

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

Complaint No. WBRERA/COM(Physical)000227-CP

Pijush Mukherjee & Anr. Complainants.

Vs.

M/s. Joy Baba Lokenath Construction & Ors... Respondents.

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
01 24.06.2025	The Complainant, Pijush Mukherjee & Anr. are represented physically by the Learned Advocate, Kautav Banerjee at the time of hearing of the instant Complaint. He has filed his hazira and Valakatnama which should be kept in record. The Respondents, M/s. Joy Baba Lokenath Construction & Ors were represented physically by the Learned Advocate, Subhro Kanti Roy Chowdhury. He has filed hazira and Valakatnama which should be kept in record. Today is the Admission hearing. The Learned Advocate appearing on behalf of the Complainants stated that the Complainants are the joint owner of the land in question where the Respondent/Developer has constructed the project namely "Anupama Heights". The Complainants in the year 2011 entered into a Development Agreement with the Respondents with a Development Power of Attorney to allow development of the said property for a proposed multi-storied building. The Developer/Respondents agreed to deliver two flats to the Complainants and the Complainants are in possession of the said Flat. The Respondents misleading the Complainants signed several documents and agreements wherein a Sale Deed was made on 28th April, 2021 instead of a Development Agreement and wherein no objection was also taken from the Complainants. The Complainants filed a Suit before the Learned Civil Judge (Senior Divn.), Barasat being Title Suit No. 417 of 2023 for cancellation of the Sale Deed which is still pending and other Criminal proceeding was also lodged against the Respondents. The Learned Advocate of the Complainants stated that the Respondent obtained sanction plan and they are making construction deviating the building plan as sanctioned by the Sanctioning Authority. Complainants have filed a Writ Proceeding before the Hon'ble High Court at Calcutta against the Respondents which is still now pending. The Learned Advocate appearing for the Complainants stated that the project "Annapurna Heights" is not registered under WBRERA and the Developer in violation of the provisions as mandated by the RE(R&D) Act 2016 and WBRERA Rules 2021 is selling the Flats and making advertisement so there must be an Ad-	

interim Order u/s 36 of the said Act restraining the respondent from selling the flats. The Learned Advocate stated that the Cause of Action of the pending Suit in Barasat Civil Court (Senior Division) is quite different and it is not filled for the self-same cause of action of the instant Complainants before this Authority so the instant Complainants is maintainable before this Authority. He also stated that the Complainants are co-allottees in the project of the Respondents so they are entitled to file the instant Complaint.

The Learned Advocate appearing on behalf of the Complainants prayed for an Interim Order restraining the Respondents from selling and/or encumbering with any flats or apartments of the said Project "Annapurna Heights".

The Learned Advocate appearing on behalf of the Respondents stated that he has not been served with the hard copy of the Complaint as filed by the Complainants so he is unable to file his Affidavit in Opposition. He also submitted that the instant Complaint is not maintainable as the Complainants have no locus standi to file the instant Complaint and he has filed another suit and cases before various forum for the self-same cause of action as such the instant Complaint is to be dismissed. He could not mention the commencement date of the project and also whether his client have applied for the registration of the project under WBRERA. He opposed to the prayer of Interim Order as prayed for by the Complainants.

After hearing both the Complainants and Respondents, 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:-

The Complainants are directed to serve a copy of the Complaint Petition alongwith all annexures through the notarized Affidavit before this Authority and to the Respondents, both in hard and scan copies, within **7 (seven) days** from the date of receipt of this order of the Authority by email.

The Respondents are hereby directed to submit their Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainants, annexing therewith notary attested/self-attested copy of supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Complainants, both in hard and scan copies, within **7 (seven) days** from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier;

The Respondents is hereby also directed to mention the actual date of commencement of the project "Annapurna Heights" and the details of registration of the project under WBRERA enclosing the certified copy of the Registration certificate as obtained from the WBRERA upon their submission of their application related to the instant project namely "ANUPAMA HEIGHTS", if the same has been done or not;

Further, the Authority is hereby pleased to pass an Ad-Interim Order of

Injunction restraining the Respondents from changing the nature and character and/or alienating and/or creating any third party interest by selling and/or handing over any flat of the said Project named "Annapurna Heights" till the next date of hearing.

Fix next date 4 **(four) weeks** from this date for further hearing and order.



(JAYANTA KR. BASU)
Chairperson
West Bengal Real Estate Regulatory Authority