

## 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-000132 & COM-000486(erstwhile WBHIRA)

Ashutosh Mazumdar & Smt. Chandana Mazumdar ..... Complainants

Vs.

Riverbank Developers Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
2 ----- 18.07.2023	<p>Complainant is present alongwith his wife and joint allottee Smt. Chandana Mazumdar and Son Shri Abhisek Mazumdar in the online hearing filing hazira through email.</p> <p>Advocate Anirban Chatterjee is present in the online hearing on behalf of the Respondent filing hazira and Vakalatnama through email.</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 earlier filed a Complaint case bearing number COM000486 before the erstwhile WBHIRA Authority .The said matter was admitted for hearing and it was pending before the erstwhile WBHIRA when WBHIRA was struck down by the Hon'ble Supreme Court of India by an order dated 04.05.2021 in Writ Petition (C) No. 116 of 2019 in the matter of Forum for People's Collective Efforts (FPCE) &amp; Anr. Vs The State of West Bengal &amp; Anr.</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-

*"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 Order of the Hon'ble Supreme Court, the Complaint no.COM000486 already stand transferred before this Authority. As the matter was not disposed of by the erstwhile WBHIRA Authority and on the selfsame matter the present Complaint Petition bearing no. WBRERA/COM000132 has been filed by the Complainant, therefore, the Authority is hereby pleased to close and dismiss the earlier Complaint no. COM 000486 and this Authority shall now proceed with hearing of this present Complaint Petition bearing no. WBRERA/COM 000132.

As Smt. Chandana Mazumdar is joint allottee of the subject matter flat therefore she is hereby included as joint Complainant in this Complaint Petition.

Let Smt. Chandana Mazumdar be included as joint Complainant in this Complaint Petition and hence forth in all the records of this matter, her name shall be included.

On the request of the Complainants, the Notarized Affidavit submitted by them at the time of hearing of the earlier Complaint Petition bearing no. COM 000486, be taken on record for hearing of this matter.

Respondent has submitted Written Response on Notarized Affidavit dated 18.07.2023, as per the last order of the Authority dated 23.06.2023, which has been received by this Authority today by email.

Let the said Written Response of the Respondent sent by email be taken on record.

At the time of hearing the Respondent stated that the flat was first allotted on in the year 2014 to the Complainant, after that on 20.09.2016 they have cancelled the allotment. Subsequently, on the request of the Complainant the flat was re-allotted to the Complainant on 03.11.2016. As the same flat i.e. flat no. 4A1 in tower 10 was available as on 03.11.2016 the same was re-allotted to the Complainant on 03.11.2016.

Complainant strongly denied the fact of re-allotment of the flat to him at the time of hearing and he stated that as the same flat was given to him therefore it is not a case of **cancellation and re-allotment**. At the time of cancellation, he was told that Rs.4,00,000/- will be deducted, if they cancel the flat, so they did not ultimately give consent for cancellation of the allotment of the flat.

After hearing both the parties the Authority is pleased to give the following directions :-

(a) Respondent is directed to submit the hard copy of the Affidavit in opposition to the Authority immediately, serving a copy of the same to the Complainant.

(b) Complainant is directed to submit a Rejoinder/Reply to the Written Response of the Respondent, annexing therewith self attested supporting documents , if any, and send the original Affidavit to the Authority serving a copy of the same to the

Respondent within 15 days from today.

Fix **07.09.2023** for further hearing and order.



(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