

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

Complaint No.WBRERA/COM-000010

Anil AgarwalComplainant

Vs.

Ideal Real Estates Pvt. Ltd..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
8 ----- 20.12.2023	<p>Authorized Representative and son of the Complainant Dewesh Agarwal and Advocate of the Complainant Mr. Prithwish Roy Chowdhury are present in the online hearing on behalf of the Complainant filing hazira and vakalatnama through email.</p> <p>Advocate Tirthankar Das is present in the online hearing on behalf of the Respondent filing hazira through email.</p> <p>Heard both the parties in detail.</p> <p>Both the parties submitted that no mutual settlement has been taken place between the parties ever after discussion.</p> <p>The Advocate of the Respondent prayed for more time to file an Affidavit to submit his objections against the Affidavit of the Complainant.</p> <p>Considered and rejected the prayer of the advocate Mr. Tirthankar Das on the ground that ;-</p> <p>a. Already Written Objections on behalf of the Respondent have been filed and received by the Authority on Notarized Affidavits dated 30.03.2023 and 02.05.2023, therefore, the Authority already received the response and objections of the Respondent in this matter; and</p> <p>b. On 26.05.2023, Legal Head of the Respondent Company Shri Biswanath Kedia was present in the online hearing and submitted on behalf of the Respondent Company.</p> <p>c. Today is the 8th day of hearing of this matter and already hearing of this matter has been held on the following 7 days – 24.02.2023, 30.03.2023, 03.05.2023, 6.05.2023, 12.07.2023, 22.08.2023 and</p>	

10.10.2023. Amongst these 7 days of hearing, the Advocate of the Respondent Mr. Tirthankar Das was present on 12.07.2023, 22.08.2023 and 10.10.2023 and legal head of the Respondent Company Mr. Kedia was present on 26.05.2023. Therefore reasonable opportunity has been given to the Respondent to submit their objections etc. No more chance or time can be given to them as per the provisions of sub-section (4) of section 29 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the said Act). Section 29(4) of the said Act provides that this Authority shall dispose of any matter before it within a period of 60 days and shall take every endeavour in this regard.

Therefore providing more time to the Respondent in this matter is not acceptable to this Authority for the reasons stated above and does not contain justified ground.

The Authority has no other option but to proceed with hearing of this matter for speedy and effective disposal of justice.

The case of the Complainant is that he booked a flat in the project named 'Ideal Exotica' of the Respondent in the year 2014. He was allotted flat bearing No. 9A at 9th Floor, Block-E admeasuring 2617 Sq.ft., built-up area approximately. The provisional Allotment Letter was issued on 11th July, 2014. The said flat was of the consideration value of Rs.4,03,47,497/- (Rupees four crores three lakhs forty seven thousand four hundred ninety seven only) as per the Agreement for Sale. The Agreement for Sale was executed on 4th August, 2014. The possession of the said flat was scheduled to be handed over within 31st June, 2016 with a grace period of further 12 (twelve) months.

The Respondent has miserably failed to handover the possession of the flat till date.

The Complainant had issued a Demand Notice dated 18/01/2020 to the Respondent asking for cancellation and refund of the amount paid by him as well as interest and compensation thereon. He also stated that the said flat has been sold to one Mr. Dipak Daga (9831158874), possession has also handed over to him and Deed of Conveyance was registered on 14.09.2021 (Deed No. 160207610).

The Complainant prayed before the Authority for refund of Rs.3,07,99,164/- (Rupees three crores seven lakhs ninety nine thousand one hundred sixty four only) paid by him in lieu of the said flat along with interest @12% (twelve percent) 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 flat to the Complainant within the scheduled timeline. The Respondent has till date not refunded any amount to the Complainant and therefore he is liable to refund back the Principal Amount paid by the Complainant along with interest on the total principal amount of Rs.3,07,99,164/- (Rupees three crores seven lakhs ninety nine thousand one hundred sixty four only) 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.3,07,99,164/- (Rupees three crores seven lakhs ninety nine thousand one hundred sixty four only) along with interest @SBI Prime Lending Rate + 2% per annum for the period 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 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 might 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 '**Ideal Exotica**', 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



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority