

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

Complaint No. WBRERA/COM000717

PS Merlin Developers LLP..... Complainant

Vs

Md. Mustaque Ahmed..... Respondent

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
01 <hr/> 08.04.2024	<p>Ms. Deepa Das (Mob. No. 9836301188 & email Id: deepa.das@merlinprojects.com) and Mr. Gautam Ray being the Authorized Representatives of the Complainant Promoter Company are present in the physical hearing filing authorization and signed the Attendance Sheet.</p> <p>Advocate Shekhar Halder (Mobile - 9831808457 & email - shekharhalder7681@gmail.com) on behalf of the Respondent and Respondent Mr. Mustaque Ahmed (Mob. No. 9804311020 & email - info@martinindustries.co.in) are present in the physical hearing and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complainant Promoter Company, the Respondent-Allottee Md. Mustaque Ahmed, son of Late Mohammad Abdul Haque had agreed to purchase an apartment Being No. 21C, Block - II, in the project 'Merlin Island' on 30.12.2017 for a total consideration of Rs.1,11,81,456/-only (excluding taxes). Thereafter, the sale agreement was executed on 24.05.2018, by and between the parties thereto. The said Respondent has paid a total sum of Rs.84,97,907/-out of the total consideration by his own contribution and Bank disbursement from Indian Overseas bank, against the said apartment till 24.07.2018 and thereafter stopped making payments in spite of several communications dated 09.11.2021, 04.01.2022, 24.02.2022 and 01.04.2022 and as there was no response/remedy on part of the Respondent in compliance of the reminders, Complainant has finally sent a 30 days' notice dated 09.05.2023 for clearing the outstanding dues as per the said Agreement for Sale. However, no positive response and/or any further payment has been received from the Respondents till date, in spite of the same. That on 05.08.2023 Complainant has initiated Indian Overseas Bank to intervene in the matter and instruct them accordingly. Thereafter nearly after a passage of more than one year, Indian Overseas Bank vide letter dated 16.11.2023 has requested them to cancel the Apartment and refund the bank loan amount with interest as the Respondent is also defaulting in payment of Home Loan EMI to Indian Overseas Bank.</p> <p>Complainant prays before the Authority for the following relief:-</p>	

The Complainant Promoter Company seeks direction on it so that they can terminate the Sale Agreement and refund the Bank dues out of the total amount received from the Respondent-Allottee and pay the balance amount after adjusting cancellation charges and delayed payment interest in terms of the Sale Agreement executed with the Respondent-Allottee.


After hearing 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:-

- (a) At first both the parties are directed to take initiative from both side to mutually settle the matter and if they arrive at a mutual settlement, they shall submit a Joint Affidavit, signed by both the parties, containing the terms and conditions of the settlement, and send the Affidavit (in original) to the Authority, within **15 (fifteen)** days from the date of receipt of this order of the Authority through email.

If they fail to arrive at a mutual settlement, as directed at (a) above, then they shall submit Affidavit(s) as per the following directions:-

- (b) The Complainant is directed to submit his total submission regarding their Complaint Petition on a Notarized Affidavit annexing therewith notary attested /self-attested 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 soft copies, within **10 (Ten)** days from the expiry of 15 days as mentioned at (a) above.
- (c) The Respondent is hereby directed to submit his Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainant, annexing therewith notary attested/self-attested 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 soft copies, within **10 (Ten)** days from the date of receipt of the Affidavit of the Complainant, as directed at (b) above, either by post or by email whichever is earlier.

Fix **10.06.2024** for further hearing and order.


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority