

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

Complaint No. WBRERA/COM (PHYSICAL) 000167

Arizuma Projects LLP..... Complainant

Vs

Madhumita Debnath..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
03 11.02.2025	<p>Complainant-Promoter Company is present in the physical hearing and signed the Attendance Sheet.</p> <p>The Respondent-Allottee is 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>The Respondent-Allottee has been provided three dates of hearing to appear before this Authority and submit her submissions. This Complaint matter was heard on 25.10.2024, 28.01.2025 and also on today. The Respondent did not appear on any of the abovementioned dates of hearing and did not submit any Affidavit till date and no communication has been made from her end. So reasonable opportunity of hearing has been provided to her. Also the Respondent-Allottee has already been apprised on the last date of hearing that on the next date this matter shall be heard ex-parte and her booking may be cancelled and booking money may be forfeited if she remains absent even on the next date. Therefore, today this Authority has no other option but to proceed with ex-parte hearing and disposal of this matter.</p> <p>Heard the Complainant in detail and also examined the Affidavit and documents submitted by the Complainant.</p> <p>At Clause No. 1.11 of the Agreement for Sale executed on 05.10.2021 between the parties, it transpires that the Respondent-Allottee has paid a sum of Rs.7,96,330.30/- (Rupees seven lakhs ninety six thousand three hundred thirty and thirty paise only) (excluding GST) as booking amount being part payment</p>	

towards the total price of the apartment at the time of application.

The said Agreement for Sale is attached with the Affidavit of the Complainant dated 18.12.2024 at Annexure - 5.

Clause 9 of the Proforma of the Agreement for Sale at Annexure-'A' of the West Bengal Real Estate (Regulation & Development) Rule, 2021 provides that, -

"In case of default by Allottee under the condition listed above continues for a period beyond consecutive months after notice from the Promoter in this regard, the Promoter shall cancel the allotment of the [Apartment/Plot] in favour of the Allottee and refund the amount money paid to him by the Allottee by deducting the booking amount and the interest liabilities and this Agreement shall thereupon stand terminated".

Therefore on examination of the Affidavit submitted by the Complainant and after hearing the Complainant through physical hearing, the Authority is of the considered view that the Respondent has defaulted in making payments of number of consecutive demands made by the Complainant as per the payment plan annexed with the Agreement for Sale at Fourth Schedule. Therefore as per the provisions of Clause 9 of the Proforma of the Agreement for Sale at Annexure-'A' of the West Bengal Real Estate (Regulation & Development) Rule, 2021 the Complainant is at liberty to cancel the Agreement for sale and apply for registration of the Deed of Cancellation of the said Agreement For Sale. The Complainant shall refund the principal amount paid by the Respondent after deduction of the booking amount, as per the Agreement for Sale executed between the parties on 05.10.2021.

Hence, it is hereby,

ORDERED

that this Authority has no objection if the Agreement For Sale executed between the parties on 05.10.2021 in regard to **unit no.02 (Bungalow)**, type A2-Corner -1, in the project **Southern Vista**, is cancelled by the Complainant unilaterally and the Complainant shall refund the principal amount paid by the Respondent after deduction and forfeiture of the booking amount of Rs.7,96,330.30/- (Rupees seven lakhs ninety six thousand three hundred thirty and thirty paise only) (excluding GST), as per the Agreement for Sale executed between the parties on 05.10.2021, within **45 days** from the date of receipt of this order of the Authority through email.

The Deed of Cancellation of the said Agreement For Sale may be registered unilaterally by the Complainant.

The **Additional Registrar of Assurance Office of the A.R.A. - IV, Kolkata** is directed to take necessary steps for de-registration of the said Agreement For Sale by the Complainant unilaterally.

After de-registration of the Agreement for Sale and cancellation of the Agreement and termination of the Allotment of the Respondent Allottee, the Complainant shall be at liberty to allot the same to any other Person.

GST amount, if any, paid by the Complainant on the amount of the booking money, then that amount shall be deducted by the Complainant and he shall hand over the receipt/certificate of such payment to the Respondent within **45 days** from the receipt of this order through email.

The remaining amount, if any, paid by the Respondent Allottee shall be refunded by the Complainant within 45 days from the date of receipt of this order through email.

Copy of this order be served to both the parties immediately.

With the above directions the matter is hereby disposed of.



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority