

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

Complaint No.WBRERA/COM 000085 & COM 000091 (erstwhile WBHIRA)

Satyendra Nath Ghosh Complainant

Vs.

Dharitri Infraventure Pvt. Ltd..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
03 27.07.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocate Sayantani is present in the online hearing on behalf of the Respondent filing hazira and authorization through email.</p> <p>Complainant submitted Notarized Affidavit dated 29.05.2023 containing his total submission regarding this Complaint Petition, as per the order of the Authority dated 03.05.2023, which has been received by this Authority on 01.06.2023.</p> <p>Let the said Affidavit of the Complainant be taken on record.</p> <p>Respondent submitted Written Objection on Notarized Affidavit dated 20.07.2023, as per the last order of the Authority dated 04.07.2023, which has been received by this Authority on 20.07.2023.</p> <p>Let the said Written Objection of the Respondent be taken on record.</p> <p>Heard both the parties in detail.</p> <p>At the time of hearing, it came to the notice of the Authority that on the selfsame matter, the Complainant had filed a Complaint case bearing number COM000091 before the</p>	

erstwhile WBHIRA Authority .The said matter was admitted for hearing by the erstwhile WBHIRA Authority. Later on WBHIRA Authority was struck down by the Hon'ble Supreme Court of India vide order dated 04.05.2021.

It should be mentioned here that by the Order of the Hon'ble Supreme Court dated 12.05.2023 in the Case No. Special Leave to Appeal (C) No(s). 16908/2022 in the matter of Saptaparna Ray Vs. District Magistrate North 24 Parganas & Ors., the Apex Court has been pleased to direct–

“This Court observed that the “striking down of WB-HIRA will not affect the registrations, sanctions and permissions previously granted under the legislation prior to the date of this judgment”. This principle shall also apply to orders which were passed whether in original or in the course of execution prior to the date of the judgment. All such orders shall be executed in accordance with law, as if they were issued under the RERA.

Moreover, we clarify that all complaints which were filed before the erstwhile authority constituted under WB-HIRA shall stand transferred to and be disposed of in accordance with law by the authority which is constituted under the Central Act. Any person aggrieved by an order passed under WB-HIRA will be at liberty to pursue the corresponding remedy which is available under the RERA.”

Therefore, as per the above direction of the Hon'ble Supreme Court the Complaint no. COM-000091 stand transferred to this Authority. This Authority is of the considered opinion to dismiss and close the proceeding regarding the mater relating to COM 000091.

On the selfsame matter the present Complaint bearing no. WBRERA/COM000085 has been filed by the Complainant therefore this Authority shall now proceed with hearing of this present Complaint Petition bearing no. WBRERA/COM000085.

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 hand over possession of the flat to the Complainant within the scheduled time line and therefore, he is liable to refund the principle amount paid by the Complainant along with interest at the rate of **SBI PLR +2%** per annum for the period starting from the date of respective payments made by the Complainant till the date of realisation, 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. Respondent till date refunded Rs. 6,50,000/- (Rupees Six Lakhs Fifty Thousand Only) to the Complainant.

Hence it is hereby,

ORDERED

that the Respondent shall refund the balance of the Principle amount paid by the Complainant amounting to Rs.3,55,000/- (Rupees Three Lakhs Fifty Five Thousand only) alongwith interest @ **SBI Prime Lending Rate + 2%** per annum calculated on the total Principal Amount of Rs. 10,05,000/- (Rupees ten lakhs five thousand only) paid by the Complainant for the period starting from the respective dates of payments of the same by the Complainant till the date of realisation.

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 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.

Let copy of this order be sent to both the parties, through speed post and also by email immediately.

With the above directions the matter is hereby disposed of.



(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