

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

Application for Revocation no. -WBRERA/Revocation-01/2024

Anirban Baidya..... Applicant / Complainant

Vs

Ganguly Evera Developers LLP..... Opposite Party

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
02 11.09.2024	<p>Applicant alongwith his Advocate Mr. Sarbajit Mukherjee is present in the physical hearing today and signed the Attendance Sheet.</p> <p>Advocate Mr. Sanjoy Pandit and Mr. Kaustav Sen, Legal Manager / Executive of the opposite party and Mr. R.P Bihani, one of the partner of Opposite Party and Authorized Representative of the opposite party Mr. Nisheet Agarwal, are present in the physical hearing today on behalf of the Opposite Party, filing Authorization and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>Applicant stated that the project land on which the instant project named '<b>4sight Florence Phase - III</b>' is presently being developed by the Opposite Party, the title of the said land is not clear and disputed and it has been transferred by unlawful manner, as the Power of Attorney dated <b>29.01.2012</b>, by which a portion of the said land has been transferred, was became infructuous at the time of transfer / sell of the said land, due to the death of one of the Grantor Late Kalyani Baidya of the said Power of Attorney on <b>29.01.2016</b>.</p> <p>The Applicant Mr. Anirban Baidya and his mother Late Kalyani Baidya, had executed a General Power of Attorney dated 29.01.2012, appointing one Manoj Roy, son of Shri Dilip Roy as their lawful constituted attorney, for the purpose of inter alia dealing with and transferring the subject Land. Smt. Kalyani Baidya died on 29.01.2016. It is settled position of Law that upon the death of the Principal(s), i.e. Kalyani Baidya in this case, the Power of Attorney become infructuous. On the basis of the said infructuous Power of Attorney, the said Land was transferred by Mr. Manoj Roy to Surdev Infracon Pvt. Ltd and Surdev Promoters Pvt. Ltd. on <b>04.01.2021</b> by a Deed of Sale.</p> <p>The Development Agreement dated <b>26.09.2022</b>, regarding the</p>	

instant project, was executed between Ganguly Evera Developers LLP and 45(approx.) Landowners, amongst the 45 Landowners, Surdev Infracon Pvt. Ltd and Surdev Promoters Pvt. Ltd. are two Landowners. **Surdev Infracon Pvt. Ltd** and **Surdev Promoters Pvt. Ltd.** are the Landowners of (approx.) twenty (20) decimal (12 katha) of land, comprised in R.S. dag no. 602 and 603, all in Mouza – Barhans Fartabad, J.L. No. 47, within ward no. 28 of Rajpur Sonarpur Municipality, District – South 24 Parganas. This Land is included within the land of the subject matter project, which has been mentioned above.

Respondent prayed that the Stay on the construction and all related activities which have been imposed are not necessary and there is no such urgency in imposing the stay on construction as this will hamper the interest of the home buyers / Allottees of this project.

The main points of objections stated by the opposite party at the time of hearing are,-

- a. The Application of the Applicant dated 18.07.2024 is not maintainable before this Authority; and
- b. As per section 3 of the Power of Attorney Act, 1882, it is the duty of the Principal / Grantor to inform the Attorney about the death of another Principal / Grantor ; and
- c. On the consideration of balance of convenience and inconvenience, the stay should be revoked by taking into consideration the interest of the Homebuyers of the subject matter project; and
- d. There is no suppression of fact by the Developer as they were not aware about the death of Smt Kalyani Baidya.

The Opposite Party has submitted a Written Objection dated 11.09.2024 at the time of hearing today.

Let the Said Written Objection of the Respondent be taken on record.

After hearing both the parties, the Authority is of the considered opinion that Stay is required to be continued in the said project as the title of the land of the said project is not clear and it has been transferred by an infructuous Power of Attorney document. The Advocate of the opposite party admitted at the time of hearing that the Land was transferred through the said Power of Attorney dated 29.01.2012. This Authority has granted registration to the instant project vide WBRERA registration no. WBRERA/P/SOU/2024/001086 dated 21.02.2024. Therefore, it is the duty of this Authority to take every possible care and protection so that no project shall be granted registration with invalid documents. If any such thing or matter comes to the knowledge and/or information of this Authority, this Authority has bound to take every necessary steps so that

no project with invalid documents can carry on construction and other related activities in the State of West Bengal. Therefore, the Application dated 18.07.2024 is required to be treated as a Complaint filed under section 7 read with section 31 of the Real Estate (Regulation and Development) Act, 2016, and the stay order, as issued on 10.09.2024 by this Authority, is required to be continued to protect and safeguard the interest of the Allottees / Homebuyers of the subject matter project and also in the protection of public interest at large in the State of West Bengal. Also, both the parties are to be given opportunity of filing of Affidavits containing their submissions / objections, as the case may be.

Hence, the Authority is hereby pleased to give the following directions:-

- a) Let the Application dated 18.07.2024, praying for Revocation of the Registration of the project named '**4sight Florence Phase - III**', as per section 7 of the Real Estate (Regulation and Development) Act, 2016, be treated as a Complaint submitted under section 31 of the said Act, and Mr. Anirban Baidya be treated as Complainant, to protect the interest of the homebuyers of the said project; and
- b) Let the Construction and all other related activities in the project site of the instant project namely '**4Sight Florence Phase - III**' shall remain **STAYED** until further order from this Authority; and
- c) The **Complainant** shall submit his total submission regarding his Complaint for Revocation of Registration dated 18.07.2024, on a Notarized Affidavit, annexing therewith notary attested copy of supporting documents and a signed copy of the Complaint and send the Affidavit (in original) to the Authority serving a copy of the same to the Opposite Party, both in hard and scan copies, within **7 (seven) days** from the date of receipt of this order of the Authority by email; and
- d) The **Opposite Party** shall submit its Written Response on Notarized Affidavit regarding the Affidavit of the Complainant, annexing therewith notary attested copy of 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 **7 (seven) days** from the date of receipt of the Affidavit of the Complainant, either by post or by email, whichever is

earlier; and

- e) The **Complainant** shall submit a Reply / Rejoinder on Notarized Affidavit, to the Affidavit of the Opposite Party, annexing therewith notary attested copy of supporting documents, if any, and send the Affidavit (in original) to the Authority, serving a copy of the same to the Opposite Party, within **7 (seven) days** from the date of receipt of the Affidavit of the Opposite Party, either by post or by email, whichever is earlier.

Fix **25.10.2024** for further hearing and order.

Sd/-  
(JAYANTA KR. BASU)  
Chairperson

West Bengal Real Estate Regulatory Authority

Sd/-  
(BHOLANATH DAS)  
Member

West Bengal Real Estate Regulatory Authority

Sd/-  
(TAPAS MUKHOPADHYAY)  
Member

West Bengal Real Estate Regulatory Authority

Certified to be true copy:

*Sd/-*

11.09.2024

Special Law Officer  
West Bengal Real Estate Regulatory Authority