

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

Complaint No.WBRERA/COM 000929

Dhiraj Mandal .....Complainant

Vs.

Shiv Niketan Pvt. Ltd ..... Respondent 1

Bhutoria Construction Pvt. Ltd ..... Respondent 2

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
07 06.03.2026	<p>Complainant (email:- <a href="mailto:dhiraj.rupa74@gmail.com">dhiraj.rupa74@gmail.com</a>) is present in today's hearing physically by signing the Attendance Sheet.</p> <p>Advocate Arcoh Chatterjee (mobile no:- 84203783665 and email id :- <a href="mailto:arcoh.adv@gmail.com">arcoh.adv@gmail.com</a>), and Smt Gargi Debnath (mobile no:- 6289435705 and email id :- <a href="mailto:legaldept@thegemsgroup.in">legaldept@thegemsgroup.in</a>), being the Legal Officer of the Respondent Company is present in the hearing today physically and signed the attendance sheet.</p> <p>Respondent submitted Affidavit as per order of the Authority dated 16.12.2025.</p> <p>Both the parties also submitted written notes of arguments.</p> <p>Heard both the parties in details.</p> <p>After hearing and going through the Affidavits, Counter Affidavits and supporting documents, the Authority observes that the Complainant booked a Flat on Ruby Tower-2 in Gems City of the Respondent Company on 04.12.2025 paying a token amount of Rs. 50,000/- on the same day and further payments of Rs. 3,51,760/- on 21.01.2019 and 24.01.2019 and subsequently entered into an Agreement for Sale on 27.03.2019, which was registered on 05.04.2019. As per terms and condition of the Agreement for Sale the scheduled date of possession of the Flat was 31.12.2021. Complainant made a total payment of Rs. 10,04,400/- to the Respondent before the scheduled date of possession including the initial payment and subsequent demands raised by the Respondents. As the Respondent could not handover the possession by the scheduled date the Complainant informed the Respondent that all the amount raised through demand letters issued after the scheduled date of possession will be paid by the Complainant at the time of registration and handing over of the possession of the Flat by the Respondent. Accordingly the demand raised by the Respondents after the scheduled date of possession was not paid by the Complainants.</p> <p>Complainant received notice for possession with demand letters for making the balance payment and accordingly with the Complainant made</p>	

payment of the balance amount of Rs. 10,82,891/- and got the possession of the Flat on 14.01.2025.

The Complainant prayed for compensation due to delay in handing over of the possession by the Respondent.

Respondent stated that the Complainants also did not make certain payments against the demands raised by them after 31, December, 2021. The Respondent also submitted a completion plan forwarded by Zilla Parishad through their letter dated 11.09.2023. Respondent submitted that they are also eligible to get interest due to delay in payment by the Complainant as per provision of Agreement for Sale.

On hearing both the parties, the Authority is of the opinion that though the Respondent got the completion plan from Zilla Parishad dated 11.09.2023, but they offered possession of the flat to the Complainant not before October, 2024. Therefore, the Respondent has failed to give possession of the Flat to the Complainant within the stipulated date i.e. 31.12.2021 followed by an extension granted by the Authority suo-moto due to Covid-19 i.e. within 30.09.2022.

As per provision given in the item No. 9 of Annexure -A, West Bengal Real Estate (Regulation and Development) Rule, 2021, in case of default by Promoter to provide ready to move in possession of the Apartment within the specified time period, the Allottee is entitled to stop making further payments to Promoter as demanded by him. It is the duty of the Promoter to complete the construction milestones and only thereafter the Allottee be required to make the next payment. So the action by the Complainant to stop payment after expiry of the stipulated date of completion and finally payment of the balance amount on getting the possession letter from the Respondent is justified and Complainant is not liable to pay any interest thereof to the Respondent.

Now the Authority is hereby pleased to give the following direction:-

As per provision of section 18 of Real Estate (Regulation and Development) Act, 2016 read with Rule 18 of WBRERA Rules, the Respondent shall pay the Complainant interest due to delay in handing over the possession at the rate of SBI PLR plus 2% on Complainant's invested money amounting to Rs. 10,04,400/- for the period starting from 01.10.2022 to 13.01.2025 through Bank Transfer within **45(forty-five) days**.

With this the instant complaint matter is hereby disposed of.

Let copy of this order be served to both the parties immediately.



(JAYANTA KR. BASU)

Chairperson

West Bengal Real Estate Regulatory Authority

(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority