

West Bengal Real Estate Regulatory Authority

Calcutta Greens Commercial Complex (1st Floor)

1050/2, Survey Park, Kolkata – 700 075.

Complaint No.WBRERA/COM000084

Monika Biswas.....Complainant

Vs.

G.S. Electrocom Private Limited..... Respondent

| Sl. Number and date of order | Order and signature of Officer | Note of action taken on order |
|-----------------------------------|---|-------------------------------|
| <p>2 ----- 15.06.2023</p> | <p>Shri. Gobinda Lal Biswas, husband of the Complainant is present on behalf of the Complainant Smt. Monika Biswas in the online hearing, filing hazira and authorization through email.</p> <p>Respondent is absent in the online hearing despite due service of notice through speed post and through email.</p> <p>Let the track record of the due service of hearing notice to the Respondent be kept on record.</p> <p>Heard the Complainant in detail.</p> <p>Complainant submitted Notarized Affidavit dated 17.05.2023 containing her full submission, as per the last order of the Authority dated 03.05.2023, which has been received by the Authority on 22.05.2023.</p> <p>Let the said Affidavit of the Complainant be taken on record.</p> <p>Respondent has failed to submit any Written Response on</p> | |

affidavit before this Authority till date.

As per the Complainant she has booked a flat bearing No. 4F in the 4th floor of Block No. 3B32 of 'Simoco Sanhita' township project and agreement for sale was executed between the parties on 6th May, 2015. She has paid total Rs. 7,09,956/- to the Respondent in this regard and paid Rs. 24,849/- to the Respondent for payment of Service Tax. As per the Agreement for Sale the Complainant should have received possession of the flat booked by her by May, 2019. As the Complainant has not received the possession within the schedule time period, she cancelled the booking on 28.06.2021 and she was refunded only Rs.1,00,000/-till date by the Respondent.

The Complainant prays before the Authority for refund of the balance of the Principal Amount paid by him alongwith interest.

In the last order of the Authority dated 03.05.2023, Respondent was directed to file Written Response but he failed to submit Written Response. Also the Respondent did not appear on two consecutive dates of hearing on 03.05.2023 and also on today. He did not send any Petition to the Authority praying for time or adjournment etc. Therefore the Authority is of the view that reasonable and sufficient time and opportunity have been given to the Respondent but he neglected to represent his case before the Authority. Therefore, the Authority has no other option but to proceed with ex-parte hearing and disposal of this matter for providing speedy justice to the Complainant, as per sub-section (4) of Section 29 of the Real Estate (Regulation and Development) Act 2016.

After examination of the affidavit of the Complainant and notary attested photocopy of documents annexed with the Affidavit and after hearing the Complainant in detail in the online hearing, the Authority is of the considered opinion that the Respondent has failed in his obligation to deliver the possession of the flat booked by the Complainant within the schedule timeline that is within May, 2019 as per the Agreement for Sale executed between the parties on 6th May 2015. Therefore, as per the provisions contained in Section 18 of the Real Estate (Regulation & Development) Act, 2016 read with Rule 17 & 18 of the West Bengal Real Estate (Regulation & Development) Rules, 2021, the Respondent is liable to refund to the Complainant Principal Amount paid by the Complainant alongwith interest @ SBI PLR + 2% p.a., for the period starting from the date of respective payments made by the Complainant till the date of realization.

Hence, it is hereby

ORDERED

that the Respondent shall refund the balance of the Principal Amount paid by the Complainant i.e. Rs.6,09,956/- (Rupees Six lakhs nine thousand nine hundred fifty six only) to the Complainant along with interest @ SBI Prime Lending Interest Rate +2% p.a., for the period starting from the date of respective payments made by the Complainant till the date of realization.

The Respondent is further directed to handover the Complainant the Certificate / Receipt of the payment of Service Tax amounting to Rs. 24,849/- to the Competent Authority,

within 45 days from the date of receipt of this order of the Authority by email. If the Service Tax has not yet been paid to the Competent Authority, the Respondent shall refund Rs. 24,849/- to the Complainant within the said period of 45 days as mentioned above.

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

Copy of this order be served to both the parties by 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