

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

Complaint No.WBRERA/COM-000028

Kamlesh Gandhi

.....Complainant

Vs

Sangeeta Biswas

..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
4 ----- 09.06.2023	<p>Ms. Taniya Saha is present in the online hearing on behalf of the Complainant filing hazira and authorization.</p> <p>Respondent is absent despite due service of notice of hearing by speed post and also by email.</p> <p>Let the track record of due service of notice of hearing be kept on record.</p> <p>As per the last order of the Authority dated 20.04.2023, the Respondent-Allottee has submitted her Written Response on Notarized Affidavit dated 26.04.2023 which has been received by the Authority on 10.05.2023.</p> <p>Let the Written Response on Notarized Affidavit of the Respondent-Allottee be taken on record.</p> <p>On perusal of the Written Response of the Respondent-Allottee, nothing substantial material has been found against the claim and allegations made by the Complainant.</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 06.03.2023, 30.03.2023, 20.04.2023 and also on today. The Respondent appeared on the third date of hearing that is on 20.04.2023 and submitted Written Response on affidavit on 26.04.2023.

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, if she remains absent on the next date. Therefore, today this Authority has no other option but to proceed for ex-parte hearing and disposal of this matter for the ends of speedy disposal of justice.

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

As per the Agreement for Sale executed on 08.11.2021 between the parties, it transpires that the Respondent-Allottee has paid a sum of Rs.14,04,969/-(Rupees fourteen lakhs four thousand nine hundred sixty-nine only) as booking amount being part payment towards the total price of the apartment.

The said Agreement for Sale is attached with the Affidavit of the Complainant dated 13.03.2023 as Annexure C.

Therefore on examination of the Affidavits of both the parties and after hearing the parties through online hearing, the

Authority is of the considered view that the Respondent-Allottee has defaulted in her obligation in making payments for number of consecutive demands made by the Complainant as per the payment plan annexed with the Agreement for Sale at 4th schedule. 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 terminate the allotment of the Respondent-Allottee.

Hence, it is hereby,

ORDERED

that this Authority has no objection if the Agreement For Sale executed between the parties on 08.11.2021 is cancelled by the Complainant unilaterally.

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

The total amount paid by the Respondent-Allottee shall be refunded by the Complainant, within 45 days from the date of receipt of this order through email after deduction of the Cancellation Charges and applicable GST payable on such cancellation charges, as per clause 9.3 (ii) of the Agreement For Sale executed between the parties on 08.11.2021.

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.

Sd/-

(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority

Sd/-

(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority

Sd/-

(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority

Certified to be true copy.

date

07,06,2023
Special Law Officer

West Bengal Real Estate Regulatory Authority