

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

Complaint No. WBRERA/COM 001645

Gautam Deshmukh..... Complainant

Vs

Rishinox Buildwell LLP ..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 01.04.2026	<p>Advocate Panchami Roy (mobile no:- 8638693539 and email id:- <a href="mailto:panchamiroy.advocate@gmail.com">panchamiroy.advocate@gmail.com</a>) is present in today's hearing on behalf of the Complainant through online mode by filing hazira through email. She is directed to send her vakalatnama immediately after today's hearing.</p> <p>Advocate Debdas Saha (mob: 7001559299, email: <a href="mailto:devdassahoo@gmail.com">devdassahoo@gmail.com</a>) is present in today's hearing on behalf of the Respondent physically by filing vakalatnama and signing the attendance sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complainant the Fact of the case:-</p> <ol style="list-style-type: none"><li>1. Wrong terrace area calculation:- In Floor Layout Plan of the subject flat, open terrace of size 52'66" x 21'7" together with an extended area of size 11'5"x6'6" totaling to carpet area of 1207 Sq.ft. is shown. However, actual carpet area as per site measurement is found to be 1080 Sq.ft. i.e. shortfall of 127 Sq.ft.</li><li>2. No balcony provided:- Brochure, website and sanctioned floor plan show a balcony has been constructed, instead the whole area has been merged with the open terrace. This is in deviation to the sanctioned floor plan.</li><li>3. Two outdoor AC Units installed near bedroom:- An open-to-sky space was clearly indicated in the sectioned floor plan between flat marked "F" and marked "A" (the buyers flat), creating a legitimate expectation of unobstructed natural light and ventilation for the adjacent bedroom of flat A. However, contrary to this, a slab has been constructed at the same level as the floor of flat A, and two large outdoor AC units have been installed on this slab. This has resulted in a significant blockage of natural light and air to the affected bedroom, while also creating a continuous source of noise and heat emission from the AC units. Such deviation amounts to a material alteration from the sanctioned plan and a violation of the Buyer's legitimate expectation, thereby constituting deficiency in service and breach of the promoter's obligations under RERA.</li></ol>	

4. Three outdoor AC units installed near terrace:- An open-to-sky opening was clearly depicted in the sanctioned floor plan in the space between flat marked "B" and the staircase adjoining the open terrace attached to flat 2A of the Buyers. However, in deviation from this plan, a slab has been constructed at the level of the floor slab of flat A, and three large outdoor AC units have been installed upon it. These units not only cause continuous noise and heat emissions but also materially alters the conditions of use and enjoyment of the open terrace for leisure. Such deviation amounts to a material alteration from the sanctioned plan and a violation of the Buyer's legitimate expectation, thereby constituting deficiency in service and breach of the promoter's obligations under RERA.
5. Faulty terrace slope:- A large private terrace was constructed as per the sanctioned floor plan for which the Buyers have paid additional consideration. But it suffers from a fundamental design flaw in its drainage system. Kolkata, being a city with heavy rainfall, requires terraces of such scale to have a proper outwards the flat, with only a very small floor trap provided. This serious construction defect not only undermines the utility and enjoyment of the terrace but also exposes the Buyers to persistent inconvenience, health hazards, and safety risk.
6. Work continuing after possession:- Though possession letter has been issued on 9<sup>th</sup> May 2025, several minor balance jobs are yet to be completed and several jobs are still in progress as on date leaving the flat not habitable even as on date. By introducing a customer Request form (CRF) system promoter has shifted many responsibilities onto Buyers. This has caused delays in possession while final payments were collected earlier, effectively placing the burden on Buyers.
7. No safety Canopy in terrace:- The terrace attached to the subject flat, situated on the 2<sup>nd</sup> floor of a 23-storey building, is directly positioned beneath 21 vertically stacked balconies. This design inherently constitutes a serious and foreseeable safety hazard. Any object such as a cup, hard article, or flower pot accidentally dropped from any of the upper balconies poses a clear and imminent risk of grievous injury to individuals occupying or using the terrace, particularly to children.  
While it is admitted that the Agreement for Sale or sanctioned plan may not have expressly specified such a canopy, the omission must be viewed in light of the Promoter's statutory obligation to ensure safety and habitability under the applicable building codes, Fire & safety Regulations.
8. Certain common essential services expressly promised at the time of sale and featured in then printed sales brochure remain undelivered, including:-
  - a) A dedicated AC transport facility and
  - b) Day to day conveniences such as Grocery, Pharmacy, ATM and more.

The builder's failure to deliver them, despite receiving full final payments, amounts to deficiency in service, breach of assurances made at the time of sale and misrepresentation of material facts.

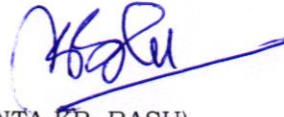
Complainant prays for the following reliefs:-

1. Terrace carpet area is shorter than specified area by 127 Sq.ft. Promoter shall compensate the Buyers along with adjustment in area for the purpose of Computation of Monthly Maintenance (CAM) charges.
2. Balcony although shown in Brochure/ AFS is not provided. Promoter shall also suitably compensate the Buyers for any reduction in terrace carpet area along with adjustment in area for the purpose of CAM charges.
3. Promoter shall remove three large outdoor AC units between flat marked "B" and the staircase adjoining the terrace which is in deviation to sanctioned floor plan, else Buyers intend to withdraw from the project.
4. Promoter shall remove three large outdoor AC units between flat marked "F" and flat marked "A"(Buyer's flat) which is in deviation to sanctioned floor plan, else Buyers intend to withdraw from the project.
5. Slope of the terrace to be reversed (because of its faulty design) with adequate size drain points at the outer extremities with compensation for any consequent delay in physical handing over of Flats.
6. Promoter shall complete balance works and handover the flat and shall compensate the Buyers at rate of Rs. 45,000/- per month towards rental value and Rs. 30,000/- per month towards compensation for harassment and discomfort suffered by the Buyers.
7. Promoter shall provide a safety canopy extending at least 12 ft. from the wall of the building for safety consideration.
8. Promoter shall provide the essential services (Grocery, Pharmacy, ATM etc.), promised in brochure immediately with compensation Rs.2,000/- per day from the date of possession notice till resumption of these services.

After hearing the Complainant, 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 Complainant shall submit his total submission regarding the 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 **7 (seven)** days from the date of receipt of this order of the Authority by email.
- B. The Respondent shall submit their 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 same (in original) to the Authority serving a copy 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 after **6(six) weeks** for further hearing and order.



(JAYANTA KR. BASU)

Chairperson

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority