

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

Complaint No. WBRERA/COM000463

Biplab Das Complainant

Vs

Sampark Developer.....Respondent no.1

Asoke Kumar Mondal.....Respondent no.2

Kalyani Mondal.....Respondent no.3

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 05.06.2024	<p>Complainant is present in the online hearing filling hazira through email.</p> <p>Respondent is absent in the online hearing despite due service of hearing notice to the Respondent through speed post and also by email.</p> <p>Let the track record of due service of hearing notice to the Respondent be kept on record.</p> <p>The Respondent has sent a letter dated 04.06.2024 through email to the Authority requesting for postponement of today's hearing for 30 days as the documents and evidences for the hearing are not yet ready for submission and he is outside of Midnapore, therefore, he requested for postponement of the hearing scheduled on 05.06.2024.</p> <p>Let the said email communication of the Respondent be taken on record.</p> <p>Considered and rejected the prayer of the Respondent. As today is fixed for Admission hearing of this matter, therefore, presence of the Respondent is not compulsory. The Respondent should be present on the next date of hearing.</p> <p>Heard the Complainant in detail.</p> <p>As per the Complaint Petition:-</p> <p>By virtue of a registered Development Agreement with deed no. 02351 of 2021 and a registered Development Power of Attorney with Deed No. 02856 of 2021, registered at the office of A.D.S.R. Midnapore, the Respondent no.1 Promoter "SIMPARK DEVELOPER" represented by its partners namely Sri. Asoke Kumar Mondal - Respondent no.2 and Smt. Kalyani Mondal - Respondent no.3 initiated the real estate project called 'PARADISE HEIGHT' in 2021 at Keranitola, Midnapore town, District-Paschim Medinipore and constructed 30 apartments without registering the said project under Section 3 of the Real</p>	

Estate (Regulation and Development) Act, 2016. The project remains incomplete, and no completion certificate has been issued till date. The Respondent Promoter has engaged in various unauthorized constructions, disregarding the sanctioned plan and even encroaching on Govt. land. The entire real estate project is deemed illegal and subject to demolition.

Despite being debarred from advertising, marketing, booking or selling any apartment in the project without prior registration with the Real Estate Regulatory Authority, as stated in Section 3 of the Act, the Respondents have been marketing and selling apartments to individuals, which is strictly impermissible. Reference may be made to the Registered Sale Deed No. 100102532 for the year 2023, registered at the office of the D.S.R. – 1, Paschim Medinipore executed by the promoter in favour of one Shri. Santanu Sahoo, whereby an apartment having super built-up area of 1000 sq.ft., and a covered parking space measuring about 40 sq.ft. was sold by the Respondents promoter to the said purchaser Shri. Santanu Sahoo in a total consideration of Rs.40.00 lakhs only.

As a citizen and resident of the area the Complainant is duty bound to ensure that no unauthorized construction takes place in the area and the laws enacted for regulation and promotion of the Real Estate sector are followed by all, including unscrupulous promoters such as the Respondent.

The Complainants states that:-

- a) Marketing, booking, selling any apartment in a real estate project without registration of the real estate project with RERA in illegal U/s 3 of the Real Estate (Regulation and Development) Act, 2016.
- b) Non adherence to sanctioned plan and projects specifications is illegal U/s 14 of the Real Estate (Regulation and Development) Act, 2016.

Hence it is prayed by the Complainant that necessary order be passed against the Respondent Promoter to immediately register the under construction Real Estate Project namely 'Paradise Height' being constructed at Keranitola, Midnapore, District – Paschim Medinipore, with the Real Estate Regulatory Authority under section 3 of the Real Estate (Regulation and Development) Act, 2016.

Before admitting this Complaint Petition, the Authority has to consider whether the present Complainant is an **Aggrieved Person** as per section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the RERA Act). As per section 31, only an Aggrieved Person can file a Complaint. Here the Complainant is not an Allottee, therefore, he has to prove with sufficient reason that he is an aggrieved person and he has the locus standi to file the instant Complaint.

Therefore, after hearing the Complainant, the Authority is pleased to give the following directions:-

The Complainant is directed to submit his total submission regarding his Complaint Petition on a Notarized Affidavit annexing therewith notary attested/self-attested of 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 **15 (fifteen)** days from the date of receipt of this order through email.

The Complainant is further directed to submit in his Affidavit the reasons which proves that he is an aggrieved person and he has the locus standi to file the instant Complaint as per the provisions of section 31 of the RERA Act.

The Respondent is hereby directed to submit his Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested supporting documents, if any, and send the 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.

As per the records of this Authority, the project '**Paradise Height**' is not registered with erstwhile WBHIRA / WBRERA Authority.


Hence, Secretary WBRERA is hereby directed to take necessary action against the Promoter of the project '**Paradise Height**' for non registration of the said project with the erstwhile WBHIRA / WBRERA Authority as per the provisions of section 3 read with section 59 of the Real Estate (Regulation and Development) Act, 2016.

Fix **30.07.2024** for further hearing and order.


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority