

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-000070

Sanjay Kumar Kejriwal ..... Complainant

Vs.

Fabworth Promoters Private Limited ..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
01 <u>27.04.2023</u>	<p>Advocate Sourav Ganguly was present on behalf of the Complainant in the online hearing. He is directed to give an undertaking stating that he will submit the Vakalatnama and Hazira through mail to the Authority immediately after this hearing.</p> <p>Respondent is absent despite due service of notice through email and also by Speed Post.</p> <p>Heard the Complainant in detail.</p> <p>The case of the Complainant is that, vide Agreement for sub-lease dated 26.07.2018, the Respondent entered into an Agreement for sub-lease with the Complainant and his wife for sub-lease of the flat service residence No. 1102 at 11<sup>th</sup> Floor in the project of the Respondent named as 'Vivara' at 4A J.B.S. Haldane Avenue, P.S. Progati Maidan, Kolkata - 700 105, measuring about 7761 Sq.ft. of super built-up area and 525 Sq.ft. of Terrace area with 03 car parking in lower ground floor at an agreed consideration of Rs.7,47,16,000/- (Rupees seven crore forty seven lakhs sixteen thousand only) which was duly paid by the Complainants on or before 16.11.2018 partly from their own savings and partly from bank finance. As per the Complainant he was forced into signing the one sided Tripartite Agreement dated 31.07.2018 for grant of Home Loan.</p> <p>The Respondent getting full payment from the Complainant on 16.11.2018 failed to execute the Deed of Conveyance till date despite taking on account advance of Rs.21,00,000/- towards registration and stamp duty expenses. As per Clause 10.1 of the Sub-lease Agreement</p>	

dated 26.07.2018 the Respondent was under the obligation to register Deed of Conveyance within 30 days from the date of full payment by the Complainant.

At present the flat is in bare shell condition and not inhabitable.

As per the Complainant, the ICICI Bank in collusion with the Respondent Developer, with malafide intent, has issued Section 13(4) notices under SARFAESI Act.

The Complainant prays before the Authority for reliefs of the followings:-

- A) Order directing the Respondent to complete the flat in habitable condition.
- B) Issue the project Completion Certificate, flat possession letter and execute the Deed of Conveyance/Registration of Sub-lease.
- C) Allow proper compensation in view of the harassment and sufferings.
- D) Any other necessary order / orders as the Authority may deem fit and proper for the ends of justice.

He also prayed for Ad-interim order for stay on recovery and SARFAESI proceedings and coercive action by Promoter and the Bank in collusion to thwart the bonafide right of the Complainant over the said flat in view of the Hon'ble Supreme Court's order in the matter of Bikram Chatterji & Ors. Vrs. Union of India dated 29.06.2021 and also in the matter of Union of India Vrs. Rajasthan RERA dated 14.02.2022

After hearing the Complainant, the Authority is satisfied to admit this matter for further hearing and order.

The Complainant is directed to submit his total submission regarding his Complaint Petition on a Notarized Affidavit annexing therewith notary attested 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 30 days from the date of receipt of this order through email.

The Complainant is further directed to provide in his Affidavit contact number/s, Email id/s of the Respondent Company and its Authorized

Representative/s.

The Respondent is directed to submit his Written Response regarding the Complaint Petition and the Affidavit of the Complainant on Notarized Affidavit annexing therewith notary 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 30 days from the date of receipt of the Affidavit of the Complainant either by mail or by post, whichever is earlier.

Fix **04.07.2023** 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