

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

Complaint No. WBRERA/COM000442

Ashis Mukherjee and Shampa Mukherjee..... Complainants

Vs

M/s. J.I. Corporation.....Respondent no.1

Md. Shahid.....Respondent no.2

Tanveer Ahmed.....Respondent no.3

| Sl. Number and date of order | Order and signature of Authority | Note of action taken on order |
|------------------------------|--|-------------------------------|
| 02 19.02.2024 | <p>Complainants are present in the physical hearing today and signed the Attendance Sheet.</p> <p>Advocate Md. Shamim (Mob. No. 8017879551 & email Id- mdshamim.adv786@gmail.com) alongwith Md. Shahid, Partner of the Respondent Company (Mob. No. 9903067552 & email Id- mdshahid1087@gmail.com) are present in the physical hearing on behalf of the Respondent and signed the Attendance Sheet.</p> <p>Complainants submitted a Notarized Affidavit dated 10.01.2024, containing their total submission regarding the Complaint Petition, as per the last order of the Authority dated 26.12.2023, which has been received by this Authority on 19.01.2024.</p> <p>Let the said Affidavit of the Complainants be taken on record.</p> <p>The Respondent submitted a Written Response on a Notarized Affidavit dated 08.02.2024 against the Complaint Petition and the Affidavit of the Complainant which has been received by this Authority today.</p> <p>Let the said Written Response of the Respondent be taken on record.</p> <p>Heard both the parties in detail.</p> <p>The case of the Complaints is that, they have booked a flat At 64, Deshpran Sasmal Road, Howrah-711101 from the Respondent Company M/s J.I. Corporation in the month of July 2021. As per the Agreement the flat was to be made ready and handed over within 18 months from the</p> | |

date of Agreement. But the Complainants are still not able to get any possession of the flat and the Respondent Company has stopped all the activities of developing the said project.

In this Complaint Petition, the Complainants pray for the relief of getting possession of the flat immediately otherwise refund of the full Principal Amount paid by the Complainant alongwith interest from the promoter company as per RERA Act and Rules made thereunder.

The Respondent stated that one of the Land Owner Mr. Debnath Mukherjee has died on 24.06.2022 and after his death his legal heirs have not executed any fresh Power of Attorney in favour of the Respondents of this case to that effect. Unless no fresh Power of Attorney is executed by the legal heirs of the said Late Debnath Mukherjee in favour of the Respondents, they cannot perform their duties. Hence delay in construction work of the proposed building and therefore the question of refund of entire advance amount to the Complainants with interest does not arise at all.

After hearing both the parties and after careful consideration of the documents place on record and notarized affidavits submitted by both the parties, the Authority is of the considered opinion that the Respondents have failed in their obligation to give the delivery of possession of the flat booked by the Complainants to him as per the schedule date. As per Agreement for Sale dated 05.07.2021 the schedule date of delivery was within 18 months from the date of execution of the Agreement for Sale i.e., within 05.01.2023.

The Respondent failed to deliver the possession within the said date and therefore as per Section 18 of Real Estate (Regulation and Development) Act, 2016, read with Rule 17 and 18 of the West Bengal Real Estate (Regulation and Development) Rules, 2021, the Respondent is liable to refund the entire principal amount paid by the Complainants alongwith interest @**SBI PLR+2% p.a.** for the period starting from the respective dates of payment of the Complainants till the date of realization.

Hence, it is

ORDERED

that the Respondent shall refund the Principal Amount of Rs.23,94,200/- (Rupees Twenty Three Lakhs Ninety Four Thousand Two Hundred Only) alongwith interest @**SBI PLR +2% p.a.** for the period starting from the date of respective payments made by the Complainants till the date of realization, within a period of **45 (forty-five)** days from the date of receipt of this order through email. The refund shall be made by bank transfer to the account of the Complainants. The Complainants shall send their bank account details, to the Respondent through email, within **03 (three)** days from the date of receiving this order through

email, in which he wants to take the refund amount.

Complainants are at liberty to file an Execution Application on any plain paper annexing a copy of this Order, to this Authority, serving a copy of the same to the Respondent, if the Respondent fails to comply this order within the specified time period as mentioned in this order.

Let the copy of this order be served to both the parties through speed post and also 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



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority