

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

Complaint No. WBRERA/COM000627

Subrata Kumar Dey Complainant

Vs

1. Unnayan Builders (P) Ltd. Respondent No.1.
2. Partha Ghosh Dastidar MD of Unnayan Builders (P) Ltd. Respondent No. 2.

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 14.08.2024	<p>Advocate Subhas Basu (Mobile - 8240131565 & email Id: subashbasu@yahoo.co.in) and Advocate Nirmalya Ghosh (Mobile - 9903184131) are present in the physical hearing and signed the Attendance Sheet.</p> <p>Advocate Ved Sharma (Mobile - 7980751906, 7580126534, email id - sujashgd1958@gmail.com) is present in the physical hearing today on behalf of the Respondent filing vakalatnama and signed the Attendance Sheet.</p> <p>Heard the both the parties in detail.</p> <p>As per the Complainant the fact of the case is that:-</p> <p>A. The Complainant booked one plot of land bearing no. B-183 measuring 3 cottahs at a total price of Rs.15,00,000/-within Dag No. 674, Khatian No. 1954, J.L. No. 7 PS - KLC, South 24 Pgs. The Agreement for Sale dated 13.10.2009 executed between Unnayan Builders (P) Ltd, Respondent no.1 and the Complainant. The Managing Director of Respondent no.1, Mr. Partha Ghosh Dastidar signed the Agreement on behalf of Respondent no.1. As per clause 11 of this Agreement the Respondent no.1 shall develop the said with construction of metal road with side drain and other basic infrastructure within a period of 4 years from the date of Agreement for Sale. The Respondent no.1 failed to complete the project within the stipulated time period, therefore, the Allottee prayed for refund of the full money alongwith interest (vide clause no. 21 of the Agreement for Sale).</p>	

B. The complainant paid total amount of Rs.13,50,000/-by monthly installments within 29.06.2015. On enquiry the complainant came to know that the said plot of land is partly within substantially water body oriented area and partly Agricultural land which is one of the Ramsar designated water lands. The Complainant had already paid 2 installments @Rs.1,50,000/- each that is Rs.3.00 lakhs and 42 installments @Rs.25,000/- each i.e. Rs.10,50,000/-. Then the complainant realized that he had been cheated and therefore he stopped paying remaining installments. On demand the Respondents reused to refund the sum of Rs.13,50,000/-plus statutory interest thereon.

C. The complainant filed a case before the District Consumer Forum against the Respondents for recovery of amount of Rs.13,50,000/-alongwith interest compensation and litigation cost. The Respondent refunded a meager amount of Rs.50,000/- and the case is still pending before the District Consumer Forum.

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

1. Directing the Respondents to refund the balance amount of consideration of Rs.13,50,000/- paid by the complainants along with interest in terms of Rules 17 and 18 of the WBRERA Rules, 2021.
2. Compensation for mental tensions and agony suffered by the complainants and litigations cost as the Hon'ble Authority shall deem fit and proper.
3. To issue appropriate order to the Respondents for violation of Section 3 of RERA Act, 2016 and notification no. 135-RERA/L01/2023 dtd. 03.02.2023.

The Complainant prays before the Authority for the following interim order:-

To issue appropriate order to the Respondents for violation of section 3 of RERA Act and notification no.135-RERA/L-01/2023 dated 03.02.2023 and to offer for sale of plot of land without obtaining C.C. / O.C. by way of advertisement through website and brochure

The Respondents at the time of hearing stated that this Complaint Petition is not maintainable before this Authority.

The Respondents are directed to submit their submissions regarding maintainability of this matter in their Affidavit, as directed below, annexing

therewith copy of provisions, judgments, if any.

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 **Complainants** are directed to submit their total submission regarding their Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested copy of 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 scan copies, within **21 (twenty-one) days** from the date of receipt of this order of the Authority by email.

The **Respondents** are hereby directed to submit their Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested/self-attested copy of 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 scan copies, within **21 (twenty-one) days** from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

The **Respondents** are also directed to state their Written Response regarding the merit of this matter and also regarding maintainability of this matter before this Authority, if any, in their Affidavit.

The **Respondents** are further directed to specifically mention in their notarized affidavit that whether they have taken registration for the project from erstwhile WBHIRA/WBRERA. If yes, they shall provide the Registration number with date and if they have not taken registration, the reason for not taking the registration shall be stated by them in their affidavit.

Fix **05.12.2024** for further hearing and order.

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/- 14.08.2024
Special Law Officer
West Bengal Real Estate Regulatory Authority