

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

Complaint No. WBRERA/COM (PHYSICAL) 000048

Mr. Hardeep Singh Complainant

Vs.

M/s Jain Group Projects Private Ltd & OthersRespondent no.1

HDFC Bank LtdRespondent no.2

JJ Properties Pvt. Ltd.....Respondent no.3

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
01 19.01.2024	<p>Advocate Tarun Kumar Dey (Mobile - 7980637618, email - sidd_w06050@yahoo.com) and Siddhartha Sankar Dey (Mobile - 9875409596) are present in the physical hearing on behalf of the Complainant filing vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Bidisha Banerjee and Suvankar Das are present in the physical hearing on behalf on Respondent no.1 and signed the Attendance Sheet.</p> <p>Shri Anubhabs Maitra, AVP-Legal, HDFC Bank is present in the physical hearing on behalf of Respondent no.2 and signed the Attendance Sheet.</p> <p>Shri Pratik Tibrewal, Director of Respondent no.3 (Mobile - 9831388711) and Shri Sourav Som being Authorized Representatives of the Respondent no.3 are present in the physical hearing and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complainant</p> <p>1. That the Respondent no.1 (M/s Jain Group Projects Pvt. Ltd) makes multiple violation / breaches of the provisions / sections / rules of WB RERA Act, in order to deceive / deprive the complainant during purchase of the impugned / demised flat.</p> <p>2. That there is willful violation / breaches of Sale Agreement by the</p>	

Respondent no.1 against the Complainant.

3. That the Respondent no.1 purposefully did not execute registered sale deed / agreement in favour of the Complainant, despite full and final payment of Rs. 2,09,26,337/- being made / paid in favour of the Respondent no.1.

4. That the Respondent no.1 purposefully deferred the whole process of registration by citing petty excuses of late payment charges of Rs 6,16,134.29/-.

5. That the Respondent no.1 did not handover the completion certificate to the complainant.

6. That the Respondent no.1 did not provide full and final possession or hand over of the impugned flat despite full and final payment of Rs 2,09,26,337/- to the Respondent no.1 dated 29.08.2023, to the Complainant.

7. That the Respondents resort unfair trade practices against the Complainant to make wrongful financial gains.

8. That the Respondents resort to cheating / fraudulent activity to make wrongful financial gains.

9. That the Respondent no.1 committed in the unregistered sale agreement to provide / hand over a flat ad-measuring 1592 sq.ft. (carpet area) to the complainant but later on found 1559 sq.ft of the flat has been provided to the complainant after proper survey of the entire flat, that means there is a deficit of 33 sq.ft. in terms of carpet area, for which the full amount has been paid to the Respondent no.1. Complainant was forced to pay more by the Respondent no.1 on one hand and on the other hand provided less sq'ft in terms of carpet area to the Complainant.

10. That the Respondent no.1 did not properly disclose the actual measurement in built up area of the impugned flat and super built up area of the project or apartment to the complainant in unregistered sale agreement.

11. That the Respondent no.1 wrongfully / erroneously charged the complainant on the basis of super built up area mentioned in the money receipt of payments as 2395 sq.ft. which is against the provisions of RERA Act.

12. That the Respondent no.1 has charged / sold covered / stilt car parking space at Rs 6,00,000/- separately in favour of the complainant but no separate allotment letter was provided to the complainant regarding stilt / covered car parking space mentioning the actual measurement of the car parking space and demarcating the position location of the

concerned car parking space allotted to the Complainant.

13. That the complainant purchased exclusive balcony of 54.90 sq.ft from the Respondent no.1 mentioned in the sale agreement and the amount was also fully paid in favour of the said Respondent but in actual he has provided 46 sq.ft. of exclusive balcony to the complainant.

14. That the Respondent no.1 did not mention the final date of handover or possession of the impugned that is unregistered sale agreement resulting in violation of sale agreement.

15. That the Respondent no.1 did not attach / insert the project lay out plan / map and lay out plan / map of the impugned flat in the unregistered sale agreement.

In the Complaint Petition, the Complainant prays for the following reliefs :-

- a) decree or an order to direct the Respondent no.1- 3 to execute and register sale deed in favour of the complainant at the earliest possible scope and opportunity, and failing which this legal / lawful forum or its officials to get completion of the deal / transaction in respect to the purchase of the impugned flat;
- b) decree or an order to hand over all keys and determine the car parking space and special balcony allotted to the complainant with immediate effect;
- c) decree or an order to refund the excess amount of Rs 2,34,135/- which has been unlawfully, erroneously included and charged by providing 33 (thirty three) Sq.ft. less (1592 Sq.ft -1559 Sq.ft) than what was committed / reflected in the sale agreement with 12% interest p.a. or as per prevailing rate of interest;
- d) decree or order to refund the whole amount which has been unlawfully erroneously charged based on super built up area (2395 Sq.ft - 1559 Sq.ft): 836 Sq. ft., amounting to Rs 59,31,420/-- with 12% interest p.a or as per prevailing rate of interest;
- e) decree or an order to impose penalty to a tune of Rs 4,00,00000/- against the Respondent no. 1 – 3 for violation of sale agreement, willful violation of RERA Act / for wrong /incomplete / false commitment to deceive the complainant, for an alleged act of cheating intended to deceive the Complainant by all means, being forced to suffer by way of mental physical harassment and heavy financial loss to the complainant;
- f) decree or an order to impose cost to a tune of Rs 5,00,000/- for deficiency of service coupled with resorting to unfair trade practices from the part of the Respondent no. 1 - 3;
- g) decree or an order to pay litigation and other related cost to a

- tune of Rs 50,000/- to the complainant;
- h) decree or order to waive off late payment charges of Rs.6,16,134.29/- unfairly erroneously claimed / charged by the Respondent no.1;
 - i) any other relief(s) which the complainant is entitled to get for ends of justice.

The Complainant prays for the following interim order:-

- a) An order to direct the Respondent no. 1 to execute Registration of sale deed;
- b) An order to handover the Completion Certificate and full and final possession of the impugned flat including Covered Car Parking space & exclusive balcony;
- c) An order to waive of late payment & other charges wrongfully charged by the Respondent no. 1.

After hearing both the parties, the Authority is pleased to admit this matter for further hearing and order as per the provisions contained in Section 31 of the Real Estate (Regulation and Development) Act, 2016 read with Rule 36 of the West Bengal Real Estate (Regulation and Development) Rules, 2021 and give the following directions:-

- a) The parties are at liberty to take all necessary measures to complete the registration of the Deed of Conveyance in favour of the Complainant within 30 days from the date of receipt of this order of the Authority by email; and
- b) The parties are at liberty to try for a mutual settlement for resolving the issues between them by amicable discussion amongst themselves regarding the instant matter and if they arrive at a mutual settlement, in that case they will submit a Joint Affidavit signed by them and send it to the Authority (in original), within 30 days from the date of receipt of this order through email and in that case there is no requirement of sending separate Affidavit as directed below.
- c) If they fail to arrive at a mutual settlement within the period of 30 days from the date of receipt of this order, then, -

- 1) the Complainant shall submit his total submission regarding his Complaint Petition on a Notarized Affidavit

annexing therewith notary attested /self-attested supporting documents and a signed copy of the Complaint Petition and send the Affidavit (in original) to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within **15 (fifteen)** days from the date of expiry of 30 days from receipt of this order through email; and

- 2) The Respondent shall directed to submit his Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested/self-attested supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Complainant, both in hard and soft copies, within **15 (fifteen)** days from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

Fix **18.04.2024** for further hearing and order.



(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority