

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

Complaint No. COM000698 (erstwhile WBHIRA)

Jamal Ashraf Complainant

Vs.

Dharitri Infraventure Pvt. Ltd..... Respondent no. 1

Matrix Construction..... Respondent no. 2

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
01 21.09.2023	<p>Advocate Kushagra Shah (Mob. No. 9831047935 & email Id: kushagra@kushagrashah.in) is present in the online hearing on behalf of the Complainant filing hazira and vakalatnama through email.</p> <p>Advocate Sayantani Das (Mob. No. 8240745213 & email Id: legalquery@dharitri-infra.com) is present in the online hearing on behalf of the Respondent filing hazira and vakalatnama through email.</p> <p>This Complaint Petition was filed before the erstwhile WBHIRA. Subsequently, on 4th May, 2021, WBHIRA was struck down by Hon'ble Supreme Court of India.</p> <p>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-</p> <p><i>"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.</i></p> <p><i>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</i></p>	

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-000698 stand transferred to this Authority and this Authority shall now proceed with hearing of this present Complaint Petition bearing no. COM000698.

Heard both the parties in detail.

As per the Complainant, this Complaint is regarding non-allotment and refusal to give possession of the flat booked by the Complainant and fully paid by him in the project named '**New Royal Enclave**' by the Respondent Promoter. The original booking of the Complainant was with **Aspirana Infraventure Pvt. Ltd.** in 2016 in their **Malabar Residency Project**. Between 30.10.2016 to 08.11.2018, the Complainant made payment of Rs.3,64,500/- as 20% advance payment for the flat.

Thereafter the project was merged with Dharitri Infraventure Pvt. Ltd. and the project site was shifted to **New Royal Enclave project at Rajarhat**, Dist- North 24 Parganas; whereafter by a letter dated 20.10.2018 the Complainant had consented to accept the flat at the relocated site.

Thereafter the Complainant had received a letter dated 31.10.2018 from the Dharitri Infraventure Pvt. Ltd. that they have been allotted flat bearing No. E, of approximately 900 sq.ft. area, at 4th floor in Tower – 9, Block No. 2 at the project of the Respondent Company named as '**New Royal Enclave**' with total consideration amount of Rs.18,22,500/-.

But again the Complainant received another letter from Dharitri Infraventure Pvt. Ltd. dated 31.12.2019 that they have been allotted flat bearing no.4B of approximately 1027 sq.ft., at tower 24 at New Royal Enclave Project but the total consideration money was not disclosed by the Promoter Company.

Therefore the Complainant prayed for the relief of refund of the total amount paid by them alongwith interest as they are not at all comfortable with the repeated change in flat allotment, arbitrary price increase, sudden imposition of new unilateral terms, complete disregard for delivery dates and unending delay by the developer.

After hearing the Complainant, the Authority is pleased to admit this matter for further hearing and order as per the provisions of 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:-

Here the Complainant by inadvertent mistake failed to include the name of Dharitri Infraventure Pvt. Ltd. as one of the Respondent but his whole Complaint is primarily against the said Promoter Company. Therefore this Authority is of the considered opinion to

include the said Promoter Company as Respondent no. 1.

Let '**Dharitri Infraventure Pvt. Ltd.**' be included as Respondent no. 1 and '**Matrix Construction**' be made Respondent no. 2 henceforth in the present matter.

The Complainant is directed to submit his total submission regarding his 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 original Affidavit to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within 15 (fifteen) days from today.

The Respondent is hereby directed to submit his 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 original affidavit to the Authority serving a copy of the same 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 14.12.2023 for further hearing and order.

Sd/-
(SANDIPAN MUKHERJEE)
Chairperson
West Bengal Real Estate Regulatory Authority

Sd/-
(BHOLANATH DAS)
Member
West Bengal Real Estate Regulatory Authority

Sd/-
(TAPAS MUKHOPADHYAY)
Member
West Bengal Real Estate Regulatory Authority

Certified to be True Copy

date
21.09.2023

Special Law Officer
West Bengal Real Estate Regulatory Authority