

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

Complaint No. WBRERA/COM000965

Parwez Alam and Taiba Khatoon Complainant

Vs

Mani Square Limited..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 27.08.2024	<p>Advocate Sourjya Roy (Mobile - 9836486947 & email - srjroy8@gmail.com) and Advocate Sarbajit Mukherjee are present in the online hearing on behalf of the Complainant filing hazira and vakalatnama.</p> <p>Advocate Mr. Ishan Saha alongwith Smt. Keya Dey (Mobile - 9051030741, email - roc.efiling2014@gmail.com) legal executive of the Respondent Company and Chartered Accountant Mr. Amit Kumar Kedia are present in the online hearing filing hazira and vakalatnama/authorization through email.</p> <p>Heard both the parties in detail.</p> <p>As per the Complaint Petition the Complainants booked a residential flat on 22.02.2019, being Unit No. 20EB at 'Mani Vista' at premises No. 3, N.S.C. Bose Rd, Kol-700040 as recorded in an Agreement for Sale dated 22.02.2019. Subsequently in or about April, 2021, by virtue of unregistered Swap Agreement for Sale dated 26.04.2021 executed between the complainant and the Respondent the complainants have agreed to purchase All that Flat No. 29EB on the 29th Floor, 'East Block' at "Mani Vista" having carpet area of 1139 sq.ft., equivalent to built-up area of 1335 sq.ft., more or less together with one car parking space in the basement thereof at premises no. 3, NSC Bose Road, Kolkata-700040, at a consideration of Rs.2,01,09,684/-. In terms of the said agreement the said flat scheduled to be completed with all its specification and possession whereof shall be given to the complainants on or before 30.09.2021 with completion certificate as a precondition. The complainants from to time deposited sum of Rs.1,49,39,310/- against proper receipts. The said flat has been finally made habitable on 07.05.2024 as recorded in the Joint Inspection Report. By a letter dated 08.05.2024, the respondent demand a sum of Rs.35,57,293/- from the complainants but although it has been recorded that the work till possession has been completed but when enquiry made by the complainants revealed C.C./O.C is till awaited. By letter dated 17.05.2024 issued through the Ld. Advocate for the complainants called upon the respondent to arrange for giving possession of the said flat with a claim, inter alia, towards interest for Rs.57,51,634/- for the</p>	

delayed period from October, 2021 to May, 2024 and called for adjustment thereof by way of set off. After receipt of the said letter respondent allegedly invoking Clause – 9.3 of the said Agreement demanded payment of the balance amount with threat to cancel the Agreement vide its letter dated 24.05.2024. Hence, this complaint petition has been filed.

The Complainants pray before the Authority for the following relief(s):-

- a) Direction upon the respondent/promoter to pay the interest on the sum of said Rs.1,49,39,310/-equivalent to 80% of the total consideration amount @14% p.a. from October,2021 to May, 2024 amounting to Rs.57,51,634/- together with further interest from 1st June, 2024 to till the date of handing over possession of the said flat/Designated Unit, more fully described in the Schedule hereunder written in strict compliance with the terms and conditions as recorded in the said Agreement dated 26.04.2021;
- b) Alternatively, an enquiry into the damages suffered by the complainants for the said blocked amount of Rs.1,49,39,310/- as may be assessed by this Ld. Authority;
- c) A direction for adjustment of the amount payable by the promoter / respondent to the complainants awarded by this Ld. Adjudicating Authority against the balance due of the consideration amount, the residual balance in credit be paid to the complainants accordingly;
- d) Cost and incidental expenses incurred by the complainants as may be assessed by this Authority.

The Complainants pray before the Authority for the following interim reliefs/orders:-

An injunction restraining the Respondent Company from giving effect to its letter dated 24.05.2024 and other consequent relief be passed as the Ld. Authority may deemed fit and proper.

Complainants stated at the time of hearing that they requested the Respondent to adjust the interest amount for the delay period with the remaining amount of payment to be done by them, as there a delay of approximately 1.5 years. But the Respondent has sent termination notice to the Complainants after getting the request of adjustment from them.

Respondent prayed for time to submit their Written Response on Notarized Affidavit.

After hearing the Complainant/ 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:-

The **Complainants** are directed to submit their total submission regarding their Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested copy of 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 scan copies, within **15**

(fifteen) days from the date of receipt of this order of the Authority by email.

The **Complainants** are further directed to send a scan copy of their Affidavit also to the Advocate / Authorized Representative of the Respondent to their email id, as mentioned above.

The **Complainants** are further directed to provide in a Tabular Form chronologically all the payments made by them specifying the date, amount and money receipt number, if any, and the total amount in the said table in their Affidavit.

The **Respondent** is hereby directed to submit its Written Response on Notarized Affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested/self-attested copy of 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 scan copies, within **15 (fifteen) days** from the date of receipt of the Affidavit of the Complainant, either by post or by email, whichever is earlier.

In spite of the above directions, both the parties are directed to take initiative and try for an amicable settlement of the issues between them by mutual discussions and if they arrive at a mutual settlement, they shall submit a **Joint Notarized Affidavit**, signed by both, containing the terms and conditions of the mutual settlement, and send the Affidavit (in original) to the Authority, before the next date of hearing and in that case there is no need of submitting separate Affidavit(s) by Complainant and Respondent, as per the directions given above.

Respondent is further directed not to transfer and/or make any type of alienation of the rights and interests of the subject matter flat till the disposal of this matter or until further order, whichever is earlier.

Fix **29.10.2024** for further hearing and order.



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority