

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

Complaint No. WBRERA/COM 000125

Modassair Jawaid..... Complainant

Vs.

Cancun Constructions.....Respondent no.1

Sri Debasis Biswas.....Respondent no.2

BON Marque Pvt Ltd..... Respondent No.3

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
04 (Execution) 23.04.2025	Today is the 4th day of Execution Hearing of this matter. The final order in this matter was passed on 01.08.2023. Complainant is present in the hearing physically and signed the Attendance Sheet. Respondent is absent despite due service of hearing notice through email. Let the track record of due service of hearing notice to the Respondent be kept on record. Heard the Complainant in detail. Complainant stated that only Rs.20,000/- has been refunded by the Respondent after the last order of the Authority dated 20.02.2025. At present Rs.4,25,000/- is the Principal Amount due alongwith interest which is to be paid by the Respondent. The Complainant was appraised at the time of hearing that the order dated 01.08.2023 may be executed either by the provision of Rule 25 of the Real Estate (Regulation and Development) Rules, 2021 by sending it to the concerned District Magistrate for recovery of the amount due as per the provisions of Bengal Public Demands Recovery Act, 1913 or it may be sent to the Principle Civil Court having jurisdiction to execute the same as per the provisions of Rule 26 of the said Rules. The Complainant consented for sending this matter for execution to the	

Principal Civil Court having jurisdiction of the said property.

Therefore, this Authority is of opinion to send this matter for execution to the Principal Civil Court to execute this order as per section 40 of the Real Estate (Regulation & Development) Act, 2016 read with rule 25 of the West Bengal Real Estate (Regulation & Development) Rules, 2021.

As the Respondent did not comply the order within the period of 45 days as directed in the final order of the Authority dated 01.08.2023, this Authority has no other option but to send this matter for execution as per Rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 and this Authority is hereby pleased to send this matter for execution to the Principal Civil Court, North 24 Parganas to execute it as a decree of the Civil Court in a suit before it and the provisions of Order XXI of the First Schedule to the court of civil procedure, 1908 shall as per as may be, applicable, as per the provisions of section 40 of the Real Estate (Regulation & Development) Act, 2016 read with rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021.

Rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 provides that,-

“26(1). Every order made by the Authority, Adjudicating Officer or Appellate Tribunal shall be enforced by it in the same manner as if it were a decree of a civil court in a suit before it and the provisions of Order XXI of the First Schedule to the Court of Civil Procedure, 1908 shall, as per as may be, applicable.

(2). Any such order shall be executed by the Principal Civil Court of the District having Jurisdiction to execute the same”.

The Secretary, West Bengal Real Estate Regulatory Authority (WBREERA), is hereby directed to send certified copies of this order of this Authority and final order dated 01.08.2023 of this Authority, alongwith copy of the Complaint Petition no. WBREERA/COM 000125, to the Registrar of the District Court of North 24 Parganas, Barasat with the request to place the matter before the District Judge of North Parganas so that the order dated 01.08.2023 in WBREERA/COM 000125 passed by this Authority can be executed as per the provisions contained in rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 and he is also requested to send the compliance report to this Authority as expeditiously as possible.

It should be mentioned here that in a similar case, the Hon'ble Supreme Court of India, in petition for Special Leave to Appeal (C) No.16908/22, has been pleased to order as follows:-

“We direct, that the authority shall proceed to execute the order which has been passed in favour of petition expeditiously, within a month from the date of receipt of a certified copy of this order by the executing forum”.

As the present matter is similar to that of the matter heard by the Supreme court of India as mentioned above, therefore, necessary steps should be taken to execute this order within a month from the date of receipt of certified copies of the orders along with other papers and documents from this Authority.

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


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority