

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

Complaint No.WBRERA/COM (PHYSICAL)000035

Prabir Kumar Raychaudhuri.....Complainant
Vs.
Ideal Real Estates Pvt. Ltd..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
(4th) Execution ----- 04.07.2024	<p>Today is the 4th day of Execution Hearing of the final order passed in this matter on 10.05.2023.</p> <p>Complainant is present in the physical hearing today and signed the Attendance Sheet.</p> <p>Advocate Mr. Dripto Majumdar (Mobile – 9874841026, email – dripto9@gmail.com) is present in the physical hearing today on behalf of the Respondent and signed the Attendance Sheet. As because Mr. Majumdar could not produce any valid authorization therefore his presence in this matter cannot be taken into consideration and Respondent shall be treated as absent in today's hearing.</p> <p>The Respondent has submitted a Notarized Affidavit dated 27.03.2024, as per the order of this Authority dated 06.02.2024, stating that when and how they will make the payment as per the final order dated 10.05.2023, which has been received by this Authority on 01.04.2024.</p> <p>Let the said Affidavit dated 27.03.2024 of the Respondent be taken on record.</p> <p>Heard both the parties in detail.</p> <p>Complainant stated at the time of hearing that he has not received any amount from the Respondent till date after the last order of the Authority dated 27.03.2024 and he prayed for immediate complete execution of the final order of this Authority dated 10.05.2023.</p>	

In the Affidavit dated 27.03.2024 submitted by the Respondent, at point no.14, the Respondent stated that they are not in a position to make payment of the same as awarded in the final order dated 01.08.2023 at one go and Respondent prayed for necessary direction from the Authority to pay in instalments at the rate of Rs.7,00,000/- per month starting from April, 2024 till the amount is fully paid.

The Complainant stated at the time of hearing that he is agreeable with the above mentioned proposal of the Respondent and he prayed before the Authority for necessary direction so that the Respondent start payment in instalments from July, 2024 at the rate of Rs.7,00,000/- per month till the amount is fully paid and he prayed for necessary direction so that Respondent shall send him postdated cheques in this regard immediately and he also prayed that the Respondent should also submit a Payment Schedule accordingly on Notarized Affidavit giving an undertaking on Affidavit that they will not stop payment and the postdated cheques to be given by the Respondent shall be duly honoured.

The Advocate appearing for the Respondent stated that the Ideal Real Estate Private Limited has been declared as Insolvent and Moratorium has been declared by the National Company Law Tribunal (NCLT), Kolkata Branch, Court - I in I.A. (IB) No.1920/KB/2023 and CP (IB) No.127/KB/2023 in the matter of Oarsman Credit Private Limited Vs Ideal Real Estates Private Limited by an order dated 05.04.2024.

He also stated that the National Company Law Appellate Tribunal, Principal Bench, New Delhi in case no. Company Appeal (AT) (Insolvency) No. 696 of 2024 in the matter of Nakul Himatsingka Vs Oarsman Credit Private Limited & Anr. has been pleased to stay the order passed by the National Company Law Tribunal dated 05.04.2024, as mentioned above.

He further stated that as because a Moratorium has been announced this Authority cannot proceed with this hearing as per section 14 of the Insolvency and Bankruptcy Code (IBC).

Section 14(1) of the IBC provides that,-

“14. (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or

other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.”.

Therefore, the Advocate of the Respondent stated that this Authority cannot proceed with this execution proceeding as per section 14 of the Insolvency and Bankruptcy Code.

When Advocate Majumdar was asked by the Authority that who has authorized him to appear in this hearing today because as per him there is no management or board in the Respondent Company at present and therefore the Respondent cannot authorize any person or advocate to appear before the Authority today.

The Advocate Mr. Majumdar has no answer in this regard and he prayed for another date to come prepared with the answer.

As because Mr. Majumdar could not produce any valid authorization therefore his presence in this matter cannot be taken into consideration and Respondent shall be treated as absent in today's hearing.

The Authority is of the considered view that as a **stay order** has been pronounced by the National Company Law Appellate Tribunal, Principal Branch, New Delhi on 09.04.2024, on the order of National Company Law Tribunal, Kolkata Bench dated 05.04.2024 declaring Moratorium, therefore, this Authority now can proceed with execution hearing of this matter and there is no legal impediment in this regard.

The Authority is of the considered opinion that the Respondent can be directed to make payment at the rate of Rs.7,00,000/- per month starting from July, 2024 till the amount is fully paid, as per point no.14 of the Affidavit of the Respondent dated 27.03.2024, and as per the prayer of the Complainant at the time of hearing today. In the last month the remaining interest amount shall be paid. Respondent should be directed to send the Complainant postdated cheques accordingly within 31.07.2024.

After hearing the Complainant and the after going through the documents placed on record, the Authority is hereby pleased to give the

following directions:-


- a) Respondent shall make payment of the amounts as per the final order dated 10.05.2023 of this Authority, in consecutive monthly instalments at the rate of **Rs.7,00,000/- (Rupees Seven lakhs Only) per month starting from July, 2024** till the amount is fully paid. In the last month the remaining amount of interest shall be paid. Accordingly, Postdated cheques signed by Authorized Signatory of the Respondent Company in this regard shall be sent to the Complainant within 31.07.2024 and Respondent shall start payment from July, 2024 accordingly; and
- b) Respondent shall also submit a Notarized Affidavit containing the **Payment Schedule** as per the direction at (a) above and they also submit in the said Affidavit that payment of the post dated cheques sent to the Complainant shall not be stopped from their end and all the postdated cheques shall be duly honoured; and

Fix **05.09.2024** for further hearing and order.


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority