

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

Complaint No.WBRERA/COM000934

Mega Resources Limited..... Complainant

Vs

Yes Bank Limited..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
03 04.10.2024	<p>Chartered Accountant Gopal Krishna Lodha (Mobile - 9903275333, email - rrlservices2018@gmail.com), being Authorized Representative of the Complainant, is present in the physical hearing today and signed the Attendance Sheet.</p> <p>Advocate Mr. Sourjya Roy (Mob. No. 9836486947 & email Id: srjroy8@gmail.com) is present in the physical hearing today on behalf of the Respondent and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>This Authority directed the Respondent Yes Bank Limited in its order dated 24.06.2024, in Direction (e) of the said order, the following,-</p> <p>“The Respondent Bank was also directed to take all necessary steps to vacate the physical possession of the flat being no. Flat no. 3B, Block - D on 3rd floor of the subject matter project and deliver it to the Complainant within 7 days from the date of receipt of this order of the Authority through email.”</p> <p>The Respondent Yes bank till date did not comply the said Direction of this Authority.</p> <p>Meanwhile, the Respondent had filed an Appeal bearing no. WBREAT/Appeal No. 010/2024, before the Hon'ble West Bengal Real Estate Appellate Tribunal (WBREAT), challenging the said order dated 24.06.2024 of this Authority.</p> <p>By an Order dated 20.09.2024, the Hon'ble WBREAT has been pleased to dismiss the said Appeal, as mentioned above, and upheld the order dated 24.06.2024 passed by this Authority.</p> <p>In the last order dated 30.09.2024, this Authority directed the Respondent to submit its contentions regarding compliance of Direction (e) of the order dated 24.06.2024, on the next date of hearing that is today, in respect of vacating the physical possession of the subject matter flat.</p> <p>At the time of hearing today, the Advocate of the Respondent submitted that,-</p>	

- (a) The Ideal Real Estates Private Limited is required to be included as a Respondent for adjudication of this matter and Hon'ble WBREAT has been pleased to give that direction in its order dated 20.09.2024 at the time of dismissal of the Appeal.
- (b) They are preparing for filing an appeal before the Hon'ble High Court at Calcutta against the order dated 20.09.2024 passed by Hon'ble WBREAT, therefore, the Advocate of the Respondent requested for not passing any order within the period of 60 (sixty) days as per the provision contained in section 58 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as 'RERA Act, 2016').

At the time of hearing today, the Authorized Representative of the Complainant stated in reply, -

- a) The physical possession of the flat has been taken by Respondent Yes Bank Limited. The Ideal Real Estate Pvt. Ltd can be added as another Respondent, as per the direction of Hon'ble WBREAT, but the addition of Ideal Real Estates Pvt. Ltd has no relevance in the matter of vacating physical possession of the flat, as directed by this Authority.
- b) Sixty (60) days' time has been provided in section 58 of the RERA Act, 2016, to file an appeal to the Hon'ble High Court, from the date of communication of the decision or order of the Appellate Tribunal, but that does not mean that within the said period of Sixty (60) days the Authority's order dated 24.06.2024 shall remain in abeyance and not be complied by the Respondent. He also stated that on the different dates of hearings before the Hon'ble WBREAT, the said Tribunal has never passed any stay order against the order passed by this Authority dated 24.06.2024, even after specific submissions for stay by the Yes Bank Limited (Appellant) in this regard.
- c) As there is no stay order passed by any higher Authority / Tribunal, the Complainant prayed before the Authority to kindly provide the physical possession of the flat immediately to the Complainant, taking into consideration the right and interest of the bonafide Complainant-Allottee.

After hearing both the parties, this Authority is of the considered opinion that the points / contentions taken by the Respondent in regard to non-compliance of direction (e) of the order dated 24.06.2024 are not tenable in the eye of law. Until and unless there is any specific stay order in this regard by any higher forum / court, this Authority can exercise every power under the provisions of the RERA Act, 2016 and Rules made thereunder to take necessary steps so that the order(s) passed by this Authority have been complied by the Respondent. At present there is no stay order upon the order dated 24.06.2024 passed by this Authority and therefore taking into consideration the protection of the rights and interests of the Complainant-Allottee, the Respondent is required to be directed to vacate the physical possession immediately and handover it to the Complainant.

The Respondent has every right to file Appeal before the Hon'ble High Court at Calcutta and for this purpose he has sixty (60) days time as per section 58 of the RERA Act, 2016, but that does not mean that within the said period of sixty (60) days, the Respondent will not comply with the order dated 24.06.2024. The physical possession of the subject matter flat has been taken by the Respondent Yes Bank Limited, therefore, the Respondent Yes Bank Limited is under the obligation to vacate the said physical possession taken by

them.

The Authority has taken serious exception to the fact that the Respondent Bank till date did not vacate the physical possession in complete non-compliance of Direction (e) of the order dated 24.06.2024 and considering the fact that there was no stay order upon the said direction during the entire period from 24.06.2024 till today, therefore the Authority has no other option but to impose penalty upon the Respondent Yes Bank Limited amounting to Rs.5,00,000/- (Rupees Five Lakhs only) for non-compliance of Direction (e) of the order dated 24.06.2024, as per section 38 read with section 61 of the RERA Act, 2016.

Hence it is hereby,

ORDERED

a) The Respondent shall vacate the physical possession of the **Flat no. 3B, Block - D on 3rd floor** of the subject matter project, **within 24 hours** from the time of receipt of this order of the Authority through email; and

b) **A penalty of Rs. 5,00,000/- is hereby imposed upon the Respondent Yes Bank Limited for non-compliance of Direction (e) of the order dated 24.06.2024** of this Authority and the Respondent shall make payment of the said amount through bank transfer to the following bank account of the WBRERA Authority, within a period of **7 days** from the date of receipt of this order of the Authority through email.

Account Name: WEST BENGAL REAL ESTATE REGULATORY AUTHORITY

Account Number: 00000040777384369

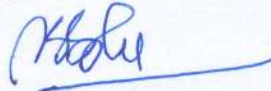
Branch: Specialized Institutional Banking, Kolkata

IFSC Code: SBIN0014524

MICR Code: 70002404

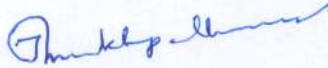
c) Let **Ideal Real Estates Private Limited** by hereby included as **Respondent no.2** in the present Complaint Petition, as per direction of Hon'ble WBREAT in order dated 20.09.2024 in Appeal no. WBREAT/Appeal No. 010/2024.

Let this order be served to all the parties immediately by speed post and email and also be uploaded in the website of WBRERA (www.rera.wb.gov.in) under the heading '**Authority Order**'.



(JAYANTA KR. BASU)
Chairperson

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)
Member

West Bengal Real Estate Regulatory Authority