

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

Complaint No.WBRERA/COM (PHYSICAL)000019

Malati Mukherjee

..... Complainant

Vs

Usashi Real Estate Pvt. Ltd.

..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
(1) Execution ----- 14.08.2023	<p>Today this matter is taken up for Execution Hearing. The final order of this matter was passed on 31.03.2023 by this Authority.</p> <p>The Complainant has filed an application for Execution of the said order of the Authority on 13.06.2023 which was received by the Authority on 13.06.2023.</p> <p>Let the said Execution application of the Complainant be taken on record.</p> <p>Complainant is present in the physical hearing today before the Authority and signed the Attendance Sheet.</p> <p>Respondent is absent in the physical hearing despite due service of notice through speed post and also by email.</p> <p>Let the track record of due service of Hearing Notice to the Respondent be kept on record.</p>	

Heard the Complainant in detail.

Complainant submitted today at the time of hearing that no refund has been made by the Respondent till today and the Respondent did not comply the final order of this Authority dated 31.03.2023 and he prayed for immediate execution of the said order for full compliance of it by the Respondent, as per the provisions of the Real Estate (Regulation and Development) Act, 2016 and rules made thereunder.

As per the final order dated 31.03.2023, Rs.2,58,000/- alongwith interest @ SBI Prime Lending Rate + 2% per annum, calculated on the total Principal Amount Rs.2,58,000/- paid by the Complainant, for the period starting from the respective dates of payments made by the Complainant till the date of realisation, is yet to be paid by the Respondent for full compliance of the said order. The final order was received by both the parties on 19.04.2023 through email from the Authority and 45th day from that date expired on 02.06.2023 and the Respondent failed to comply the order in full in this period.

The Complainant was apprised at the time of hearing that the order dated 31.03.2023 may be executed either by the provision of Rule 25 of the Real Estate (Regulation and Development) Rules, 2021 by sending it to the concerned District Magistrate for recovery of the amount due as per the provisions of Bengal Public Demands Recovery Act, 1913 or it may be sent to the Principal Civil Court having jurisdiction to execute the same as per the provisions of Rule 26 of the said Rules.

The Complainant consented for sending this matter for execution to the District Magistrate of the concerned District in whose jurisdiction the said property is situated, as per the provisions contained in section 40 of the Real Estate (Regulation and Development) Act, 2016 read with rule 25 of the West Bengal Real Estate (Regulation and Development) Rules, 2021.

Therefore, this Authority is hereby pleased to send this matter for execution to the District Magistrate of North 24-Parganas, in whose jurisdiction the subject matter property is situated, to execute this order as per section 40 of the Real Estate (Regulation and Development) Act, 2016 read with rule 25 of the West Bengal Real Estate (Regulation and Development) Rules, 2021. As per rule 25 of the West Bengal Real Estate (Regulation and Development) Rules, 2021, the amounts due that is Rs.2,58,000/- shall be recovered by the concerned District Magistrate as arrears of land revenue and shall be recovered in the manner provided in the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913).

The Secretary, West Bengal Real Estate Regulatory Authority (WBREERA), is hereby directed to send certified copies of this execution order and final order dated 31.03.2023 alongwith copy of the Complaint Petition to the District Magistrate of North 24-Parganas, **within 10 (Ten)** days from the date of receipt of this order, requesting him to initiate a Certificate Case under the Bengal Public Demands Recovery Act, 1913, as per this order of the Authority,

The District Magistrate North 24-Parganas, is hereby directed to execute the order dated 31.03.2023 in WBREERA/COM(PHYSICAL)000019 passed by this Authority, as per the provisions contained in section 40 of the Real Estate (Regulation and Development) Act, 2016 read with rule 25 of the West Bengal Real Estate (Regulation and Development) Rules, 2021, within **a month** from the date of receipt of the certified copy of the order dated 31.03.2023 and other documents from the Secretary, WBREERA and send the compliance report to this Authority within **six weeks**.

It should be mentioned here that in a similar case, the Hon'ble Supreme Court of India, in petition for Special Leave to Appeal (C) No.16908/22, has been pleased to order as follows:-

“We direct, that the authority shall proceed to execute the order which has been passed in favour of petition expeditiously, within **a month** from the date of receipt of a certified copy of this order by the executing forum”.

As the present matter is similar to that of the matter heard by the Supreme Court of India, as mentioned above, therefore, the Authority directs the District Magistrate of North 24-Parganas, to take necessary action to execute this order within **a month** from the date of receipt of certified copy of this order along with other papers and documents from this Authority.

Complainant is at liberty to pursue this matter with the office of the District Magistrate, North 24-Parganas to get refund of the amount as per the order of the Authority dated 31.03.2023.

Let the copy of this order be served to both the parties by speed post and also by email immediately.

Fix this Execution Case in the list of cases in the month of January' 2024, for report and compliance.



(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