

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

Complaint No.WBRERA/COM(PHYSICAL)000133

Uma Bhattacharjee..... Complainant

Vs

M/s. Megalink Construction..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 07.08.2024	<p>Advocate Mr. Aditya Prasad Sinha (Mob. No. 9830484250& email Id:adityapsinha19@gmail.com) is present in the physical hearing on behalf of the Complainant filing Vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Mr. Anupam Mookherji (Mob. No. 9830035022& email Id: anupammookherji@gmail.com) is present in the physical hearing on behalf of the Complainant filing Vakalatnama and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complaint petition, the Complainant as a owner in respect of all that place and parcel of a bastu land measuring about 5 cotthas more or less together with 2 R.T. Shed lying and situation at KMC premises No. 354/1A, Mahendra Banerjee Road, P.S. Parnasree, Kolkata 700060 entered into a development agreement with the Respondent herein on 22.04.2015 and the said development agreement with a power was duly registered before the office of the Registrar of Assurances-I, Kolkata and was recorded in Book No. I, Volume No. 10, Pages 357 to 397, being No. 03395 of 215. As per Clause No. 5.1 of the Development Agreement dated 22.04.2015, the construction work had to be completed by the Respondent within 24 months from the date of obtaining the sanction building plan from the Kolkata Municipal Corporation and / or getting vacant possession of the said plot of land whichever is later. The said clause also spelt out that irrespective of all the developer / promoter being the Respondent herein shall obtain the said building plan duly sanctioned from Kolkata Municipal Corporation positively within 3 months from the date of execution of the said Development Agreement.</p> <p>The fact is that almost 9 years have been elapsed since the execution of the Development Agreement dated 22.04.2015, but there was no initiative on the part of the Respondent to obtain the sanction building plan and start the construction work. The complainant times without number asked the Respondent about the reason for such a long delay but there was no response from the part of the Respondent herein. The complainant having no other alternative sent a letter to the Respondent through her Learned Advocate on 18.03.2023 and the Respondent after receiving the said letter also replied the</p>	

said letter on 23.03.2023. That in spite of giving reply the Respondent did not take any initiative for obtaining sanction plan. The Respondent has failed to discharge her obligation and liability in terms of development agreement dated 22.04.2015.

That due to the in action of the Respondent the Complainant already suffered a lot and she is still now suffering from mental agony and unnecessary harassment.

The Respondent is liable for deficiency of service and as such the Complainant having no other alternative approach before the West Bengal Real Estate Regulatory Authority.

The Complainant prays before the Authority for the following relief(s):-

- i) Necessary order directing the Respondent not to proceed any work in pursuance of Development Agreement alongwith Power of Attorney executed and registered on 22.04.2015.
- ii) Compensation for suffering mental agony; and
- iii) Further relief or reliefs as the Complainant is entitled to get in law.

At the time of hearing today the Advocate of the Respondent stated that the Complainant has suppressed material fact of payment of Rs.19,00,000/- approximately to him in this regard.

The Authority took serious exception to the fact that the Complainant has not disclosed material fact of payment of Rs.19,00,000/- approximately to him. The Authority hereby warned the Complainant not to practice this type of things with this Authority.

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:-

The Complainant is directed to submit her total submission regarding their 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 the date of receipt of this order of the Authority by email.

The Complainant is also directed to submit an Amendment of the Complaint Petition on Notarized Affidavit disclosing the material facts which he has not disclosed in the Complaint Petition.

The Complainant is further directed to send a scan copy of her Affidavit alongwith annexure to the email ID of the Advocate of the Respondent, as mentioned above.

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.

In spite of the above directions, both the parties are directed to take initiative and try for an amicable settlement of the issues between them by mutual discussions and if they arrive at a mutual settlement, they shall submit a **Joint Affidavit**, signed by both, containing the terms and conditions of the mutual settlement, and send the Affidavit (in original) to the Authority before the next date of hearing and in that case there is no need of submitting separate affidavit(s) by Complainant and Respondent, as per the directions given above.

Fix **25.10.2024** for further physical hearing and order. On the next date hearing shall be held physically in the office of WBRERA.



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority