

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

Complaint No. COM 000722 (erstwhile WBHIRA)

Gautam Roy and Nandita Roy..... Complainants

Vs

Soumita Construction Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
01 15.12.2023	<p>Complainants are present in the online hearing filing hazira through email.</p> <p>Advocate Masooma Khan (Mob. No. 8981637107 &amp; email Id-lawdesk2@teamtaurus.co.in) is present in the online hearing on behalf of the Respondent filing hazira and authorization through email.</p> <p>This Complaint Petition was filed before the erstwhile WBHIRA on 21.04.2021. After that on 4<sup>th</sup> May, 2021, WBHIRA was struck down by Hon'ble Supreme Court of India.</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 &amp; 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 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.</i></p> <p><i>Moreover, we clarify that all complaints which were filed before the erstwhile authority constituted under WB-HIRA shall stand transferred to</i></p>	

*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-000722 stand transferred to this Authority and this Authority shall now proceed with hearing of this present Complaint Petition bearing no. COM 000722 (erstwhile WBHIRA).

Heard both the parties in detail.

As per the Complainant, an Agreement was done with the Respondent regarding a flat on 27.07.2013 in the project named '**Taurus County**'. Again an Agreement was executed with on 20.07.2015 with M/s Fairland Development India Ltd constituted attorney of M/s Soumita Construction Pvt Ltd. Due unavailability of the flat, second Agreement was done with the M/s Fairland Development India Ltd. M/s Soumita Construction Pvt. Ltd. has taken Rs. 12,37,080/- in the year 2013. On 2016 again payment was done for Rs.76,295/-. The total paid by the Complainant till date is Rs.13,13,375/-. As per the Agreement For Sale, time of handover of flat was within 42 months from the date of execution of the Agreement For Sale but till date no handover was made and also no refund was done by the Respondent in this regard.

The Complainant prays relief before the Authority for refund of the entire principal amount of Rs.13,13,375/- alongwith interest as per WBRERA Act and Rules and from the Respondent Company.

Complainant stated at the time of hearing that the project has been abandoned by the Respondent-Developer and he is not interested in any alternative flat. He wants refund of the money paid by him alongwith interest as per law at the earliest.

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 Complainants is directed to submit his total submission regarding his

Complaint Petition on a Notarized Affidavit annexing therewith notary attested / self attested copy of 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 **10 (Ten) days** from the date of receipt of this order through 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 **10 (Ten) days** from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

Respondent is further directed to give a Refund Schedule mentioning the date and amount of installments by which he will refund the Principal Amount alongwith interest at the rate of SBI PLR+2%, for the period, from the respective dates of payments made by the Complainant till the date of realization.

Fix **30.01.2024** for further hearing and order.



(SANDIPAN MUKHERJEE)  
Chairperson

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)  
Member

West Bengal Real Estate Regulatory Authority