

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

Complaint No.WBRERA/COM000570

Barni Saha Chowdhury and Subharth Saha..... Complainants
Vs

Evanie Infrastructure Pvt. Ltd..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
02 15.02.2024	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Respondent is absent in the online hearing today despite due service of hearing notice 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>Complainants have submitted a Notarized Affidavit dated 09.01.2024, containing their total submission regarding this Complaint Petition, as per the last order of the Authority dated 26.12.2023.</p> <p>Let the said Notarized Affidavit of the Complainants be taken on record.</p> <p>The Respondent is absent today and he has not submitted any Written Response till today before the Authority in non-compliance of the last order of the Authority dated 26.12.2023.</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 case of the Complainants is that they have booked a 2 BHK flat in the project of the Respondent named 'Evanie Econest' as on 9th February, 2018 with booking amount of Rs.4,42,939/-. Now it is observed by the Complainants that the project has been deregistered by erstwhile WBHIRA. The Respondent-Promoter has not yet refunded their hard-earned money although requested</p>	

several times by Complainants.

In this Complaint Petition, the Complainants pray for refund of the entire booking money alongwith interest as per norms.

. The said project of the Respondent Company namely '**Evanie Econest**' has not commenced construction and according to the Complainant, getting delivery of possession of the property by the Respondent Company cannot be trusted considering no project work has commenced and therefore the Complainants prayed for necessary direction for refund of the Principal Amount paid by them alongwith interest as per the provisions of RERA Act and Rules made thereunder.

After examination of the Notarized Affidavit of the Complainants and Notary Attested / self-Attested documents placed on record and after hearing the Complainants 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 Complainants within the scheduled timeline and therefore, he is liable to refund the principal amount paid by the Complainants 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 Complainants till the date of realization, 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.4,42,939/- (Rupees Four Lakhs Forty Two Thousand Nine Hundred and Thirty Nine Only) alongwith interest @ SBI Prime Lending Rate + 2% per annum for the period starting from the respective dates of payments made by the Complainants till the date of realization.

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

Sl. No.	Date	Amount
1.	12.09.2017	Rs. 2,32,164/-
2.	26.11.2017	Rs.1,40,000/-
3.	10.12.2017	Rs. 70,775/-
TOTAL		Rs. 4,42,939/-

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 Complainants shall send their bank account details in which they 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.

There has been a typographical mistake in the name of the Joint Complainant Mr. Subharth Saha and the Complainants pointed out this matter at the time of hearing today and requested for necessary correction in this regard.

Let the name of the Joint Complainant be read as '**Subharth Saha**' in place of 'Subhas Saha' and henceforth this correction shall be incorporated in all the documents regarding this matter.

Complainants are 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 (5) percent**, of the estimated cost of the real estate project named '**Evania Econest**', as determined by this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

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.



(SANDIPAN MUKHERJEE)
Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)
Member

West Bengal Real Estate Regulatory Authority