

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/COM000702

Angshuman Bhattacharya..... Complainant

Vs

Merlin Projects Limited..... Respondent no.1

SaketMohta..... Respondent no.2

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
01 14.03.2024	<p>Complainant is present in the physical hearing and signed the Attendance Sheet.</p> <p>Smt. Deepa Das, Smt. Anusua Ghosh and Shri. Gautam Ray, being the Authorized Representatives of the Respondent Company, are present in the online hearing filing hazira and Authorization through email.</p> <p>Heard both the parties in detail.</p> <p>As per the Complainant,he has booked a flat in the project named '<b>Merlin the One</b>' of the Respondent and the Respondent has made deviation from prospectus and 3D model of the project as shown by them at the time of booking thus making direct contravention of the provisions of section 12 of the RERA Act, 2016. It was clearly emphasized in the prospectus and other relevant publicity materials issued at the time of booking that provision of covered parking will only be there in the basement or ground floor. Later the Complainant came to know from the registration certificate of the project under the then WBHIRA vide no. HIRA/P/KOL/2018/000096 dated 09.10.2018 that 18 number of open car parking areas have been approved under the project. Now the Respondent has marked out more than 40 such places with the clear intent of sale of the same. The Respondent is divulging any clear picture and doing the entire operation in a covert manner. This if done, will not only be a departure from their earlier promises but also a violation of the sanctioned order of the Competent Authority too.</p> <p>Even if the Respondent has submitted any revised plan and got it</p>	

sanctioned by the KMC in the subsequent period, then also it would be illegal. This is so, because such addition / alteration / specification in the common area is required to be ratified by at least two-third of the owners in writing as per clause (ii) of sub-section (2) of section 14 of the RERA Act, 2016, which has never been done.

In this Complaint Petition the Complainant prays before the Authority for the following relief(s):-

- a) An order restraining the Respondent to immediately stop allotment of open car parking slot to the customers against monetary consideration, if that has been done, and to cancel the allotments already done beyond the sanctioned strength in a time bound manner.
- b) A clear directive upon the Respondent to maintain transparency at every stage and disclose the mandatory documents like the sanctioned plan as defined in section 2(zq) of the RERA Act and published in the same in the website of the Authority for public viewing immediately. They may also be directed to keep a copy of all those documents in the site office of the project for inspection by the owners of the apartments immediately.
- c) A clear directive upon the Respondent to form the Association of Apartment Owners at the earliest and complete the process of handover of the common areas to such Association soon after its formation within a time same as may be found proper and reasonable by the Authority.
- d) To annul the illegal provisions kept both in the Sale Agreement and the Sale Deed, of forcible retention of management and control over the common areas of the project for one more year since the date of issue of completion certificate in contravention to legal provision as stated before and a directive to refund exorbitant amount of money collected from the purchaser as advance maintenance charges for the said period of one year following the date of issue of C.C.

After hearing both the parties, the Authority is pleased to admit this matter for further hearing and order as per the provisions contained in Section 31 of the Real Estate (Regulation and Development) Act, 2016 read with Rule 36 of the West Bengal Real Estate (Regulation and Development) Rules, 2021 and give the following directions:-

Let '**Merlin Projects Limited**' be included as Respondent no. 1 in this Complaint Petition as it is the Promoter Company of the subject matter project and therefore a **necessary party** for adjudication of this matter, as per the considered opinion of this Authority, and '**Mr. Saket Mohta**' shall be hereinafter referred to as Respondent no.2.

The Complainant is directed to submit their total submission regarding the Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested supporting documents and a signed copy of the Complaint Petition and send the Affidavit (in original) to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within **15 (fifteen)** days from today.

The Respondent is hereby directed to submit his Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested/self-attested supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Complainant, both in hard and soft copies, within **15 (fifteen)** days from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

Fix **23.04.2024** for further hearing and order.



(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