

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

Complaint No. WBRERA/COM000741

Debdutta Chatterjee. .... Complainant

Vs

M.S.Enterprise..... Respondent

| Sl. Number and date of order | Order and signature of the Authority   | Note of action taken on order |
|------------------------------|--|-------------------------------|
| 01<br>23.04.2024             | <p>Advocate Mr. Himangshu Ghosh (Mob. No. 9903499926 &amp; email Id:- advhimangshughosh@gmail.com) and Advocate Mr. Aditya Chakraborty (Mob. No. 9051205755) are present on behalf of the Complainant in the physical hearing filing vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Mr. Avijit Gope (Mob. No. 9123902294 &amp; email Id: gopeavijit14@gmail.com) &amp; Mr. Ayan Roy Chowdhury (Mob. No.9830084347) are present in the physical hearing on behalf of the Respondent filing vakalatnama and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complainant, the Respondent is a partnership firm. The Respondent and the partners thereof are jointly and severely liable for deficiency of service and Unfair Trade Practice.</p> <p>Complainant entered into a joint venture agreement with the Respondent for construction of a G+4 storey building. However, in clear violation, the Respondent has erected a G+5 storey building, the extra area share whereof the Respondent has denied to the Complainant. Furthermore, the Respondent failed to provide possession and Completion Certificate, floor plan and the sanctioned plan to the complaints till date and have thus completely violated the agreement between the parties.</p> <p>The Complainant prays before the Authority for the following relief(s):-</p> <p>As per the said agreements the proposed construction should be G+4 and allocations of the respective parties were determined in respect of G+4 but subsequently, the nature and pattern of the proposed construction were changed</p> |                               |

from G+4 to G+5, keeping the determination of allocation of the land owners/complainants into oblivion which is unheard and unparalleled to any untoward happenings; as a consequence whereof the legitimate interest of the complainants / land owners was jeopardized.

The developers not only deviated from the development agreement dated 14.10.2015 and Development Power of Agreement dated 15.02.2017 and the Supplementary Agreement dated 15.02.2017 but also failed to comply with the statutory provisions.

- a) To probe into the issue involved squarely in accordance with the statutory provisions.
- b) To admit the instant complaint and issue notice to the opposite parties as this Hon'ble Forum may deem fit and proper.
- c) To pass an appropriate order against the opposite party to finish the construction of the unfinished flats of your complainants and give peaceful possession of those flats to your complainants in respect of allocation of your complainants.
- d) To pass order against the opposite party to provide completion certificate and possession letter, sanction plan, floor plan to the complainants.
- e) To pass the necessary order to re-determine the allocation and share of the complainants in respect of G+5 patterns, if such pattern is in accordance with law.
- f) To take appropriate steps against the developer/opposite parties in accordance with law in the event of any illegality or irregularity from any corner whatsoever.
- g) To pass necessary orders directing the Respondents to adequately compensate the Complainants for the delay in delivery of possession.
- h) To pass an order against the opposite party to pay a compensation of Rs.5,00,000/- for causing harassment and mental agony and litigation cost Rs.1,00,000/-.

After hearing the Complainant, 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:-


Both the parties are directed to take initiative to amicably settle the issues between them by mutual discussion and if they arrive at a mutual settlement, they shall submit a **Joint Affidavit**, containing the terms and conditions of the mutual settlement and signed by both the parties and send it to the Authority (in original) within **15 (fifteen)** days from the date of receipt of this order of the Authority by email. If they fail to arrive at a mutual settlement then both the parties shall submit Affidavit as directed below:-

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 expiry of 15 days from the date of receipt of this order of the Authority by email.

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.

The Respondent Company is also directed not to sale/transfer/alienate any flat from their allocation to any third party till disposal of this matter or until further order, whichever is earlier.

Fix **25.07.2024** for further online hearing and order.

  
(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority

  
(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority