

**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/COM000026 & COM000324 (erstwhile WBHIRA)

Prasenjit Dutta.....Complainant

Vs.

Ideal Real Estates Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
3 ----- 15.06.2023	<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 due service of hearing notice to the Respondent be kept on record.</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 COM000324 before the erstwhile WBHIRA Authority .The said matter was under the process of hearing before the erstwhile WBHIRA Authority when on 04.05.2021 Hon'ble Supreme Court of India struck down WBHIRA Authority 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 &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</i></p>	

*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.*

*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-000324 stand transferred to this Authority. As on the selfsame matter the present Complaint bearing no. WBRERA/COM 000026 has been filed by the Complainant and already both parties have submitted Affidavits, therefore, this Authority is hereby pleased to close and dismiss the Complaint no. COM-000324.

And this Authority shall now proceed with hearing of this present Complaint Petition bearing no. WBRERA/COM 000026.

Heard the Complainant in detail.

The Respondent submitted a Notarized Petition-cum-Submission dated 20.05.2023 which has been received by this Authority on 22.05.2023.

Let the said petition of the Respondent be taken on record.

The Respondent also sent an email communication dated 14.06.2023 praying for a short adjournment so that their legal representations will be prepared and they will appear for the online hearing on the next date.

Let the said email communication of the Respondent dated 14.06.2023 be taken on record.

Considered and rejected the prayer of the Respondent because as per the Authority, already reasonable and sufficient time and opportunity has been given to the Respondent but Respondent failed to submit Written Response in this matter. This matter has been heard on 13.03.2023 and on 28.04.2023. On both the occasions the Respondent was absent and total 3 months time has been given to the Respondent but he neglected to take the opportunity provided to him.

Therefore this matter shall be heard and disposed of ex-parte today by this Authority for the ends of speedy disposal of justice as per the provisions contained in sub-section (4) of section 29 of the Real Estate (Regulation and Development) Act, 2016.

Heard the Complainant in detail.

The case of the Complainant is that, he booked a flat in the '**Ideal Aquaview**' project of the Respondent on 10.03.2014 and schedule date of hand over of possession of the flat was 31.12.2017 but the Respondent failed to deliver Possession of the said flat to the Complainant within the scheduled time line.

The Complainant had lodged a complaint before the erstwhile WBHIRA and till date he has got refund of Rs.62,00,000/- (Rupees sixty two lakhs only) approximately from the Respondent. He prays before the Authority for refund of the balance amount of **Rs.19,76,852/-**(Rupees nineteen lakhs seventy six thousand eight hundred fifty two only) containing principal amount as well as interest till 13.03.2023, as per point no. 8 of the Affidavit of the Complainant dated 17.03.2023.

After examination of the Affidavit submitted by the Complainant and Petition-cum-Submission of the Respondent dated 27.02.2023, 10.03.2023, 24.03.2023, 30.03.2023, 25.04.2023 and 20.05.2023 of the Respondent and after hearing the Complainant through online hearing, the Authority is of the considered view that the Respondent has failed miserably in his

obligation to hand over possession of the Flat to the Complainant within the scheduled time line and therefore as per the provisions contained in section 18 of the Real Estate ( Regulation and Development) Act, 2016 read with rule 17 and 18 of the West Bengal Real Estate ( Regulation and Development) Rules, 2021, the Respondent is liable to refund the balance amount of the Principal Amount paid by the Complainant along with interest at the rate of SBI PLR +2% for the period starting from the date of respective payments made by the Complainant till the date 13.03.2023 as claimed by the Complainant in his Affidavit.

Hence it is hereby,

Ordered,

that the Respondent shall refund to the Complainant Rs. **19,76,852/-** (Rupees Nineteen lakhs seventy six thousand eight hundred fifty two only ) which is the balance amount of the Principal money paid by the Complainant alongwith interest @ SBI Prime Lending Rate + 2%, for the period, starting from the respective dates of payments made by the Complainant till 13.03.2023 as claimed by the Complainant.

The refund shall be made by bank transfer to the bank account of the Complainant, within **45 days** from the date of receipt of this order of the Authority by email.

The Complainant shall send his bank account details in which he wants to take the refund amount to the Respondent by email within 3 days from the date of receipt of this order of the Authority by email.

Complainant is at liberty to file an Execution Application on any plain paper annexing a copy of this Order, to this Authority, if the Respondent defaults to comply this order either in full or in part within the specified time period as mentioned in this order. In that case Respondent shall be liable to a penalty for every day

during which such default continues, which may cumulatively extend up to five percent, of the estimated cost of the real estate project named '**Ideal Aquaview**', as determined by this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

Let copy of this order be sent to both the parties through speed post and also by email immediately.

With the above directions the matter is hereby disposed of.



(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