

## 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/COM000083

Achhia Khatun.....Complainant

Vs.

Evanie Infrastructure Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
2 ----- 21.06.2023	<p>Complainant Achhia Khatun is present in the online hearing alongwith her husband Muzaffar Hussain and son Maruf Hussain filing hazira through email.</p> <p>Respondent is absent in the online hearing despite due service of notice through speed post and email.</p> <p>Let the track record of due service of hearing notice to the Respondent be kept on record.</p> <p>Complainant submitted notarized affidavit dated 12.05.2023 containing her total submission regarding the Complaint matter, as per the last order of the Authority dated 03.05.2023, which has been received by this Authority on 19.05.2023.</p> <p>Let the said affidavit of the Complainant be taken on record.</p> <p>Respondent has failed to submit any Written Response on affidavit before this Authority till date, as per the last order of the Authority dated 03.05.2023.</p>	

The Respondent was absent on the last date of hearing on 03.05.2023 and also today. Respondent also failed and/or neglected to submit Written Response as per the last order of the Authority.

Therefore reasonable opportunity and sufficient time has been given to the Respondent to defend this matter and submit his response but he failed and/or neglected to take the opportunity. No more time can be given to the Respondent to file Written Response because as per section 29(4) of the Real Estate (Regulation and Development) Act, 2016, this Authority is under the obligation to dispose of the matters before it within the shortest possible time.

Hence the Authority is of the opinion to proceed with ex-parte hearing and disposal of this matter today.

The case of the Complainant is that, the Complainant booked a flat in the project 'Kingstown' of the promoter company Usashi Realstates Pvt. Ltd. The project was abandoned by the said Promoter Company. Thereafter, at the instance of the said promoter company, the allotment of the Complainant was transferred to the project named as 'Evanie Econest' of Evanie Infrastructure Pvt. Ltd (the present Respondent) which is a sister concern of Usashi Realstates Pvt. Ltd. Till date the Complainant has paid total Rs.8,87,000/- (Rupees Eight Lakhs Eighty Seven Thousand only) in this regard to the Respondent Company. Agreement for Sale in this respect was executed between the parties on 02.12.2019. As per the Agreement for Sale, the delivery of possession of the flat was scheduled to be given on either at the end of year 2020 or at the beginning of the year 2021. Respondent failed to deliver the possession of the flat as per the scheduled time stated in the Agreement for Sale.

Thus the Complainant prayed before the Authority for relief of refund of the entire Principal Amount paid by him along with interest as per RERA Act and Rules.

At the time of the hearing, the Complainant submitted that no substantial construction has taken place in the project land and also time for giving possession has already been elapsed in the year 2021. Therefore, he prayed before the Authority for full refund of the amount paid by him as mentioned above along with interest as per the RERA Act and Rules.

After examination of the affidavit of the Complainant and notary attested photocopy of documents annexed with the Affidavit and after hearing the Complainant in detail in the online hearing, the Authority is of the considered opinion that the Respondent has failed in his obligation to deliver the possession of the flat booked by the Complainant within the schedule time line that is within the year 2021 as per the Agreement for Sale executed between the parties. Therefore, as per the provisions contained in Section 18 of the Real Estate (Regulation & Development) Act, 2016 read with Rule 17 & 18 of the West Bengal Real Estate (Regulation & Development) Rules, 2021, the Respondent is liable to refund the principal amount paid by the Complainant along with interest @SBI PLR + 2% per annum for the period starting from the date of respective payments made by the Complainant till the date of realization.

Hence, it is hereby

ORDERED

that the Respondent shall refund the Principal Amount paid by the Complainant that is Rs.8,87,000/- (Rupees Eight Lakhs Eighty Seven Thousand only) to the Complainant along with

interest @**SBI Prime Lending Interest Rate +2% per annum** for the period starting from the date of respective payments made by the Complainant till the date of realization. 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 provide his bank account details, in which he wants to take the refund amount, to the Respondent within 3 days from 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 '**Evanie Econest**', as determined by this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

Copy of this order be served to both the parties by 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