

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/COM000510

Nirmalendu Das..... Complainant

Vs

Bhutoria Construction Private Limited..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
02 12.12.2024	<p>Complainant (Mob. No. 9831123173 &amp; email Id:disharee2@gmail.com) is present in the physical hearing and signed the Attendance Sheet.</p> <p>Legal Executive Smt. Munmun Kar (Mob. No. 9674339333 &amp; email Id: legal@thegemsgroup.in) is present in the physical hearing today on behalf of the Respondent filing authorization and signed the Attendance Sheet.</p> <p>The Complainant has submitted on a notarized affidavit dated 01.08.2024, containing his full submission of the complaint petition, as per last order of the Authority dated 30.07.2024, which was received by this Authority on 12.08.2024.</p> <p>Let the said affidavit of the Complainant be kept on record.</p> <p>The Respondent has submitted a photo copy of notarized affidavit dated 21.08.2024, containing their full submission as per Complaint Petition of the Complainant, as per last order of the Authority dated 30.07.2024.</p> <p>Let the copy of the affidavit of the Respondent be kept on record.</p> <p>The Respondent is directed to submit their original copy of the affidavit to the Authority immediately.</p> <p>Heard both the parties in detail.</p> <p>At the time of hearing the Legal Executive of the Respondent stated that the possession of the said flat booked by the Complainant has been given alongwith Registration on 02.11.2024 and the Complainant admitted the fact.</p> <p>As per the Complaint petition, the fact of case is that the Complainant had booked an apartment on 08.10.2018 in a project named '<b>Gems City</b>' of the Respondent Company in Block - Zircon and as per the Agreement for Sale, the scheduled date of delivery of possession of the apartment was on or before 31<sup>st</sup> December, 2021. Due to Covid the scheduled timeline was extended up to 30.09.2022. Till date he did not get handover of his flat. He is the only bread earner of his family paying rent as well as installments on time.</p>	

**In this Complaint Petition, the Complainant prays before the Authority for the relief-**

As per agreement clause 9.2, the Complainant does not want to withdraw from the project, he want the interest for every month of delay till delivery of possession of his Apartment.

After examination of the Notarized Affidavit of the Complainant and Notary Attested documents placed on record and after hearing the Complainant through 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 Complainant within the scheduled timeline and therefore, he is liable to pay the **delay interest on the principal amount of Rs. 15,74,640/-** only @ **SBI PLR +2%** p.a., for the period starting from the date of respective dates of payments made by the Complainant 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 pay the delay interest on the Principal amount of Rs. **15,74,640/-**-(Rupees fifteen lakh seventy four thousand six hundred forty Only) @ **SBI Prime Lending Rate + 2% per annum** for the period starting from the respective dates of payments made by the Complainant till the date of realization.

The refund shall be made by bank transfer to the bank account of the Complainant, within **45 (forty five) days** from the date of receipt of this order of the Authority by email.

The Complainant shall send his bank account details in which he wants to take the refund amount, to the Respondent by email within **03 (three) days** from the date of receipt of this order of the Authority by email.

**Complaint is 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.**

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.



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority