ petition seeking redressal in the Hon'ble High Court at Calcutta (WPA No. 3669 of 2023). The court directed the Complainant to seek remedy through RERA, recognizing it as an equally efficacious alternative, emphasizing expeditious resolution.
16. The Complainant states that the cause of action arose on 29.12.2017 wherein the agreement for sale was executed in between the Complainant and the Respondents.

In this Complaint Petition the Complainant prays before the Authority for the following relief(s):-

- i) Direction on the Respondent for immediately handing over a draft copy of the Deed of Conveyance prepared in terms of the Agreement for Sale in order to enable the Complainant to be satisfied with the contents and seek appropriate legal opinion before execution/registration; and
- ii) Directed upon the Respondent to Settle all interest/Compensation

payable and receivable in terms of the Agreement for Sale dated 29.12.2017.

In this Complaint Petition, the Complainant prays for the following interim relief(s) before the Authority :-

Immediate direction upon the Respondent to pay Rs.100/-per day being the violation of the Agreement for Sale dated 29.12.2017 along with an interest @18% p.a. for willful default or violation of the agreement and Rs.10,00,000/- for mental agony and physical suffering of the Complainant over the last several years and months and Rs.10,00,000/-(Rupees Ten Lakhs) only for deficiency in service and unfair trade practice.

At the time of hearing the Complainant prayed before the Authority that necessary direction is required to be given to the Respondent so that they send him the Draft Deed of Conveyance for his perusal and necessary correction.

The Complainant also stated that maintenance amount is being charged over him although physical possession has not yet been delivered.

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:-

- a) The **Complainant** is directed to submit his total submission regarding their Complaint Petition on a Notarized Affidavit annexing therewith notary attested/self-attested copy of 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 scan copies, within **21 (twenty-one)** days from the date of receipt of this order of the Authority by email.
- b) The **Complainant** is further directed to send a scan copy of his Affidavit alongwith annexure to the email id of the Advocate of the Respondent, as mentioned above.
- c) The **Respondent** is hereby directed to submit his Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested/self-attested copy 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 scan copies, within **21 (twenty-one)** days from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.
- d) The **Respondent** is further directed to send **Draft copy of Deed of Conveyance** to the Complainant, within a period of **15 days** from the date of receipt of this order of the Authority through email, for correction / modification from the end of the Complainant.
- e) The **Complainant** is further directed to send his corrections / modifications, if any, in the draft Deed of Conveyance to the Respondent, within a period of **15 days** from the date of receipt of the Draft Deed of Conveyance from the Respondent, for finalization.

- f) The Respondent is also directed **not to charge any maintenance amount** on the Complainant till the date of physical handover of possession of the flat to the Complainant.
- g) On the request of the Advocate of the Respondent at the time of hearing, liberty is hereby given to the Respondent so that the **senior counsel** on its behalf may appear **through online mode** on the next date of hearing.

Fix **14.11.2024** for further hearing and order.



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority