

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

Complaint No.WBRERA/COM000819

Raktim Gangopadhyay & Anindita Gangopadhyay..... Complainants

Vs

Godrej Amitis Developers LLP..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 21.08.2024	<p>Advocate Somnath Chattopadhyay (Mob. No. 8584873398 & Mail Id - som07dc@gmail.com) is present in the physical hearing on behalf of the Complainant Mr. Raktim Gangopadhyay (Mob. No. 8961808078 & Mail Id - rakting@hotmail.com), filing Vakalatnama and signed the Attendance Sheet.</p> <p>Legal Representative Mr. Shibasis Chatterjee (Mobile - 9748034909/9836741150 & email Id:sibasishchatterjee@godrejproperty.com) is present in the physical hearing on behalf of the Respondent Promoter Company filing Authorization and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complaint Petition, the fact of the case is that,-</p> <p>On 30.06.2023 the Respondent, through its men and agents approached the Complainants herein, Sri. Raktim Gangopadhyay and his wife Smt. Anindita Gangopadhyay to book a Unit in the Project called 'ORCHARD AT Godrej 7' developed by Respondent Godrej Amitis Developers LLP by signing the application form.</p> <p>The application money for booking the flat in respect of Unit No. 609, on the 6th Floor of the project upon receipt of booking amount of Rs.3,48,195/- favoring Godrej Amitis Developers LLP through their Channel Partner namely, Property Pistol Realty Private Limited.</p> <p>That at the time of booking, the application form was given to the Complainants by the agents of the Respondent Company, wherein it was informed by the Respondent that the stage wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity apart from the Prospectus and other relevant documents such as Sanctioned Plans, layout plans without specifications are approved by the competent authority under RERA Act, 2016. Under this pretext, the Respondent obtained the signatures of the Complainants on the Application form, containing the terms and conditions certifying that the Complainants</p>	

have seen all the relevant documents, sanction plan, are fully satisfied and have no objection thereto, at all.

But later only photocopy of the Application Form was made available without any payment plan.

That on 03.08.2023, the Respondent sent the Allotment Letter for the flat **G70J1AU0609** in **ORCHARD PH2B** at **Godrej SEVEN** and also informed the Complainants that if the Complainants have any queries or require any clarifications, they should feel free to write to the Relationship Manager Biswajit Basak at biswajit.basak@godrejproperties.com or alternatively contact the Company at 18001025604.

That on 27.07.2023, the Complainants were directed to pay the installment amount of Rs.2,20,523/- which the applicants duly paid.

That Complainants have paid a total sum of Rs.5,74,186/-including TDS amount of Rs.5468/-for the said flat.

That after payment of about 10% of the total consideration of the flat, the defendant provided the draft Agreement to Sale (ATS) to the Complainants informing that the terms and conditions contained in the draft ATS will prevail over brochure, advertisement, or any publicity materials of the Respondent/Developer.

That the Complainants could thereafter go through the ATS and for the first time on 11.12.2023 and raised several queries with the Relationship Manager regarding the anomalies between the ATS and the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the said Act) and the WB Real Estate (Regulation and Development) Rules, 2021 (hereinafter referred to as the said Rules).

The response to queries raised by the Complainants related to the draft ATS, was defended by the respondents with the following sentence:-

“Please note that the ATS is standard draft that has been approved by the WBRERA authority and the same is uploaded in the RERA Portal under the specific project hearing for easy reference of the public at large”.

The Complainants had several objections to the Draft Agreement to Sale which they had raised before the Respondent and the same has not been resolved by the Respondent.

That the Complainants have expressed their helplessness with the Respondent without any relief and further pointed out the relevant provisions of the Rules providing for binding effect and cancellation of application and further returning all sums deposited by the Complainants to the Respondent.

Further, it is apparent from the mail received by the Complainants on 13.03.2024, wherein it can be proved that the Respondent Promoter is harassing and forcing the Complainants to sign on the dotted lines of the ATS, and further the Complainants are being threatened by the Respondent by stating that deduction of booking amount will be made, if the applicants withdrew from the project and want their money back. The relevant extract of the mail sent by the Respondent.

Further in Point 6: "Please treat this as our final communication before we proceed to initiate the termination process of the documents for the flat and forfeit amounts specified in the documents due to breach of the terms of the documents by you".

It is also required to be mentioned that the Draft ATS has no payment plan in Schedule C. there is no stage-wise time schedule mentioned in the ATS, which is detrimental to the interest of the Complainants.

GROUND(S):

The Complainants states that the ATS is an unconscionable contract made by the Respondent to deceive the Complainants of their hard earned money.

The Complainant prays before the Authority for the following relief(s):-

1. The Complainants pray for cancellation of the Application of the Complainants as per the rules and regulations under the Real Estate Regulation and Development Act, 2016.
2. The Complainants pray for refund of the entire amount paid R.5,74,186/- by the Complainants since the Respondent Developer has failed to comply with the conditions as per the Real Estate Regulation and Development Act, 2016 and rules thereunder.
3. The Complainants pray for injunction on construction and sale of flats in the projects of the Respondents till the payment of such amount and compensation as prayed for.
4. The Complainants pray for costs and expenses of instituting the complaint case against the Respondents.
5. Any other relief or reliefs as the Authority may deem fit and proper.

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 '**Smt. Anindata Gangopadhyay**' be included as Joint Complainant in this Complaint Petition as she is a necessary party being the Joint Allottee in this Complaint matter and henceforth all the records of this matter her name shall be recorded as Joint Complainant.

The Complainant is directed to submit his total submission regarding their 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 the date of receipt of this order of the Authority by email.

The Complainants are further directed to provide in a Tabular Form chronologically all the payments made by the Respondent specifying date, amount and money receipt number, if any, in the said table in their affidavit.

The Complainants are further directed to send a scan copy of his affidavit along with annexure to the email Id of the Authorized Representative of the Respondent, as mentioned above.

The Respondent is hereby directed to submit their 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 **07.04.2025** for further hearing and order.


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority