

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

Complaint No. WBRERA/COM000790

Ambuja Housing and Urban Infrastructure Co. Ltd..... Complainant

Vs

Mayank Sarkar & Anamika Sarkar..... Respondents

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 08.04.2024	<p>Mr. Piyush Singhania, Authorized Representative of the Complainant Promoter Company (Mob. No. 9903065669 & email Id: piyush.singhania@ambujaneotia.com) of the Complainant Promoter Company is present in the physical hearing on behalf of the Complainant and signed the Attendance Sheet.</p> <p>Respondent-Allottees are absent in the physical hearing today despite due service of hearing notice to the Respondent through speed post and also through email.</p> <p>Let the track record of the due service of hearing notice to the Respondent be kept on record.</p> <p>The Advocate of the Respondents, Mr. Sujan Das, has sent an email communication to the Authority on 08.04.2024 and prayed for an adjournment as his clients are not available in the locality as they are staying outside of the city for their business and they received the said notice with a very short time in hand therefore he prayed for adjournment of today's hearing.</p> <p>Let the said email communication of the Complainant dated 08.04.2024 be taken on record.</p> <p>Considered and rejected the prayer of the Respondents as the Authority is under the obligation to dispose of the matters preferably within 60 days as per the provision of section 29(4) of the Real Estate (Regulation and Development) Act, 2016.</p> <p>Heard the Complainant in detail.</p> <p>As per the Complainant:-</p>	

1. The Respondent applied for allotment of residential apartment, being Apartment No. URV0307D, having carpet area of 753 sq.ft., alongwith an exclusive balcony area of 119 sq.ft. on the 7th floor, of Block No. C (Tritiya), Type-D of the '**Urvisha - The Condoville**' alongwith 1 (one) covered on basement level car parking space.
2. By virtue of an allotment letter dated 19.09.2022, the Respondent was allotted the Apartment.
3. Pursuant to the allotment and upon receiving the Booking amount of Rs.12,60,067/-, an Agreement for Assignment dated 28.12.2022 was duly executed by the parties and registered.
4. The Respondent failed and neglected to pay 4 nos. of consecutive invoices/demands notices raised by the Complainant in terms of the payment plan of the Agreement for Assignment.
5. The Respondent, therefore, was in clear default in terms of clause 9.3 (ii) of the Agreement for Assignment.
6. Ultimately, the Complainant issued a letter of termination of the Agreement for Assignment to the Respondent with 30 days clear notice in terms of clause 9.3(ii) of the Agreement for Assignment.
7. Since the Respondent neither replied to the letter nor paid the dues within the notice period, the Agreement for Assignment stood terminated, and the allotment was cancelled.
8. Total amount of dues is Rs.47,27,357/-with interest in terms of the Agreement for Assignment.

In this Complaint Petition, the Complainant-Promoter Company prays for the following reliefs before the Authority :-

- (i) To record the allotment of Unit No. URV0307D as cancelled before the Authority;
- (ii) To issue direction upon the Respondent to pay the amount of shortfall i.e. Rs.5,17,640/-;
- (iii) To allow the Complainant sign, execute and register a unilateral Deed of Cancellation in respect of the registered AFA since it is a legal requirement that a registered agreement can be cancelled only a registered deed of cancellation;
- (iv) To direct the concerned Registrar to register unilaterally the Deed of Cancellation in respect of the Apartment.
- (v) To permit the Complainant re-allot the said apartment to any prospective allottee;
- (vi) To pass such other orders as the Authority may deem fit and proper in the interest of justice.

After hearing the Complainant i.e. Promoter Company, the Authority is pleased to admit this matter for further hearing and order as per the provisions contained in 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:-

The Complainant-Promoter is directed to submit his total submission regarding their Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested supporting documents and a signed copy of the Complaint Petition and send the Affidavit (in original) to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within **15 (fifteen)** days from the date of receipt of this order of the Authority by email.

The Respondent-Allottee 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 Affidavit (in original) 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 **04.06.2024** 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