

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

Complaint No. WBRERA/COM000200

Tuhin Pandit.....Complainant

Vs

Tiru Fine Residency LLP..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
03 <u>08.02.2024</u>	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocate Mr. Debartha Chakraborty (Mob. No. 98303784 & debartha@clolawoffices.com) is appeared in the online hearing on behalf of the Respondent filing hazira and Vakalatnama through email.</p> <p>The Respondent has submitted their total Written Response on Notarized Affidavit against the Affidavit of the Complainant, as per last order of the Authority dated 28.12.2023, which has been received by this Authority on 19.01.2024.</p> <p>Let this Notarized Affidavit of the Written Response of the Respondent be taken on record.</p> <p>Heard both the parties in detail.</p> <p>The Respondent submitted in their affidavit and also during deposition, that the Complaint of the Complainant is not tenable due to the demand of the Complainant is changing the nature of the case.</p> <p>The Complainant stated in his original application and prayed for move on cancellation of the flat alongwith compensation as per RERA Act and subsequently he prayed during the hearing the possession of the complete flat alongwith interest and others.</p> <p>The Advocate of the Respondent strongly objected and submitted that the content of the Affidavit of the Complainant on the ground of that Affidavit is totally changing the nature of the original Complaint case and so it is not tenable</p>	

in the adjudication of the Authority.

The Authority is of considered opinion that the basic point of the Complaint is possession of the completed flat for which the Complainant has been paying installment regularly, or cancellation of the allotment and refund of the Principal money and delay interest thereon, as the promoter had failed to handover possession within the stipulated date.

Since the flat has not been completed within the specified date, the Complainant has legal right either for cancellation his allotment and get refund with interest or demanding the possession alongwith delay interest.

Both the prayers of the Complainant are very much within the purview of the RERA Act and within the jurisdiction of this Authority. Hence, the prayer of the Respondent that the case is not maintainable, is rejected.

However, the demand of the Complainant for compensation of various grounds is not within the jurisdiction of this Authority as per the provision of the RERA Act and that the matter of compensation shall have to address by the Adjudication Officer of the Authority.

The Respondent is hereby directed to submit their Notarized Affidavit to the Authority (in original) within 15 days from the date of receipt of this order of the Authority, serving a copy of the same both in hard and soft copies to the Complainant, and shall clearly mention the present status of the construction of the work, details of payment made by the Complaint in a tabular form indicating the default, if any, and necessary justification for default made by the Complainant (if any).

The Complainant is also hereby directed to submit the Rejoinder/Reply of the Respondent of the Notarized Affidavit after receiving the copy of the Respondent, within the 20 days, in original to the Authority, both in hard and soft copies, and also serving the copy of the same both in hard and soft, to the Respondent.

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