

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

Complaint No. WBRERA/COM000227

Jayashri Manna Saha and Purnendu Manna..... Complainants

Vs

Evanie Infrastructure Private Limited..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
02 05.04.2024	<p>Let the name of Shri Purnendu Manna be included as a Joint Complainant as he is joint Allottee and therefore a necessary party and henceforth in all the records and communications of this matter, his name shall be recorded as a Complainant.</p> <p>Complainants are present in the online hearing filing 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>Complainants have submitted Notarized Affidavit dated 28.02.2024, containing their total submission regarding the Complaint Petition, as per the last order of the Authority dated 19.02.2024, which has been received by this Authority on 04.03.2024.</p> <p>Let the said Affidavit of the Complainant be taken on record.</p> <p>Respondent was absent on the last date of hearing on 19.02.2024. The Respondent is also absent today and he has not submitted any Written Response till today before the Authority.</p> <p>Therefore, the Authority is of the considered opinion that sufficient time and reasonable opportunity has been given to the Respondent to present their case and defend himself in the present matter but he neglected / failed to take the opportunity therefore the Authority shall now proceed with ex-parte hearing and disposal of this matter as per Rule 36(2)(h) of the West Bengal Real Estate (Regulation and Development) Rules, 2021 and as per the provision of section</p>	

29(4) of the Real Estate (Regulation and Development) Act, 2016.

Heard the Complainant in detail.

The case of the Complainant is that, they have booked a 3BHK flat at 3rd floor with 906.25 sq.ft. approximately in the project named as '**EVANIE ECONEST**' of the Respondent vide Application No. EEN000980. They have paid total amount of Rs. 6,41,970/- till date in this regard. But it seems to the Complainants that no progress in construction has been made in the project and also erstwhile HIRA has not given Registration to the said project. Therefore the Complainants have applied for cancellation and refund of the Principal Amount paid by them on 11.10.2019 and it was acknowledge by letter Ref. No. OC/19/01145 dated 01.11.2019.

In view of the above mentioned circumstances, the Complainants pray before the Authority for refund of the total Principal Amount of Rs.6,41,970/- paid by them alongwith statutory interest.

After examination of the Notarized Affidavit of the Complainants and Notary Attested documents placed on record and after hearing the Complainants through 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 Complainants within the scheduled timeline and therefore, he is liable to refund the principal amount paid by the Complainants 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 Complainants 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.6,41,970/- (Rupees Six Lakhs Forty One Thousand Nine Hundred and Seventy Only) alongwith interest @ SBI Prime Lending Rate + 2% per annum for the period starting from the respective dates of payments made by the Complainants till the date of realization.

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

The Complainants 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.

Complainants are 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



(TAPAS MUKHOPADHYAY)
Member
West Bengal Real Estate Regulatory Authority