

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

Complaint No. WBRERA/COM000724

Vinay Jindal Complainant

Vs

M/s. Shiv Mahima Developers Private Limited..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 25.04.2024	<p>Advocate Mrs. Ritaja Mukherjee (Mob. 9038134542 & email Id: ritaja.mukherjee29@gmail.com) is present in the online hearing on behalf of the Complainant, filing hazira and Vakalatnama through email.</p> <p>Chartered Accountant Mr. Gopal Krishna Lodha is present in the online hearing on behalf of the Respondent filing hazira and Authorization through email.</p> <p>Heard both the parties in detail.</p> <p>As per the Complainant he has purchased a residential flat being Flat No. 10A by virtue of an indenture dated 01.04.2016, alongwith one servant quarter on the 10th floor measuring an area of 2051 sq.ft. more or less super built up area together with terrace measuring about 93 sq.ft built up area and 2 medium size car parking space on the Ground Floor at the Project 'Elysium' located at Municipal Premises No. 25, Dr. Ambedkar Sarani, P.S. Topsia, Ward No.59, Kolkata from the Respondents herein and paid an amount of Rs.1,01,83,103/-out of total consideration amount of Rs.1,39,88,000/-. As per the terms of the Agreement for Sale, the project was to be completed by 31st March, 2018. But the Respondent failed to complete the project within the stipulated time period. The Respondent took project loan from LIC Housing Finance and have defaulted the same. But in the month of March 2022, an investor was ready to invest in invest in the project and clear the dues of LIC Housing Finance. Thereafter the Complainant entered into a Supplementary Agreement dated 29th march 2022 with the Respondents and the Respondent stated that they shall complete the project and handover the said flat to the Complainant by 31st march 2023 and till date the Respondent have neither deliver to them said flat nor execute the deed of conveyance. Moreover, the Respondent is constructing extra floor and hence, the common area included on the super built up area decreases proportionately since the saleable area increased.</p> <p>The Complainant prays before the Authority for the following relief(s):-</p> <ol style="list-style-type: none">1. Peaceful and vacant possession of the said flat alongwith CC of the project and execution of deed of conveyance in favour of the	

Complainant.

2. Demand an interest on delayed possession of the said flat as per Section 18 of the RERA Act and Section 17 of WBRERA Rules.
3. Re-calculate the super built up area of the said flat.
4. To restrain the Respondent from transferring and/or alienating and/or encumbering the said flat.

After hearing the Complainant, 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:-

The Complainant is directed to submit his total submission regarding their Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested 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 soft copies, within **15 (fifteen)** days from the date of receipt of this order of the Authority by email.


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 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 soft copies, within **15 (fifteen)** days from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

Fix **26.06.2024** for further hearing and order.


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority