

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

Complaint No.WBRERA/COM-000062

Tapan Mukherjee..... Complainant

Vs.

Evanie Infrastructure Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
03 28.06.2023	<p>Son-in-Law of the Complainant Shri. Asit Kumar Chakraborty is present on behalf of the Complainant Shri. Tapan Mukherjee in the online hearing, filing hazira through email.</p> <p>Respondent is absent in the online hearing despite due service of notice through speed post and email.</p> <p>Let the track record of the due service of hearing notice to the Respondent be kept on record.</p> <p>Heard the Complainant in detail.</p> <p>Respondent has failed to submit any Written Response on affidavit before this Authority till date.</p> <p>The case of the Complainant is that, Complainant and his wife namely Smt. Samapti Mukherjee had jointly booked a 2BHK flat of approximately 535.36 Sq ft of super built-up area with covered car parking of 134.5 Sq ft in the project named 'Evanie</p>	

Econest' of the Respondent Company and Agreement for Sale was executed between the parties on 11.06.2018 in this regard. They have made full payment of the said flat along with covered car parking area and he has made payment of) Rs.21,59,766/- (Rupees twenty-one lakhs fifty-nine thousand seven hundred sixty-six only) to the Respondent in this regard, as mentioned point no. 9 in the Affidavit of the Complainant dated 08.05.2023. The possession of the flat was committed to be delivered by the Respondent within 40 months from the date of Agreement, which has already been elapsed in the year 2021.

At the time of the hearing, the Complainant submitted that no substantial construction has taken place in the project land and also time for giving possession has already been elapsed in the year 2021. Therefore, he prayed before the Authority for full refund of the amount paid by him as mentioned above along with interest as per the RERA Act and Rules.

In the last order of the Authority dated 06.06.2023, Respondent was directed to file Written Response and it was the last chance given to the Respondent to submit the same. He was also directed to appear positively on the next date of hearing, failing which, the Authority shall have no other option but to proceed with ex-parte hearing and disposal of this matter for providing justice to the Complainant.

The Authority is of the opinion that already reasonable opportunity and sufficient time has been granted to the Respondent to file Written Response and therefore no more time

should be granted to the Respondent to file Written Response on Affidavit.

After examination of the affidavit of the Complainant and notary attested photocopy of documents annexed with the Affidavit and after hearing the Complainant in detail in the online hearing, the Authority is of the considered opinion that the Respondent has failed in his obligation to deliver the possession of the flat booked by the Complainant within the schedule time line that is within March, 2021 as per the Agreement for Sale executed between the parties. Therefore, as per the provisions contained in Section 18 of the Real Estate (Regulation & Development) Act, 2016 read with Rule 17 & 18 of the West Bengal Real Estate (Regulation & Development) Rules, 2021, the Respondent is liable to refund to the principal amount paid by the Complainant along with interest @SBI PLR + 2% for the period starting from the date of respective payments made by the Complainant till the date of realization.

Hence, it is hereby

ORDERED

that the Respondent shall refund the Principal Amount paid by the Complainant i.e. Rs.21,59,766/- (Rupees twenty-one lakhs fifty-nine thousand seven hundred sixty-six only) to the Complainant along with interest @**SBI Prime Lending Interest Rate +2%** for the period starting from the date of respective payments by the Complainant to the date of realization. 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 provide his bank account details, in

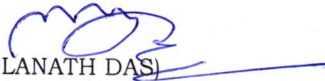
which he wants to take the refund amount, to the Respondent within 3 days from date of receipt of this order of the Authority by email.

Copy of this order be served to both the parities by Speed Post and also by email immediately.

With the above directions the matter is hereby disposed of.



(SANDIPAN MUKHERJEE)
Chairperson
West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)
Member
West Bengal Real Estate Regulatory Authority