

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

Complaint No.: WBRERA/COM000472

Radheshyam Pancharia..... Complainant

Vs

Malabika Bhoumic..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
02 24.01.2024	<p>Ms. Taniya Saha and Ms. Moumita Kumar, being Authorized Representatives of the Complainant, are present in the online hearing on behalf of the Complainant filing hazira and authorization.</p> <p>Advocate Subhro Kanti Roy Chowdhury is present on behalf of the Respondent-Allottee in the online hearing filing hazira and vakalatnama through email.</p> <p>Complainant submitted notarized Affidavit dated 29.11.2023, containing their total submission regarding this Complaint Petition, as per the last order of the Authority dated 23.11.2023, which has been received by this Authority on 30.11.2023.</p> <p>Let the said Notarized Affidavit of the Complainant be taken on record.</p> <p>As per the last order of the Authority dated 23.11.2023, the Respondent-Allottee has submitted her Written Response on Notarized Affidavit dated 22.01.2024 against the Complaint Petition and Affidavit of the Complainant, which has been received by the Authority on 24.01.2024.</p> <p>Let the said Written Response on Notarized Affidavit of the Respondent-Allottee be taken on record.</p>	

On perusal of the Written Response of the Respondent-Allottee, it transpires that the Respondent prayed for refund of the balance amount of Rs.8,31,726/- from the Complainant within 45 days from the date of passing of the order after deducting the booking amount of Rs.1,00,00/- . Respondent stated that due to banking issues related to house building loan the Respondent was unable to purchase the flat and he communicated the same to the Complainant and till the date of such communication, the Respondent paid a total amount of Rs.9,31,726/- out of which at first booking amount of Rs.1,00,000/- was paid on 14.02.2022 and thereafter on different dates the balance amount of Rs.8,31,726/- was paid by him.

After hearing both the parties and after examination of Affidavits of both parties and supporting documents annexed therewith, the Authority is of the considered view that in the present matter the booking amount is Rs.1,00,000/- as it transpires from the Annexure A of the Affidavit of the Complainant which contains the Application Form, at the page of Acknowledgement, it is stated that Rs.1,00,000/- is the booking amount and both the parties signed the same. As the Respondent is unable to purchase the flat and wants to withdraw from the said transaction therefore he is entitled to get refund of the balance amount of Rs.8,31,726/- after deduction of the booking amount of Rs.1,00,000/- from the total amount of Rs.9,31,726/- paid by him as per the clause 7 of the provision of '**cancellation by allottee**' as provided in the Proforma of Agreement for Sale as given in annexure A of the West Bengal Real Estate (Regulation and Development) Rules, 2021. As per the provisions of Clause 9 of the Proforma of the Agreement for Sale at Annexure-'A' of the West Bengal Real Estate (Regulation & Development) Rule, 2021 the Complainant is at liberty to cancel the Agreement for sale and terminate the allotment of the Respondent-Allottee.

Hence, it is hereby,

ORDERED

that this Authority has no objection if the Agreement For Sale executed between the parties on 25.05.2022 is cancelled by the

Complainant and the Respondent shall give necessary co-operation in cancellation of the said Agreement for Sale.

After cancellation of the Agreement for Sale and termination of the Allotment of the Respondent Allottee, the Complainant shall be at liberty to allot the same to any other Person.

The total amount of Rs.9,31,726/- paid by the Respondent-Allottee shall be refunded by the Complainant, within 45 days from the date of receipt of this order through email after deduction of the booking amount of Rs.1,00,000/-.

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

With the above directions the matter is hereby disposed of.

Sd/-

(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority

Sd/-

(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority

Sd/-

(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority

Certified to be true copy

s/he

24.01.2024

Special Law Officer
West Bengal Real Estate Regulatory Authority