

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(PHYSICAL)000041

Partha Sengupta ..... Complainant

Vs.

Narayan Ghosh..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
02 05.10.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Respondent is absent in the online hearing despite due service of hearing notice through speed post and also by email.</p> <p>Let the track record of the due service of hearing notice to the Respondent be kept on record.</p> <p>The Complainant has submitted his total submission regarding this Complaint Petition on a Notarized Affidavit dated 13.09.2023, as per the last order of the Authority dated 04.09.2023, which has been received by this Authority on 18.09.2023.</p> <p>Let the said Notarized Affidavit of the Complainant be taken on record.</p> <p>Respondent was absent on the last date of hearing on 04.09.2023 and he is also absent today.</p> <p>Moreover, the Respondent till date has not submitted any Written Response, as per the last order of the Authority dated 04.09.2023.</p> <p>Therefore, the Authority is of the considered opinion that sufficient time and reasonable opportunity has been given to the Respondent to present their case and defend himself in the present matter but he neglected / failed to take the opportunity, therefore, the Authority shall now proceed with ex-parte hearing and disposal of this matter as per Rule 36(2)(h) of the West Bengal Real Estate (Regulation and Development) Rules, 2021 and as per the provision of section 29(4) of the Real Estate (Regulation and Development) Act, 2016 which provides that this Authority shall try to dispose of the cases before the Authority, as expeditiously as possible, within a period of 60 days.</p> <p>Heard the Complainant in detail.</p>	

The case of the Complainant is that he has booked a flat in a project named '**Jaya Apartment**' situated at 228/1/1/A, Uttarpara Road, P.O & P.S. Rahara, Kolkatta - 700 118, under Municipality of Khardah, Ward No. 3, Dist - North 24-Parganas (W.B.) in the year 2018 from Narayan Ghosh (Respondent Promoter). Total amount of Rs.17,20,000/- has been paid by the Complainant in this regard. Complainant received possession letter from the Respondent on 30.03.2019 and he received the possession of the flat from the Respondent. He stated that the Completion Certificate (C.C) has not been issued by the Khardah Municipality till date and Registration of this flat is yet to be done in favour of the Complainant.

Therefore, the Complainant prays before the Authority for the relief of refund of the principal amount including Registration Fees amounting to Rs.17,20,000/- (Rupees seventeen lakhs twenty thousand only) alongwith interest as per RERA Act and WBRERA Rules.

After examination of the Notarized Affidavit of the Complainant and Notary Attested documents placed on record and after hearing the Complainant through online hearing, the Authority is of the considered view that the Respondent has failed miserably in his obligation to handover the Completion Certificate of the flat to the Complainant and also failed / neglected to register the flat in favour of the Complainant despite his several requests within the scheduled timeline and therefore, he is liable to refund the principal amount paid by the Complainant alongwith interest at the rate of SBI PLR +2% per annum 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 17 and 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 refund the Principal amount of Rs.17,20,000/- (Rupees Seventeen lakhs Twenty Thousand Only) paid by the Complainant alongwith interest @ 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 dates and amounts of payment made by the Complainant is given below for the purpose of calculation of interest:-

Sl. No.	Date	Amount
1.	04-10-2018	Rs.2,00,000/-
1.	08-10-2018	Rs.6,00,000/-
2.	22-10-2018	Rs.20,000/-
4.	07-11-2018	Rs.6,00,000/-
5.	13-11-2018	Rs.3,00,000/-
TOTAL		Rs.17,20,000/-

The refund shall be made by bank transfer to the bank account of the

Complainant, within 45 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 3 days from the date of receipt of this order of the Authority by email.

Complainant shall return back the possession and keys of the flat to the Respondent on the date of receipt of final payment from the Respondent. The final payment and the return of the possession and the keys of the flat shall be done by both the parties simultaneously.

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. In that case Respondent might be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five percent, of the estimated cost of the real estate project named '**Evania Econest**', as determined by this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

If the Complainant failed / neglected to return back the possession and the keys of the flat to the Respondent on the date of receipt of the final payment from the Respondent then Respondent is at liberty to apply for execution before the Authority, in that event, penalty may be imposed on the Complainant as per the provisions contained in section 38 read with section 61 of the Real Estate (Regulation and Development) Act, 2016, if the Authority thinks fit to do so.

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.



(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority