

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

Complaint No.WBRERA/COM-000118

Anup Ghosh.....Complainant

Vs.

Dharitri Infraventure Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
1 ----- 30.05.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocate Sayantani Das is present on behalf of the Respondent filing and 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 'Royal Enclave' project of the Respondent situated at Rajarhat near Shapoorji Bus Stand on 14.07.2018. He has been allotted a 750 sq.ft. flat in tower 2, 3rd floor, Flat-B via the allotment letter dated 14.07.2018. The Respondent promised to give possession of the Flat to the Complainant by December 2019. The Complainant paid an amount of Rs. 2 (two) lakhs as booking amount on 14.07.2019. Till date the Complainant paid total amount of Rs. 3,60,000/- to the Respondent for purchase of the said Flat. On 08.09.2019 the Respondent informed him that the</p>	

said Flat has already been allotted to another person. The Respondent tried to convince the Complainant to choose another flat in other towers of the said project which will be constructed in the backward side of the project and it will be handed over by end of 2022. The Complainant showed his disagreement to take another Flat as proposed by the Respondent.

In this Complaint Petition, the Complainant prayed for the relief of getting his money back with interest as early as possible.

After hearing both the parties, the Authority is of the view that this matter may be admitted for further hearing and order as per Section 31 of the Real Estate (Regulation and Development) Act, 2016 and Rule 36 of the West Bengal Real Estate (Regulation and Development) Rules, 2021 and it is hereby admitted for hearing.

At the time of hearing, it came to the notice of the Authority that on the selfsame matter, the Complainant had filed a Complaint case bearing number COM000171 before the erstwhile WBHIRA Authority. The said matter was disposed of on 19.12.2029 and first hearing of the execution proceeding was held on 16.03.2021. After that WBHIRA was struck down by Hon'ble Supreme Court of India by an order dated 04.05.2021.

It should be mentioned here that by the Order of the Hon'ble Supreme Court dated 12.05.2023 in the Case No. Special Leave to Appeal (C) No(s). 16908/2022 in the matter of Saptaparna Ray Vs. District Magistrate North 24 Parganas & Ors., the Apex Court has been pleased to direct-

"This Court observed that the "striking down of WB-HIRA will not affect the registrations, sanctions and permissions previously

granted under the legislation prior to the date of this judgment". This principle shall also apply to orders which were passed whether in original or in the course of execution prior to the date of the judgment. All such orders shall be executed in accordance with law, as if they were issued under the RERA.

Moreover, we clarify that all complaints which were filed before the erstwhile authority constituted under WB-HIRA shall stand transferred to and be disposed of in accordance with law by the authority which is constituted under the Central Act. Any person aggrieved by an order passed under WB-HIRA will be at liberty to pursue the corresponding remedy which is available under the RERA."

Therefore, as per the above direction of the Hon'ble Supreme Court and after hearing both the parties, this Authority is hereby pleased to take up the Complaint Petition bearing no. **COM000171** for further hearing for Execution of the final order dated 19.12.2019 passed by the erstwhile WBHIRA. This Authority shall continue the hearing, from the stage upto which the erstwhile WBHIRA has conducted the Execution hearing till 16.03.2021.

Let the hearing of the present Complaint Petition bearing no. **WBRERA/COM 000118** is hereby closed and disposed of as it has been filed on selfsame matter as that of **COM 000171**.

The Authority now shall proceed with hearing of **COM000171**.

Both the parties are hereby directed to try for a mutual settlement of the issues between them by amicable discussion. If they arrive at a mutual settlement within 7 days from the date of receiving this order by email, they shall submit a joint Notarized Affidavit signed by both the parties containing the terms of the mutual settlement and send it to the Authority within 15 days from the date of receipt of this order through email.

If no mutual settlement can be arrived at between both the parties within 7 days from the date of receipt of this order through email, then Complainant shall submit a Notarized Affidavit containing the developments, if any, after the last date of hearing dated 16.03.2021 of COM000171, annexing therewith Notary attested supporting documents, if any, and send it to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within **15 (fifteen)** days from the date of receipt of this order through email.

Fix **21.07.2023** for further hearing and order.

sd/-

(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority

sd/-

(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority

sd/-

(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority

certified to be true copy.

sd/-

30.05.2023

Special Law Officer
West Bengal Real Estate Regulatory Authority