

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

Complaint No.WBRERA/COM 000113

Shri. Alak Kumar Roy and Shri. Kanak kumar Roy Complainants

Vs.

M/s. Gouri Group Respondent No. 1

Smt. Swati Choudhury Respondent No. 2

Smt. Kabita Choudhury..... Respondent No. 3

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
03 31.08.2023	<p>Advocate Md. Masudur Rahaman Paik is present in the online hearing on behalf of the Complainant filing hazira and vakalatnama through email.</p> <p>Advocate Mr. Kaustav Baidya is present in the online hearing on behalf of the Respondent. He is directed to send his hazira and vakalatnama to the Authority through email immediately after today's hearing.</p> <p>Complainant submitted notarized affidavit dated 08.08.2023 containing his total submission regarding this Complaint Petition, as per the last order of the Authority dated 26.07.2023, which has been received by this Authority on 08.08.2023.</p> <p>Let the said affidavit of the Complainant be taken on record.</p> <p>Complainant also submitted Affidavit of Service dated 08.08.2023 wherein he stated that a signed copy of the Complaint Petition and his affidavit has been duly served to the Respondent No. 2 and 3 who are the Partners/Managing Persons of the Respondent No. 1, by speed post and also by email.</p> <p>Let the said Affidavit of Service submitted by the Complainant be taken on record.</p>	

Respondent No. 2 and 3 submitted a Written Response on notarized affidavit dated 29.08.2023, as per the last order of the Authority dated 26.07.2023, which has been received by this Authority through email on 29.08.2023.

Let the said Written Response on notarized affidavit of the Respondent No. 2 & 3 be taken on record.

Heard both the parties in detail.

After hearing both the parties through online hearing and after examination of the affidavit of both the parties and the notary attested photo copy of supporting documents submitted by them, the Authority is of the considered view that this matter does not come under the purview of the Real Estate (Regulation & Development) Act, 2016 and therefore this Authority shall not proceed with further hearing of this matter for the following reasons:-

- a) This is a dispute between the Landlords and the Promoter/Developer and the Landlord and the Promoter are getting their rights and obligations from the Development Agreement signed between the parties on 24.09.2012 and the general Power of Attorney signed between the parties on 24.09.2012. Therefore to give relief to the Landlord who are the Complainants herein, the Authority has to examine and enforce the Development Agreement which is not within the purview /jurisdiction of this Authority; and
- b) Where there is a Agreement for Sale or Memorandum of Understanding or General Terms and Conditions etc. executed between the parties and the parties are exercising the rights and performing the obligations as per the Agreement for Sale etc. and there is a relationship of Promoter and Allottee between the parties, in those cases the provision of RERA Act will be applicable and the RERA Authority can exercise its jurisdiction; and
- c) Further, no consideration has been paid by the Complainant Landlord herein to the Promoter Respondent to get the flats, therefore, it cannot be said that the Complainant is an Alottee in this matter and there is relationship of Promoter and Allottee between the Respondents and Complainants herein.

In consideration of the reasons/grounds mentioned above, the Authority is of the view to dismiss this matter on the ground of non-maintainability before this Authority as per the provisions of Real Estate (Regulation & Development) Act, 2016.

With the above directions the matter is hereby dismissed on the ground of non-maintainability.

Copy of this order be served to both parties through speed post and also by email immediately.

(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