

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

Complaint No.WBRERA/COM-000133 & COM-000552(erstwhile WBHIRA)

Sohail Shaikh Complainant

Vs.

Sk. Azem Ali..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
01 23.06.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Respondent is absent in the online hearing despite due service of notice through speed post and also by email.</p> <p>Let the track record of the due service of notice to the Respondent be kept on record.</p> <p>Heard the Complainant in detail.</p> <p>At the time of hearing, it has come to the notice of the Authority that on the selfsame matter, the Complainant had filed a Complaint case bearing number COM000552 before the erstwhile WBHIRA Authority .The said matter was not admitted for hearing till the struck down of the WBHIRA Authority by Hon'ble Supreme Court of India by an order dated 04.05.2021.</p> <p>It should be 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</i></p>	

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.

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.”

Therefore, as per the above direction of the Hon'ble Supreme Court the Complaint no. COM-000552 stand transferred to this Authority. As no hearing was done for that Complaint Petition before the erstwhile WBHIRA and on the selfsame matter the present Complaint bearing no. WBRERA/COM 000133 has been filed by the Complainant therefore this Authority is hereby pleased to close and dismiss the Complaint no. COM-000552 and this Authority shall proceed with hearing of this present Complaint Petition bearing no. WBRERA/COM 000133.

As per the Complaint Petition, the Complainant entered into an Agreement with the Respondent Company named as **'Reliable Construction Company (Civil Contractor)'** represented by Sk. Azem Ali on 5th March, 2016. The Agreement for Sale was executed between the parties for purchase of a flat by the Complainant measuring super built-up area of 700 Sq.ft., of total consideration of Rs.38,50,000/- (Rupees thirty-eight lakhs fifty thousand only.)

The Respondent failed to construct the proposed building within the schedule timeline and the Complainant now prays before the Authority for the relief of refund of the Principle Amount of Rs.14,00,000/- (Rupees fourteen lakhs only) paid by him for this purpose along with interest.

After hearing the Complainant, the Authority is satisfied to admit this matter for further hearing and order.

The Complainant is directed to submit his total submission regarding his Complaint Petition on a Notarized Affidavit annexing therewith notary attested supporting documents and

a signed copy of the Complaint Petition and send the original Affidavit 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 through email.

The Complainant is further directed to provide email ID/s and contact numbers of the Respondent Company and Directors of the Respondent Company, in his Notarized Affidavit, as mentioned above.

The Respondent is directed to submit his Written Response regarding the Complaint Petition and Affidavit of the Complainant on a Notarized Affidavit annexing therewith notary attested supporting documents, if any, and send the 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.

The Respondent is further directed to submit his Notarized Affidavit within the stipulated time period as mentioned above. No more time shall be granted to the Respondent to file his Written response.

The Respondent is also directed to positively appear on the next date of hearing, failing which, the Authority shall have no other option but to proceed with ex-parte hearing and disposal of this matter for the ends of speedy disposal of justice as per sub-section (4) of section 2 of the Real Estate (Regulation and Development) Act, 2016 .

Fix **14.08.2023** for further hearing and order.



(SANDIPAN MUKHERJEE)
Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)
Member

West Bengal Real Estate Regulatory Authority