

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

Complaint No.WBRERA/COM(PHYSICAL)000032

Square Four Housing and Infrastructure Development Pvt. Ltd.....Complainant

Vs.

Rubi Koyal..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
4 ----- 29.05.2023	<p>Mr. Piyush Singhania and Mr. Rakesh Ranjan are present in the online hearing as Authorized Representatives of the Complainant filing hazira through email.</p> <p>Respondent is absent despite due service of notice through speed post and also by email.</p> <p>Let the track record of due service of notice of hearing to the Respondent be kept on record.</p> <p>As per the last order of the Authority dated 24.04.2023, the Complainant has submitted his 2nd Supplementary Affidavit which has been received by the Authority on 08.05.2023, containing the break-up of Rs.13,13,290/-and explanation for the short-fall of Rs.9,89,741/-as claimed by the Complainant in their Supplementary Affidavit dated 17.03.2023, ,</p> <p>Let the 2nd Supplementary Affidavit of the Complainant be taken on record.</p>	

The Respondent-Allottee has been provided four dates of hearing to appear before this Authority and submit her submissions. This Complaint matter was heard on 09.02.2023, 13.03.2023, 24.04.2023 and also on today. The Respondent appeared on the second date of hearing that is on 13.03.2023 but did not submit any affidavit thereafter and no communication has been made from her end. So reasonable opportunity of hearing has been provided to her. Also the Respondent-Allottee has already been apprised on the last date of hearing that on the next date of hearing this matter shall be heard ex-parte and her booking may be cancelled and booking money may be forfeited if she remains absent on the next date of hearing. Therefore, today this Authority has no other option but to proceed for ex-parte hearing and disposal of this matter.

Heard the Complainant in detail and also examined the affidavits and documents submitted by the Complainant.

At Clause No. 1.10 of the Agreement for Sale executed on 14.08.2023 between the parties, it transpires that the Respondent-Allottee has paid a sum of Rs.4,89,368/-(Rupees four lakhs eighty-nine thousand three hundred sixty-eight only) as booking amount being part payment towards the total price of the apartment at the time of application.

The said Agreement for Sale is attached with the first Affidavit of the Complainant dated 14.02.2023 as Annexure No.

2.

Clause 9 of the Proforma of the Agreement for Sale at Annexure-‘A’ of the West Bengal Real Estate (Regulation & Development) Rule, 2021 provides that, –

“In case of default by Allottee under the condition listed above continues for a period beyond consecutive months after notice from the Promoter in this regard, the Promoter shall cancel the allotment of the [Apartment/Plot] in favour of the Allottee and refund the amount money paid to him by the Allottee by deducting the booking amount and the interest liabilities and this Agreement shall thereupon stand terminated”.

Therefore on examination of the Affidavit and Supplementary Affidavit of the Complainant and after hearing the parties through online hearing, the Authority is of the considered view that the Respondent has defaulted in making payments for number of consecutive demands made by the Complainant as per the payment plan annexed with the Agreement for Sale at schedule-c. Therefore as per the provisions of Clause 9 of the Proforma of the Agreement for Sale at Annexure-‘A’ of the West Bengal Real Estate (Regulation & Development) Rule, 2021 the Complainant is at liberty to cancel the Agreement for sale and apply for registration of the Deed of Cancellation of the said Agreement For Sale. The Complainant shall refund the principal amount paid by the Respondent after deduction of the cancellation charges, if any, as per the Agreement for Sale executed between the parties on 14.08.2020.

Hence, it is hereby,

ORDERED

that this Authority has no objection if the Agreement For Sale executed between the parties on 14.08.2020 is cancelled by the Complainant unilaterally and the Complainant shall refund the principal amount paid by the Respondent after deduction of the cancellation charges, if any, as per the Agreement for Sale executed between the parties on 14.08.2020. The Deed of Cancellation of the said Agreement For Sale may be registered unilaterally by the Complainant. The ADJR, Cossipore, Dum Dum, North 24 Parganas is directed to take necessary steps for de-registration of the said Agreement For Sale by the Complainant unilaterally.

After de-registration of the Agreement for Sale and cancellation of the Agreement and termination of the Allotment of the Respondent Allottee, the Complainant shall be at liberty to allot the same to any other Person.

GST amount, if any, paid by the Complainant on the amount of the booking money, then that amount shall be deducted by the Complainant and he shall hand over the receipt/certificate of such payment to the Respondent within 45 days from the receipt of this order through email.

The remaining amount, if any, paid by the Respondent Allottee shall be refunded by the Complainant within 45 days from the date of receipt of this order through email.

Copy of this order be served to both the parties through speed post and also by email.

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