

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

Complaint No. COM-000302(erstwhile WBHIRA)

Subhra Mitra.....Complainant

Vs.

Evanie Infrastructure Pvt. Ltd..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
5 ----- 15.06.2023	<p>Son of the Complainant, Shri Rahul Mitra, is present in the online hearing filing hazira through email.</p> <p>Advocate Shourya Basu is present in the online hearing on behalf of the Respondent.</p> <p>It should be mentioned at the outset 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 &amp; Ors., the Apex Court has been pleased to direct-</p> <p><i>"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.</i></p> <p><i>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."</i></p>	

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. **COM000302** for further hearing and order. This Authority shall continue the hearing, from the stage upto which the erstwhile WBHIRA has conducted the hearing till 15.10.2020. The Authority now shall proceed with hearing of **COM000302** from that stage.

Meanwhile, the Complainant had filed another Complaint Petition bearing no. **WBREERA/COM(PHYSICAL)000003** on the selfsame matter and cause of action which has been already **disposed of** by this Authority on 02.02.2023 by giving the following direction,-

“The Complainant submitted a copy of a Memorandum of Understanding (MoU) executed on 27.01.2023 between the Complainant and Evanie Infrastructure Pvt. Ltd. represented by its Director Goutam Kumar Sahoo.

The Respondent has also sent a copy of the same MoU to this Authority through email. Let the MoU be taken on record and considered.

As per the MoU the parties have arrived into a mutual amicable settlement by which the Complainant has agreed to withdraw the present Complaint Case bearing No. **WBREERA/COM(PHYSICAL)000003** and Respondent will refund the entire amount to the Complainant as per the scheduled as given in the MoU. The complaint petition is hereby disposed of with the liberty to the Complainant that if refund payment has not been made as per the MoU then she can file afresh a Complaint Petition to this Authority.”

As the Complaint Petition bearing no. **WBREERA/COM(PHYSICAL) 000003** has already been disposed of and **COM 000302** stand transferred to WBREERA Authority vide the order of the Hon'ble Supreme Court dated 12.05.2023, mentioned above, therefore this Authority now shall now proceed with hearing of **COM 000302**.

At the time of hearing of COM 000302 today the Complainant submitted that she has received refund of Rs. 30,000/- on 22.01.2021, Rs. 20,000/- on 27.01.2023 and Rs.30,000/- 28.02.2023 from the Respondent. Therefore total Rs. 80,000/- has been received by her, as refund, from the Respondent, till date. At present Rs. 3,27,400/- (Rs. 4,07,400 – Rs. 80,000) is the balance amount which is required to be refund back by the Respondent.

The Complainant also submitted at the time of hearing that the MoU dated 27.01.2023 has not been complied by the Respondent and Respondent failed to pay the installment of Rs. 50,000/- in May 2023.

Complainant at the time of hearing earnestly prayed for immediate refund of the balance amount along with interest as per RERA Act and Rules.

The advocate of the Respondent prayed for some more time for refund of the balance amount alongwith interest at the time of hearing.

After examination of the Affidavits of both the parties and documents placed on record and after hearing both the parties in the online 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 back the remaining amount of the principal amount paid by the Complainant along with interest at the rate of SBI PLR +2% starting from the date of respective 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 MoU dated 27.01.2023 is hereby stand cancelled as the Respondent already failed to pay the instalment as per the said MoU in May 2023. The Respondent shall refund the remaining portion of the principal money, amounting to Rs. 3,27,400/- (Rupees Three Lakh Twenty Seven Thousand Four Hundred Only) along with interest @SBI Prime Lending Rate + 2% 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 shall 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.

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

With the above directions the matter is hereby disposed of.

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.

date

15.06.2023

**Special Law Officer**

**West Bengal Real Estate Regulatory Authority**