

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

Complaint No.WBRERA/COM000874

Madan Kumar Chaubey. Complainant

Vs.

Durgapur Real Estate Private Limited..... Respondent

Sl. Number and date of order	Order and signature of the Officer	Note of action taken on order
03 11.02.2025	<p>Complainant (Mob. No. 8250911741 and email id: chaubeymadankumar@gmail.com) alongwith his Advocate Mr. Subhro Kanti Roy Chowdhury (Mob. No.9831581182 & email Id: subhro.krc@gmail.com) is present in the physical hearing today filing vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Akanksha Mukherjee (Mobile -9830185441 and email - amajitde7@gmail.com) is present in the hearing through online mode on behalf of the Respondent filing hazira and vakalatnama through email.</p> <p>Heard both the parties in detail.</p> <p>Complainant submitted a Supplementary Notarized Affidavit dated 27.09.2024, annexing therewith authenticated relevant documents, as per the last order of the Authority dated 24.09.2024, which has been received by this Authority.</p> <p>Let the said Supplementary Affidavit of the Complainant be taken on record.</p> <p>Respondent submitted Written Response on Affidavit, as per the last order of the Authority dated 24.09.2024, which has been received by this Authority today.</p> <p>Let the said Affidavit of the Respondent be taken on record.</p> <p>At the time of hearing today, Complainant stated that they have received the scan copy of the Affidavit of the Respondent through email and Respondent stated that they have received the Supplementary Affidavit of the Complainant.</p> <p>Respondent stated that this case is not maintainable before this Authority as the C.C. has been issued in the instant project on 08.04.2013 before the enforcement of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the said 'RERA Act'), therefore this matter is not maintainable before this Authority as per section 3 of the RERA Act and as per the judgment of the Supreme Court in M/s. Newtech Promoters and Developers</p>	

Pvt. Ltd. Vs. State of UP & Ors. on which they have relied on.

As per the Respondent, the Complaints which relates with the ongoing projects, that is which have not received C.C., as on the date of enforcement of the RERA Act, will come under the purview of the RERA Act and Rules. In this ground, according to the Respondent, this matter is not maintainable before this Authority.

Complainant stated that the maintainability point should have been taken by the Respondent at the first instance on the first date of hearing, today is the 3rd day of hearing and this is the first time Respondent is agitating on the points of maintainability which should not be permitted by this Hon'ble Authority.

The Authority is of the considered opinion that this matter is very much maintainable before this Authority on the following grounds:-

- a) The point of maintainability should have been agitated by the Respondent on the first date of hearing when Respondent was present, as per the legal provisions and conventions the maintainability point cannot be taken after the first hearing in which Respondent appeared.
- b) The point of C.C. as has been mentioned in section 3 of the RERA Act is only applicable in case of project registrations with RERA Authority. Nothing has been provided in the RERA Act that Complaint cannot be lodged in those matters in which C.C. has been obtained before the commencement of this Act.
- c) The Respondent failed to attach the Completion Certificate alongwith the Affidavit, which was an essential document to place their point. So failure to attach the same will also be taken as a serious mistake / negligence on their part, which cannot be condoned.

Therefore the matter is maintainable and as the Respondent failed to deliver the flat within the schedule timeline and they have taken Rs.18,14,200/- from the Complainant in this regard, therefore, they are bound to refund the Principal Amount of Rs.18,14,200/- alongwith interest at the rate of SBI PLR +2% per annum, from the date of respective payments till the date of realization, within a period of 45 days as per section 18 of the RERA Act read with Rule 17 of the West Bengal Real Estate (Regulation and Development) Rules, 2021.

Hence it is hereby,

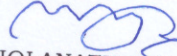
ORDERED

- a) That the Respondent shall refund the Principal Amount of Rs.18,14,200/- alongwith interest at the rate of SBI PLR +2% per annum, for the period, starting from the respective dates of payment made by the Complainant till the date of realization within **45 days** from the date of receipt of this order of the Authority through email and all the payment shall be made by bank transfer to the bank account of the Complainant; and
- b) Complainant shall send his bank account details to the Respondent through email within **3 days** from the date of receipt of

c) If the Respondent fails to comply the order, as mentioned above, the Complainant is at liberty to submit an **Execution Application** as per the **Execution Regulation** as provided under the heading 'Act/Rules/Regulations' in the WBRERA website (rera.wb.gov.in).

With the above directions the matter is hereby disposed of.

Let copy of this order be served to both the parties immediately.



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority