

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/COM000531(erstwhile WBHIRA)

Prodip Kumar Biswas ..... Complainant

Vs.

Evania Infrastructure Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
02 04.09.2023	<p>Complainant is present in the physical hearing and signed the attendance sheet.</p> <p>Respondent is absent in the physical hearing despite due service of hearing notice through speed post and also by email.</p> <p>Let the track record of the due service of hearing notice to the Respondent be kept on record.</p> <p>Heard the Complainant in detail.</p> <p>Complainant has submitted notarized affidavit dated 04.08.2023 containing his total submission as per the last order of the Authority dated 01.08.2023, which has been received by this Authority on 07.08.2023.</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 01.08.2023.</p> <p>The Respondent was absent on the last date of hearing on 01.08.2023 and also today. Respondent also failed and/or neglected to submit Written Response as per the last order of the Authority.</p> <p>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</p>	

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.

As per the Complaint Petition, the Complainant had booked a flat in the project named as "Evanie Econest" of the Respondent Company and he paid total amount of Rs.20,00,000/- (Rupees twenty lakhs only) to the Respondent. The Agreement for Sale was executed between the two parties on 28.02.2018 for the purchase of the said flat and the possession of the flat was scheduled to be delivered, as per the Agreement For Sale, within 40 months from the date of execution of the said Agreement. Till date the project has not been started and constructed. The Respondent failed to give delivery of the possession of the flat within the scheduled time-line as agreed between the parties.

The Complainant stated at the time of hearing that he had received refund of Rs.30,000/- each on two occasions from the Respondent Company. Therefore the balance amount i.e. (Rs.20,00,000.00 - 60,000.00) = 19,40,000/- (Rupees nineteen lakhs forty thousand) only is due from the Respondent Company at present.

After examination of the Notarized Affidavit of the Complainant and Notary Attested documents placed on record and after hearing the Complainant through physical hearing, the Authority is of the considered view that the Respondent has failed miserably in his obligation to hand over possession of the flat to the Complainant within the scheduled time line and therefore, he is liable to refund the principal amount paid by the Complainant alongwith interest at the rate of SBI PLR +2% per annum for the period starting from the date of respective dates of 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.

Hence it is hereby,

**ORDERED**

that the Respondent shall refund the Principal amount of Rs.19,40,000/- (Rupees nineteen lakhs forty thousand

only) alongwith interest @ SBI Prime Lending Rate + 2% per annum for the period 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 '**Evanie Econest**', as determined by this Authority, as per the provision contained in section 63 of the Real Estate (Regulation and Development) Act, 2016.

With the above directions the matter is hereby disposed of.

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



(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority