

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

Complaint No.WBRERA/COM-000034

Sheetal ShawComplainant

Vs.

1. Fairland Development India Ltd.
2. Soumita Construction Pvt. Ltd.
3. Team TaurusoRespondents

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
4 ----- 05.07.2023	<p>Advocate Sarbajit Mukherjee is present on behalf of the Complainant in the online hearing filing hazira through email.</p> <p>Advocate Masooma Khan is present on behalf of the Respondent in the online hearing filing hazira and Authorization through email.</p> <p>Complainant submitted a Rejoinder on notarized affidavit against the Written Response of the Respondent, as per the last order of the Authority dated 10.05.2023, which has been received by this Authority on 18.05.2023.</p> <p>Let the said Rejoinder of the Complainant be taken on record</p> <p>Heard both the parties in detail.</p> <p>The case of the Complainant is that he has entered into an</p>	

Agreement for Sale on 30.10.2014 for purchase of a flat bearing No. 1F in the 1st floor measuring approximate 902 sq.ft., in Tower-2 in the project named '**The County**', developed by the Respondent no. 2 Soumita Construction Private Limited, situated at Bishnupore, District- South 24 Parganas together with one covered car parking place on the ground floor. The Respondent No. 2 i.e. Soumita Construction Pvt. Ltd., issued a letter of Allotment in respect of the said flat bearing No. AL/SCPL.TC/IB/06/2/1F/14-15 dtd. 29.07.2014. The Complainant till date paid Rs.14,88,276/- (Rupees fourteen lakhs eighty-eight thousand two hundred seventy-six only) against receipts issued by the Respondent. By letter dated 04.06.2018, the Complainant terminated the arrangement on 30.10.2014 as per Agreement for Sale under Clause No. 9.5.

Thus the Complainant prayed before the Authority for refund the entire amount paid by him along with interest as per law from the date of respective payment till realization, as the Respondent have committed the breach of contract as recorded in the said Agreement for Sale. Respondent failed in his obligation to deliver possession of the flat booked by the Complainant within the scheduled time period as mentioned in clause 9.5 of the Agreement For Sale.

After examination of the Notarized Affidavits of both the parties and Notary Attested documents placed on record and after hearing both the parties in the online hearing, the Authority is of the considered view that the Respondent has failed miserably in his obligation to hand over possession of the

Apartment to the Complainant within the scheduled time line and therefore he is liable to refund back the principal amount paid by the Complainant along with interest at the rate of SBI PLR +2% per annum starting from the date of respective payments made by the Complainant till the date of realisation, as per the provisions contained in section 18 of the Real Estate (Regulation and Development) Act, 2016 read with rule 17 and 18 of the West Bengal Real Estate (Regulation and Development) Rules, 2021.

It transpires from the records that Respondent no. 1 Fairland Development India Limited is the Landowner of this project but nowhere the signature of the Landowner is present in the documents submitted by the Complainant, not in the Agreement For Sale and also not in the Money Receipts etc. Signature of any Authorized Representative of Respondent no. 3 Team Tauruso is also not present in any of the documents produced by the Complainant. Therefore the Authority is of the opinion that there is no privity of contract between Respondent no. 1 & 3 with the Complainant and Respondent no. 2 is solely responsible to refund the amount to the Complainant.

Respondent requested at the time of hearing to include **India Bulls** as one of the Respondent because as per him India Bulls has taken control of the amount from the Escrow Account.

The Authority rejected the prayer of the Respondent on the ground that there is no signature of any Authorized Representative of **India Bulls** in any of the documents submitted by the Complainant, therefore as there is no privity

of contract between the Complainant and the India Bulls, India Bulls cannot be made a party in this matter.

Hence it is hereby,

Ordered,

That the Respondent shall refund the principal amount of Rs.14,88,276/- (Rupees fourteen lakhs eighty-eight thousand two hundred seventy-six only) along with interest @ SBI Prime Lending Rate + 2% per annum starting from the respective dates of payments made by the Complainant till the date of realisation.

The refund shall be made by bank transfer to the bank account of the Complainant, within 45 days from the date of receipt of this order of the Authority by email.

The Complainant shall send his bank account details in which he wants to take the refund amount, to the Respondent by email within, 3 days from the date of receipt of this order of the Authority by email.

Complaint is at liberty to file an Execution Application on any plain paper annexing a copy of this Order, to this Authority, if the Respondent defaults to comply this order either in full or in part within the specified time period as mentioned in this order. In that case Respondent might be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five percent, of the estimated cost of the real estate project named '**The County**', as determined by

this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

Let copy of this order be sent to both the parties through speed post and also by email immediately.

With the above directions the matter is hereby disposed of.



(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