

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

Complaint No. WBRERA/COM000867

Sun Flower Nirpan LLP..... Complainant

Vs

Indira Constructions... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 02.07.2024	<p>Advocate Mr. Subhro Kanti Roy Chowdhury (Mobile – 9831581182, email – subhro.krc@gmail.com) is present in the hearing physically before the Authority on behalf of the Complainant filing vakalatnama and signed the Attendance Sheet.</p> <p>Chartered Accountant Mr. Amit Kumar Kedia (Mobile – 9414046121, email - amit@kcapl.com) is present in the hearing through online mode on behalf of the Respondent filing hazira and authorization through email.</p> <p>Heard both the parties in detail.</p> <p>As per the Complaint Petition:-</p> <p>The company Sunflower Nirman Pvt. Ltd. purchased a plot of land measuring 02.50 bighas or 0.827 acres vide deed number I5827/2006, situated in Mouza- Baragharhia, Pargana- Patharghata, recorded in Khaitan No. 113, appertaining to and forming part of Plot Nos. (old) – 428, 434 and 435 corresponding to plot nos.(new) – 624 and 639, J.L. No. 82, Sheet No. 2, P.O. &amp; P.S. – Matigara, District – Darjeeling, West Bengal.</p> <p>The Company was subsequently converted in to an LLP on 28<sup>th</sup> December, 2017, as Sun Flower Nirman LLP.</p> <p>A few days back the Complainants came to know that Indira Constructions has entered into a joint venture agreement with Maman Chand Agarwal (HUF) and others and they are constructing a multistoried apartment by the name of <b>“THE SENSES”</b> – RERA Registration No. WBRERA/P/DAR/2023/000600 on their above land forcibly.</p> <p>In this matter they have filed a Civil Suit being title suit no. 298 of 2023 before the Court of the Ld. Civil Judge (Senior Division) at Siliguri with respect to the aforesaid mentioned plot. They have also issued a public notice in the local news paper mentioning all the facts of the case.</p> <p>The Respondent-Developers of the project “THE SENSES” have omitted key facts in their RERA application. They have concealed the fact that a portion of the land measuring 2.50 bighas or 0.827 acres is the land of their LLP and have started construction on the aforesaid disputed Land.</p>	

They have requested this Authority to kindly take appropriate steps in the above matter and stop construction and sale of apartments on the aforesaid land to protect the interest and of home buyers and investors.

The Complainant prays before the Authority for a stay in the construction and the sale of apartments of the project so that their interest and the interest of the investors and homebuyers are protected.

The Respondent stated at the time of hearing that this matter is not maintainable before this Authority as the Complainant is not an aggrieved person. If the Complainant is a landlord then he can also be considered as Promoter as per RERA Act and it is a settled principle of law that a Promoter cannot submit a Complaint under Section 31 of the RERA Act against another Promoter. He prayed for dismissal of this matter on the ground of non-maintainability. He craves leave for submission of judgment(s) in this regard, if permitted.

After hearing both the parties, before admitting this Complaint Petition the Authority is of the considered view to take submission of both the parties on Notarized Affidavit regarding the maintainability points of this matter before the Authority and also submission regarding the merit of the matter, on the ground of speedy disposal of justice, 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, therefore, the Authority is hereby pleased to give the following directions:-

The Complainant is directed to submit their total submission regarding their Complaint Petition and regarding the maintainability points of this matter 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 **15 (fifteen)** days from the date of receipt of this order of the Authority by email.

The Complainant is directed to submit his submission regarding the maintainability point of this matter as well as merit of the matter in his affidavit, as directed 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 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 **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 is further directed to submit his submission regarding the maintainability points of this matter before this Authority as well as his submission regarding the merit of this matter in his affidavit, as directed above.

Fix **03.09.2024** for further hearing and order.

  
(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority