

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

Complaint No. WBRERA/COM000215

Riya Bhattacharya Complainant

Vs.

Evania Infrastructure Private Limited Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
02 30.01.2024	<p>Advocate Somnath Chattopadhyay (Mob. No. 8584873398 & Mail Id - som07dc@gmail.com) is present in the physical hearing on behalf of the Complainant, filing vakalatnama and signed the attendance sheet.</p> <p>Respondent is absent in the physical hearing today despite due service of hearing notice to the Respondent through speed post and also by email.</p> <p>Let the track record of the due service of hearing notice to the Respondent be kept on record.</p> <p>Complainant has submitted Notarized Affidavit dated 24.11.2023, containing her full submission regarding the Complaint Petition, as per the last order of the Authority dated 23.11.2023, which has been received by this Authority on 28.11.2023.</p> <p>Let the said Affidavit of the Complainant be taken on record.</p> <p>Respondent was absent on the last date of hearing on 21.11.2023. The Respondent is also absent today and he has not submitted any Written Response till today before the Authority.</p> <p>Therefore, the Authority is of the considered opinion that sufficient time and reasonable opportunity has been given to the Respondent to present their case and defend himself in the present matter but he neglected / failed to take the opportunity therefore the Authority shall now proceed with ex-parte hearing and disposal of this matter as per Rule 36(2)(h) of the West Bengal Real Estate (Regulation and Development) Rules, 2021 and as per the provision of section 29(4) of the Real Estate (Regulation and Development) Act, 2016.</p> <p>Heard the Complainant in detail.</p> <p>The Complainant pointed out that there are two points in the last order of the Authority which requires corrections.</p>	

Considered and granted the corrections requested by the Complainant and the name of the Joint Complainant Late Parijat Bhattacharya shall be deleted as he died on 30.09.2019 and necessary correction shall be made in the email id and contact number of the Advocate of the Complainant.

As per the Complainant, she has booked a 3 BHK apartment having an area of 906.25 sq.ft. of being an Application No. EEN 1447 at 3rd Floor (South East) of Tower EEN in the project named as '**EVANIE ECONEST**' of the Respondent Company named as **Evania Infrastructure Private Limited**. She has paid total amount of Rs.3,77,580/- to the Respondent Company. Till date the Agreement for Sale has not been done between the two parties. The Respondent Company has promised to deliver the flat within a period of 40 months as specified in the terms and conditions. She has stated that till date, the Respondent Company have neither contacted nor handed over the flat. The Complainant also stated that the project is not registered with the WBRERA Authority.

The Complainant prays for the following reliefs before the Authority:-

1. The Complainant prays for refund of the entire principal amount of Rs.3,77,580/- alongwith interest as per RERA Act and Rules made thereunder.
2. The Complainant prays for revocation of any registration, if applied for by the Respondent.
3. The Complainant prays for costs and expenses of instituting the Complaint case against the Respondent.
4. Any other relief or relief(s) as the Authority may deem fit and proper.

After examination of the Notarized Affidavit of the Complainant and Notary Attested documents placed on record and after hearing the Complainant through 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 timeline and therefore, he is liable to refund the principal amount paid by the Complainant alongwith interest at the rate of SBI PLR +2% per annum for the period starting from the date of respective dates of payments made by the Complainant till the date of realisation, 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.

Hence it is hereby,

ORDERED

that the Respondent shall refund the Principal amount of Rs.3,77,580/- (Rupees Three Lakhs Seventy Seven Thousand Five Hundred and Eighty Only) alongwith interest @ SBI Prime Lending Rate + 2% per annum for the period starting from the respective dates of payments made by the Complainant till the date of realization.

The dates and amounts of payment made by the Complainant is given below for the purpose of calculation of interest:-

Sl. No.	Date	Amount
1.	18.09.2017	Rs.2,00,000/-
2.	01.11.2017	Rs.1,77,580/-
TOTAL		Rs.3,77,580/-

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.

Complaint 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 might 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 '**Evanie Econest**', as determined by this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

As pointed out by the Complainant, Let following corrections be hereby done in the last order of this Authority dated 21.11.2023 and in the records of this Complaint Matter:-

- a) The name of the husband of the Complainant, Late Parijat Bhattacharya be hereby deleted as he died on 30.09.2019; and
- b) The correct mobile no. of the Advocate of the Complainant shall be '**8584873398**' and correct email id shall be '**som07dc@gmail.com**'.

With the above directions the matter is hereby disposed of.

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

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

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3 30.01.2024

Special Law Officer
West Bengal Real Estate Regulatory Authority