

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

Complaint No. COM000494 (erstwhile WBHIRA)

Amiya Kumar Sarkar and Geetanjali Sarkar..... Complainants

Vs

Dharitri Construction Pvt. Ltd.....Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order ✓
01 31.01.2024	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocate Sayantani Das (Mob. No. 8240745213 & email Id-legalquery@dharietri-infra.com) is present in the online hearing on behalf of the Respondent filing hazira and vakalatnama through email.</p> <p>This Complaint Petition was filed before the erstwhile WBHIRA on 21.04.2021 and no hearing was taken place in the before the erstwhile WBHIRA before struck down of WBHIRA by Hon'ble Supreme Court of India on 4th May 2021.</p> <p>It should be mentioned here that by the Order of the Hon'ble Supreme Court dated 12.05.2023 in the Case No. Special Leave to Appeal (C) No(s). 16908/2022 in the matter of Saptaparna Ray Vs District Magistrate North 24 Parganas & Ors., the Apex Court has been pleased to direct-</p> <p><i>"This Court observed that the "striking down of WB-HIRA will not affect the registrations, sanctions and permissions previously granted under the legislation prior to the date of this judgment". This principle shall also apply to orders which were passed whether in original or in the course of execution prior to the date of the judgment. All such orders shall be executed in accordance with law, as if they were issued under the RERA.</i></p> <p><i>Moreover, we clarify that all complaints which were filed before the erstwhile authority constituted under WB-HIRA shall stand transferred to and be disposed of in accordance with law by the authority which is constituted under the Central Act. Any person aggrieved by an order passed under WB-HIRA will be at liberty to pursue the corresponding remedy which is available under the RERA."</i></p>	

Therefore, as per the above direction of the Hon'ble Supreme Court, the Complaint no. COM-000494 stand transferred to this Authority and this Authority shall now proceed with the hearing of this present Complaint Petition bearing no. COM 000494 (erstwhile WBHIRA).

Heard both the parties in detail.

As per the Complainant, they have booked a flat on 31st March 2017 at project '**Dharitri Universia**' of the Respondent-Promoter company namely **Dharitri Infraventure Pvt Ltd.** and they have paid till date Rs.3,10,000/- (Three Lakh And Ten Thousand Only) to that effect. The project was supposed to start on/before January of 2018 but since there was delay on the project, the Complainants decided to ask for refund 8 months later. They lodged a claim for refund of money to them in paper on 28.09.2018. As per their rules they were supposed to refund the money within a maximum of 6 months after deducting 5% of the money to cover administrative costs. Even after almost 24 months they have not received the refund money. They need the refund urgently as Geetanjali Sarkar, joint allottee and Complainant, will be pursuing her higher studies. Moreover they have not been able to buy a new house elsewhere as the money is blocked.

In this Complaint Petition, the Complainant prays for the following reliefs:-

In view of the matter stated above, they claim refund of Rs.3,10,000/- (Rupees Three Lakh Ten Thousand Only) alongwith statutory interest.

After hearing both the parties, the Authority is pleased to admit this matter for further hearing and order 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 give the following directions:-

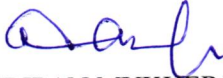
Let Smt. Geetanjali Sarkar be included as Joint Complainant in this matter as she is the Joint Allottee in the subject matter transaction alongwith Shri Amiya Kumar Sarkar. The record of this Authority may be updated accordingly.

The Complainant is directed to submit his total submission regarding his Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested 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 soft copies, within **21 (Twenty-One)** days from the date of receipt of this order through email.

The Complainant is further directed to send a scan copy of the Affidavit with annexure to the Advocate of the Respondent in her above mentioned email id.

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 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 soft copies, within **21 (Twenty-One)** days from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

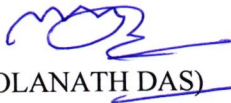
Fix **21.03.2024** for further hearing and order.



(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