

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

Complaint No.WBRERA/COM-000069 & COM-00568 (erstwhile WBHIRA)

Atanu DattaComplainant
 Vs.
 Riverbank Developers Private Limited.....Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
3 ----- 05.07.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocate Anirban Chatterjee is present on behalf of the Respondent in the online hearing filing hazira and Vakalatnama through email.</p> <p>Respondent submitted Written Response on notarized affidavit dated 15.06.2023, as per the last order of the Authority dated 06.06.2023, which has been received by this Authority on 16.06.2023.</p> <p>Let the said Written Response of the Respondent be taken on record.</p> <p>Respondent submitted another Affidavit in opposition dated 05.07.2023.</p> <p>Let the said Affidavit in opposition be taken on record.</p>	

Heard both the parties in detail.

As per the Complainant, he was allotted a flat of approximately 712 Sq.ft. bearing no. 6A5 in Tower-9 in the Project of the Respondent named as 'Hiland Greens, Phase-2' at Maheshtala, Kolkata - 700 140 on 09.07.2014 and the flat was supposed to be handed over on 09.02.2018 after completion of 42 months from the date of allotment. The Respondent failed to deliver possession of the said flat as per the scheduled time period as agreed between the parties. Therefore, Complainant asked for cancellation and refund of his total paid amount of Rs.21,43,718/- (Rupees twenty-one lakhs forty-three thousand seven hundred eighteen only) along with interest. The Respondent failed to refund the amount till date.

In this circumstances, the Complainant prayed before the Authority for refund of Rs.21,43,718/- (Rupees twenty-one lakhs forty-three thousand seven hundred eighteen only) plus interest @18% per annum.

After examination of the Notarized Affidavits of both the parties and Notary Attested 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 Apartment to the Complainant within the scheduled time line and therefore he is liable to refund back the principal amount paid by the Complainant deducting therefrom the taxes and GST if any already paid to the Competent Authorities by the Respondent, along with interest at the rate of SBI PLR +2% per annum 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 Respondent shall refund the principal amount of Rs.21,43,718/- (Rupees twenty-one lakhs forty-three thousand seven hundred eighteen only) deducting therefrom the amount of taxes and GST, if any, paid by the Respondent to the Competent Authorities along with interest @ SBI Prime Lending Rate + 2% per annum 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.

Complainant shall send a copy of his **Loan Clearance Certificate** through email to the Authority, Respondent Company and Advocate of the Respondent within 7 days from the date of receipt of this order. The email id of the Advocate of the Respondent is given below :-

adv.anirban1@gmail.com

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 '**Hiland Greens Phase-2**', 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.



(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority