

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 000790

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

Vs.

Mayank Sarkar and Anamika Sarkar ..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
04 25.06.2025	<p>Shri Rakesh Ranjan, Assistant Vice President and Ms. Moumita Kundu, Sr. Manager Legal (Mob. No. 9903844131 &amp; email Id: <a href="mailto:moumita.kundu@ambujaneotia.com">moumita.kundu@ambujaneotia.com</a> ) are present in the physical hearing on behalf of the Complainant filing Authorization and signed the Attendance Sheet.</p> <p>Advocate Samirul Hassan (Mobile - 7477675789 and email - <a href="mailto:samirulhassan123@gmail.com">samirulhassan123@gmail.com</a>) is present in the hearing signing Attendance Sheet. He is directed to submit Vakalatnama immediately after today's hearing.</p> <p>The Complainant submitted a rejoinder in response to the Affidavit filed by the Respondent which has been received by this Authority on 27.08.2024.</p> <p>Heard both the parties in detail.</p> <p>The Respondent stated that he booked a Apartment having No.URV0307D alongwith 1 (one) covered car parking at basement level and accordingly an Agreement for Assignment was duly executed on 28.12.2022 after making payment of Rs.12,60,067/- as booking amount and Rs.6,04,934/- for Registration purpose.</p> <p>At the time of booking it was mentioned that the flat is exclusively for freehold basis but later on, it was found that the flat is being transferred on the basis of leasehold, not on the basis of freehold basis. Somehow, misrepresenting the original fact, the Complainant forced to execute the Agreement for Assignment and the Respondent was bound to pay the booking amount of Rs. 12,60,067/- and amount of Rs. 6,04,934/- for registration purpose.</p> <p>The Complainant stated that the Respondent had clear and absolute knowledge of the project and also the right, title and interest which the Respondent was offered through the Application kit containing plan brochure, application form, pay in slip and payment schedule and subsequently through the</p>	

Draft Agreement for Assignment which was shared with the Respondent seeking their acceptance and approval thereon.

After receiving the Draft Agreement for Assignment, and acceptance by the Respondent, the same was executed.


After hearing both the parties and going through the Affidavits and other documents, the Authority is of the opinion that both the parties executed Agreement for Assignment and as per clause 1.8 (i) at page 9 of the Draft Agreement for Assignment, it was clearly mention that the Allottee-Assignee shall have leasehold rights and interest in the apartment together with the proportionate, indivisible, undivided, impartible, leasehold interest in the project common areas. So the claim of the Respondent not being aware regarding the leasehold nature of the plot is not tenable.

Therefore the Authority is hereby pleased to give the following directions:-


- a) The Complainant is allowed to cancel the allotment of unit no. URV0307D and refund the amount money paid to him, by the Respondent by deducting the booking amount as per provision of clause 9.3 of Annexure A of the WBRERA Rules, 2021 and the Agreement for Assignment signed between the parties shall thereupon stand terminated.
- b) The Complainant is further allowed to sign, execute and register a unilateral deed of cancellation in respect of the registered Agreement for Assignment.
- c) After cancellation of the Agreement and de-registration of the Agreement for Assignment and termination of the Allotment of the Respondent Allottee, the Complainant shall be at liberty to allot the same to any other Person.

With the above directions the instant matter is hereby disposed of.

Let copy of this order be served to both the parties immediately.

  
(BHOLANATH DAS)  
Member

West Bengal Real Estate Regulatory Authority

  
(TAPAS MUKHOPADHYAY)  
Member

West Bengal Real Estate Regulatory Authority