

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

Complaint No. WBRERA/COM000657

Merlin Projects Limited..... Complainant

Vs

Pradip Kumar Agarwal & Ors..... Respondents

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
01 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>Respondent-Allottees are absent in the physical hearing despite due service of hearing notice to the Respondent 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> <p>Heard the Complainant in detail.</p> <p>As per the Complainant Promoter Company, the Respondent-Allottees Mr. Pradip Kumar Agarwal, son of Mr. Lakshminarayan Agarwal, Mrs. Sweta Agarwal wife of Mr. Pradip Kumar Agarwal and Ms. Prema Agarwal daughter of Mr. Pradip Kumar Agarwal, have agreed to purchase an apartment Being No. 5E, Block – 2, alongwith facility to park one car parking in the Lower Basement Independent Car parking space (hereinafter referred to as the “said unit”) in the project ‘Merlin The Fourth’ on 23.10.2021 for a total consideration of Rs.1,57,58,750/-only (excluding taxes). Thereafter, by virtue of a registered sale agreement dated 22.07.2022, being Deed No. 190411820 for the year 2022 and recorded in Book No. 1, Volume No. 1904-2022, Pages from 776031 to 776127, from Additional Registrar of Assurances-IV, Kolkata, registered in favour of the Respondents herein. The said Respondent-Allottees have paid a total sum of Rs. 47,37,625/-only (excluding taxes) out of the total consideration, as mentioned above against the said unit till 26.04.2023 and thereafter stopped making payments in spite of several communications dated 02.02.2023, 14.03.2023, 06.04.2023, and 26.04.2023 and as no response/remedy on part of the Respondents in compliance of the reminders, Complainant has finally sent a 30 days’ notice dated 26.05.2023 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.</p>	

Complainant prays before the Authority for the following relief:-

The Complainant Promoter Company is stuck to initiate any action in this regard as the sale agreement is registered and until necessary cancellation documents are registered they cannot initiate any action for resale of the flat to realize their sale proceeds. Hence necessary direction is to be given to the Respondent as well as the authority concern to register the cancellation document forthwith in resolution of current crisis in the matter.


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 Respondents are hereby directed to submit their 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


(TAPAS MUKHOPADHYAY)
Member

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