

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

Complaint No. WBRERA/COM(PHYSICAL)000134

Dr. Samaresh Chandra Das, President,

Sunny Fort Association of Apartment Owners Complainant

Vs

Sunny Rock Estates and Developers Pvt. Ltd..... Respondent No. 1

Jamshed Ali Molla, Director, Sunny Rock Estates and Developers Pvt. Ltd... Respondent No.2

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 16.07.2024	<p>Advocate Suranjan Kundu (Mob. No. 9434040280 & email Id: sunnyfort.association@gmail.com) is present in the physical hearing today on behalf of the Complainant filing vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Manju Agarwal (Mob. No. 9830117297 & email Id: lpmauot@gmail.com) is present in the physical hearing today on behalf of the Respondent filing vakalatnama and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complaint petition, the Respondent being the developer/promoter constructed a residential complex known as 'Sunny Fort' located at Premises No. 07-0622, Street No. 622, Action Area IIB, New Town, Kolkata - 700 161, and sold the apartments to the general public. The construction of the complex was delayed by six years from the originally promised completion date and the developer managed to obtain the occupancy certificate for the complex in January 2018. However, the Respondent has not yet handed over the project to the registered body of the owners and there are several deficiencies. The following are the significant deficiencies:</p> <ol style="list-style-type: none">The Respondent did not take any step for enabling formation of an Association of allotted owners as envisaged u/s 11 (4) (e) of RERA 2016 despite obtaining Occupancy Certificate in January 2018.The Respondent is legally obligated to continue the maintenance of the entire project until an authorized association of owners is formed, as stipulated in Section 11(4) (d) of the Real Estate (Regulation & Development) Act, 2016. However, the respondent has contravened this provision by abruptly ceasing all maintenance services effective from April, 01, 2023, as indicated by a notice issued to all owners, thereby causing significant inconvenience and hardship.The Respondent has not yet handed over the sanctioned master plan	

of the project, alongwith the relevant documents and detailed plans of all important installations, including details of common areas, to the Association of Owners, in contravention of Section 17(2) of the Real Estate (Regulation & Development) Act, 2016.

d) The Respondent has refused to pay heed to structural defects in workmanship, its quality and other non-functional installations thus contravened section 14(3) read with section 11(4) (a) of RERA, 2016.

The following are the details:

- i) The Service Zone, as specified in Clause 1.3 of the Standard Terms and Conditions (STC), has not yet been built.
 - ii) The community hall and other areas intended for common use by the unit holders on the ground floors of each tower, as specified in clause 2.2.2 of the STC, have not yet been constructed.
 - iii) The toilets in the ground floor of blocks D & E were not construction as specified of the Clause 2.2.2 of the STC.
 - iv) The plant for recycling water for car washing and the garbage disposal system, as required by Schedule F, Clause 1.1. of the STC, have not been installed.
 - v) A poor-quality water treatment plant was installed, which became defunct without ever being operational, contrary to the provisions of Schedule F, Clause 1.1 of the STC.
 - vi) The Gas Bank for the supply of domestic gas, as stipulated in Schedule F, Clause 1.3 of the STC, has not yet been installed.
 - vii) The fire-fighting system is incomplete and non-functional, despite being required by Schedule F, Clause 1.3 of the STC.
 - viii) An internal communication system (EPBX or intercom) of poor quality was installed, which became unusable immediately after installation, contrary to the provisions of Schedule F Clause 1.4 of the STC.
 - ix) The exterior walls of the building have been damaged due to the use of poor construction materials and improper maintenance.
 - x) Proper fire doors, rated for a minimum of 2 hrs. of fire resistance as per WB Fire & Emergency Services guidelines, have not been provided on any of the lobbies in floors or for the shafts of the buildings.
- e) The Respondent collected @ Rs.10/-per sq.ft. on super built up area equal to 6 (six) months proportionate share of rates and taxes of concerned Municipality and for mutation but did not pay the taxes or completed the mutation of the flats.
- f) The Responded collected Sinking Fund at the rate of Rs.50/-sq.ft. on Super Built up area but did not return the same.

These deficiencies are illustrative but not exhaustive as per the Complainant.

In this Complaint Petition, the Complainant prays before the Authority for the following relief(s):-

- a) Refund of Rs.10/- per sq.ft. taken for mutation from flat owners along

with interest.

- b) Refund of the amount collected as insurance premium.
- c) Return the entire money which was collected from the owners by way of sinking funds as per Part II of Schedule C of STC.
- d) Provide the statement of accounts which must have head-wise expenditure in details till the time the respondent maintained the complex.
- e) Handover, all the documents, occupancy certificate with final sanctioned plans including drawings of plumbing, sewage, drainage and fire lines of the entire project.
- f) Handover documents relating to AMCs of various plants and machineries including that of elevators (lifts), firefighting system, water treatment plant and so on.
- g) Provide or pay for installation of firefighting and protection system along with 2 fire rated doors (2 hrs) of all lobbies and shafts.
- h) Pay the common area maintenance charges from April'2023 for all the unsold apartments which are still occupied by the respondent.
- i) Pay for repair of faulty water treatment plant, construct plant for recycling of water for car washing, sewage treatment plant, garbage disposal system etc.
- j) Pay for constructing community hall and other areas meant for common use of the apartment owners in the ground floors of each and every tower as promised.
- k) Pay for construction of common toilets for Block D & E as provisioned.
- l) Pay for installation of gas bank for supply of domestic gas as provisioned.
- m) Pay for installation of internal communication system (EPBX or intercom) as provisioned.
- n) Pay for the cost of repair of the structures and elevators which were damaged due to poor workmanship and inadequate maintenance on the part of the respondent/developer.

The Complainants before the Authority for the following interim orders:-

Directing the Respondent to handover or relevant documents, including the Occupancy Certificate and final sanctioned plans, which encompass drawings of plumbing, sewage, drainage, and fire-lines for the entire project so that the Owners' Association can proceed with the proper maintenance of the property.

Furthermore, directing the respondent to cover the costs for the repair of structures, lifts and fire fitting systems that were either incomplete or damage due to improper maintenance. These directions are necessary to ensure the basic safety of the residence and owners.

A direction of returning the sinking fund and fund collected from insurance premium with interest.

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:-

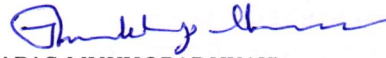
Let **Sunny Rock Estate Developers Pvt. Ltd.**, be included as **Respondent No. 1** in this Complaint Petition as it is a necessary party in adjudication of this matter and **Jamshed Ali Molla**, Director of Respondent No. 1 be hereinafter referred to as **Respondent No.2**. Henceforth, in all the records of this matter these inclusion / correction shall be reflected.

The Complainant is directed to submit its total submission regarding this Complaint Petition on a Notarized Affidavit, annexing therewith notary attested/self-attested copy of 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 scan copies, within **15 (fifteen)** days from today.

The Complainant is further directed to send a scan copy of its affidavit alongwith annexure to the email Id of the Advocate of the Respondent, as mentioned above.

The Respondent is hereby directed to submit its Written Response on Notarized Affidavit regarding the Complaint Petition and Affidavit of the Complainant, 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 Complainant, both in hard and scan 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 **23.08 .2024** for further hearing and order.



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority