

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

Complaint No. WBRERA/COM000435

Sujoy Kuma Nag. Complainant

Vs

Ashiana Construction..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 29.04.2024	<p>Complainant is absent in the physical hearing today.</p> <p>The Advocate of the Complainant sent an email on 25.04.2024 stating that his client is currently travelling for certain medical reasons and prayed before the Authority to kindly adjourn the proceedings for a period of six (6) weeks.</p> <p>Let the email communication dated 25.04.2024 be taken on record.</p> <p>Considered and granted the prayer of the Advocate of the Complainant.</p> <p>Advocate Neha Gupta (Mob. No.8918605797 & email Id: accounts@realtechnirman.in) is present in the physical hearing on behalf of the Respondent filing authorization and signed the Attendance Sheet.</p> <p>Heard the Respondent in detail.</p> <p>As per the Complainant, he has booked two residential units in the project 'RAJOTTO' of the Respondent Company bearing unit no. 53 in Block -E, 2nd Floor and unit no.53, Block-E in the 3rd Floor.</p> <p>Unit-53, Block - E, 2nd Floor has been booked upon payment of Rs.50,000/- through cheque to the Respondent Company. The said unit was a residential unit comprising carpet area of 409 sq.ft., balcony area 14 sq.ft., common area 177 sq.ft., total built area being 600 sq.ft. Total consideration being made Rs.19.03 lakh only.</p> <p>Unit-53, Block-E, 3rd floor alongwith one cover car parking space was booked upon payment of Rs.50,000/-only through cheque to the Respondent Company. The said unit was a residential unit comprising carpet area of 409 sq.ft., balcony area 14 sq.ft., common area 177 sq.ft., total built area being 600 sq.ft., alongwith one covered car parking space. Total consideration being made Rs.21.53 lakh only.</p> <p>That the Respondents projected that the possession of both the units shall be handed over on 31.12.2022.</p> <p>It is stated that the Complainant has paid all dues as per the 3rd schedule</p>	

that is a sum of Rs.14,79,276/-and Rs.15,85,665/-against the payment plan as set out there is to the tune of 85% and 80% of total apartment price against the two units respectively.

It is stated that the Complainant visited the construction site two months later in February'2023. To his great shock and dismay he found that nothing had been done and the bricks were lying around on 23.12.2022 as it is on the floor and untouched.

It is stated that the Respondents have not taking any steps to complete the work of construction as per the schedule date of handover of the two units.

That the Respondents have violated all the mandatory responsibilities imposed upon the promoter under the RERA Act, 2016 read with WBREERA Rules, 2021.

The Complainant prays before the Authority relief for the following relief(s):-

1. Directing the Respondents to disclose the location of the proposed covered garage space and open garage spaces in project **RAJOTTO** and identify the garage allocated to the Complainant and in the event of any variation from the notice/advertisement or prospectus of the model project, direct payment of penalty at such rate as prescribed under the RERA Act, 2016 read with WBREERA Rules, 2021.
2. Direct the Respondents to produce the Agreement for Sale registered on 09.09.2021 in the office of the Respondents in respect of the Unit-53, Block-E, 2nd floor of the project 'RAJOTTO' in favour of the Complainant;
3. Direct the Respondents to show cause as to why the Agreement for Sale in respect of Unit 53, Block-E, 3rd floor of the project 'RAJOTTO' has not been registered till date and upon failure to show cause direct the respondents to register the said Unit 53, Block E, 3rd floor of the project 'RAJOTTO' in favour of the Complainant upon payment of 10% of the estimated cost of the project 'RAJOTTO' to be determined u/s 59 of the RERA Act, 2016; alongwith payment of interest @10% on the sums of money paid by the Complainant against said Unit without registration of the same in accordance with law as provided u/s 13 of the RERA Act,2016 read with the WBREERA Rules 2016.
4. Direct the Respondents to show cause as to why penalty u/s 17 WBREERA Rules 2021 for violation of section 14 of the RERA Act, 2016 should not be imposed and upon failure to do so impose exemplary penalty against the Respondents in accordance with law.
5. Direct the Respondents to pay the interest amount @SBI Rate/Lending interest rate on the advance payments made by the Complainant, till the date of handover of the two units booked by him in complete habitable condition.
6. Direct the Respondents to show cause as to why penalty u/s 17

should not be imposed and upon failure to do so impose exemplary penalty against the Respondents in accordance with law.

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 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 **23.07.2024** for further hearing and order. On the next date hearing shall be held through online mode.



(SANDIPAN MUKHERJEE)

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