

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

Complaint No. WBRERA/COM000670

Swagatam Karmakar..... Complainant

Vs.

Lifemake Construction Pvt. Ltd..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
01 26.12.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocates Mr. Aritra Basu (email Id: aritra.basu2021@gmail.com) and Mr. Abhijit Sarkar (Mobile No. 9830413878 &amp; email Id: abhi@abhijitsarkaradv.co.in) are present in the online hearing on behalf of the Respondent filing hazira and they are requested to submit their vakalatnama before the next date of hearing through email.</p> <p>. Heard both the parties in detail.</p> <p>As per the Complainant, he has booked a flat in Tower 1, flat no. 8C at Project '<b>Amaya Residences</b>' of the Respondent for a consideration of Rs. 51,83,050/- by virtue of a Registered Deed of Conveyance dated 27.07.22, being Deed No. 3372/22 registered at A.R.A-1. The complainant got handover of the flat on 01.06.22.</p> <p>After getting possession of the flat, the complainant discovered that a lot of work as promised in the Agreement for Sale still remained incomplete in total violation of Section 11 of the Real Estate (Regulation and Development) Act, 2016. List of such incomplete works are as follows:-</p> <ol style="list-style-type: none"><li>1. <b>Electricity</b> – The Respondent-Developer has not provided with a proper transformer and WBSEDCL Electric meters. He and other flat owners have been provided with sub-meter and are being charged @ Rs.8/- per unit in addition to GST. However it is only in the month of May this year when the Respondent-developer completed the payment of WBSEDCL, the transformer connection was completed and he was able to apply for meter in 28.07.2023.</li></ol>	

2. **Water Supply** – He and other flat owners are receiving water directly from the bore well, which is neither safe or pure nor suitable for consumption, despite the Developer's promise of providing clean and safe water. Due to the discontinuous function of WTP the tap water has impurities and obnoxious smell.
3. **Formation of Association** – No Association of the flat owners and/or Society have been formed, although 1 year and 8 months have already been passed since the majority of the flat owners have already been handed over possession of their respective flats. Moreover physical completion of all the common area and some of the statutory compliance such as CTO is yet to be in place to form the association.
4. **No maintenance of the Common Area** – According to Section 11 of RERA (Regulation and Development) Act, 2016, until the formation of the Society it is the responsibility of the Developer to take care of the maintenance of the common area, which has been deliberately neglected by the Developer resulting in unhygienic and unsafe surrounding.
5. **Swimming Pool and other rooftop amenities** – These facilities although have been promised by the Developer in the Agreement for Sale, but are still not completed. But the Developer is charging maintenance of the same without providing the services.

In this Complaint Petition, the Complainant prays before the Authority for the following reliefs:-

1. Authority to issue necessary directions to the Developer to provide the complainant with a compensation of 15% of the property value per year since 01.04.2022.
2. Authority to issue necessary directions to the Developer that the Defect Liability of 5 years to be considered from the date of physical completion of the project which is yet to be achieved by the Developer.
3. Authority to issue necessary directions to the Developer that the AMCs of 5 yrs of all electro-mechanical equipment such as Fire pumps, Domestic pumps, WTP, Lifts, DG etc. to be considered from the date of

physical completion of the project.

4. Authority to issue necessary directions to the Developer that all the NOCs of all the statutory bodies to be renewed up to 5 yrs, starting from the physical completion of the project.
5. After physical completion of the project Developer has to do an Audit to prove it. Following which the developer has to submit the report to WBRERA Authority and all the residents to verify.

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:-

The Complainant is directed to submit his total submission regarding his 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 **21 (twenty-one)** days from the date of receipt of this order through email.

The Complainant is further directed to send a scan copy of the Affidavit with annexure to the Advocates of the Respondent in their above respective email Ids.

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 **21 (twenty-one)** 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 mention in their Affidavit the actual date of completion of the project, whether they have received the C.C or not. If yes, then copy of the C.C should be attached with the Affidavit. The date of receiving the C.C should be mentioned in the Affidavit.

Fix **28.02.2024** for further hearing and order.

  
(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority

  
(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority