

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

Complaint No.WBRERA/COM (PHYSICAL)000175

Rahul Chomal and Neha Chomal. Complainants

Vs.

Mani Square Limited and others.... Respondents

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
01 24.12.2024	<p>Advocate Pratyush Patwari (Mob. No. 9831283208 & email Id: patwariandassociates@gmail.com) is present in the physical hearing today on behalf of the Complainant filling Vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Shivangi Thard (Mob. No. 9740099488 and email - shivangi.thard@aquilaw.com) is present in the physical hearing today on behalf of the Respondent filling Vakalatnama and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>As per the Complainant, fact of the case is that:</p> <p>a. Respondent No.1 to 6 are “promoter”, of real estate project named “MANI VISTA” located at Premises No. 3 Netaji Subhas Chandra Bose Road, Kolkata-700040 (hereinafter referred to as the “said premises”), within the meaning of section 2(zk) of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the ‘RERA Act’).</p> <p>b. By agreement dated 15th May 2017 (hereinafter referred to as “said agreement”) executed between Respondent No. 1 as “the Vendor“ of the One Part and applicants as “ the Purchasers” of the Other Part, the applicants had agreed to purchase and Respondent No. 1 had agreed to sell all that residential flat being Unit No. 16WB, having carpet area of 1261 square feet, located on the 16th Floor of the project named ‘Mani Vista’ located at Premises No. 3 Netaji Subhas Chandra Bose Road, Kolkata-700040 together with right to park one medium sized motor car in the multi level car parks on the second floor of the building and</p>	

right to park one medium sized motor car in the mechanical car parking on the ground floor of the building which is being morefully described in Part-I of the Second Schedule appended to the said agreement dated 15th May 2017 and referred to as the "Designated Unit" in the said agreement. The total sale consideration of the said designated unit was agreed to Rs. 1,84,91,936/- (Rupees One Crore Eighty Four lakhs Ninety One Thousand Nine Hundred And Thirty Six Only) .

- c. The Complainants state that in terms of clause 4.2 of the said agreement , the Respondents were liable to construct and complete the building and obtain completion certificate from Kolkata Municipal Corporation within 31st December 2020 and handover the possession of the designated unit to the Complainants.
- d. The Complainants state that the Respondents had issued a letter dated 09.08.2024 addressing applicants whereby applicants were informed that the construction of Phase-I of Mani Vista is complete and the Kolkata Municipal Corporation has issued a partial completion certificate dated 09.08.2024 upto 31st Floor. In said letter the Respondents had also enclosed a tabular statement marked as Annexure C whereby respondents, without giving any due credit towards statutory interest under proviso to section 18(b) of the Real Estate (Regulation and development) Act, 2016 had illegally demanded sum of Rs. 28,91,178/- (Rupees Twenty Eight lakhs Ninety One Thousand One Hundred And Seventy Eight Only) from applicants . It is also on record that applicants in strict abidance to the terms stipulated in the said agreement had already made payment of Rs. 1,56,92,082/- (Rupees One Crore Fifty Six Lakhs Ninety Two Thousand And Eighty Two Only) towards consideration amount for purchasing the said designated unit.
- e. The Complainants soon upon receipt of letter dated 09.08.2024 had contacted the office of the Respondents with legitimate request to give due credit of interest calculated at prime lending rate of State Bank of Inida plus two percent to applicants for every month of delay caused by respondents, since 31st December 2020, till handing over the possession of the said designated unit to applicants. The current prime lending rate of State Bank of India is 15.15% per annum . In terms of Rule 17 of the West

Bengal Real Estate (Regulation & Development) Rules 2021 , the applicant is entitled to receive from respondents interest at the rate of 17.15% per annum (15.15%+2%) on the consideration amount paid by applicants for every month of delay caused by respondents, since 31st December 2020, till handing over of the possession of the said designated unit to applicants. The Respondents turned deaf ear to such legitimate request made by the Complainants.

- f. The Complainants, in the given facts, through their Learned Advocate's notice dated 21.08.2024 had requested the respondents to correct and/or amend Annexure C being Statement of Accounts enclosed with aforesaid letter dated 09.08.2024 concerning the said designated unit, by giving due credit of interest at the rate of 17.15% per annum (15.15%+2%) on the consideration amount paid by applicants, for every month of delay caused by respondents, since 31st December 2020, till handing over of the possession of the said designated unit to applicants. The applicants were further requested to execute and take steps for registration of deed of conveyance in respect to the said designated unit and hand over its peaceful possession to applicants. The said notice dated 21.08.2024 issued by the applicants through their Learned Advocate was duly received by the respondents but till date neither the respondents had replied to said legal notice dated 21.08.2024 nor the respondents had taken steps to give due credit of interest at the rate of 17.15% per annum (15.15%+2%) on the consideration amount paid by applicants, for every month of delay caused by respondents, since 31st December 2020, till handing over of the possession of the said designated unit to the Complainants.
- g. The Complainants state that till date the respondents have not handed over the possession of the said designated unit. The applicants does not intend to withdraw from the said project and is entitled to be paid by the respondents , interest for every month of delay since 31st December 2020 till the handing over of the possession of the said designate unit at the said project.
- h. The Complainants owing to inordinate delay on the part of the respondents in completing the construction of the said project and handing over the possession of the said designated unit had also suffered loss of rental income of 80,000/- (Rupees Eighty

Thousand Only) per month which the applicant could have earned by renting the said designated unit from January 2021.

- i. The Respondents, upon such legitimate demand of interest being made by the applicants, is continuously threatening the applicant that Respondents will be cancelling the said agreement and shall create third party right and/or interest in respect to the said designated unit.
- j. The Respondents by way of such threats are adopting hand twisting tactics to compel the applicants to forego their aforesaid legitimate claim of interest.

The Complainants pray before the Authority for the following reliefs:-

(a) Interest @ 17.15 % or at such other rate as the Authority deems fit and proper on the aforesaid total amount of Rs. 1,56,92,082/- (Rupees One Crore Fifty Six Lakhs Ninety Two Thousand And Eighty Two Only) payable from 1st January 2021 till date of handing over possession of the said designated unit.

(b) Compensation amount at the rate of Rs. 80,000/- (Rupees Eighty Thousand Only) per month or at such other rate as Your Honor deems fit and proper calculated from 1st January 2020 till handing over the possession of the said designated unit

(c) Interim and further Interest on judgement

(d) Such further and/or other order and/or directions as the Authority deems fit and proper for the ends of justice.

The Complainants pray before the Authority for the following interim reliefs:-

- a. An ad interim order restraining the Respondents from transferring and/or alienating and/or selling and/or creating any third party right and/or interest in the said designated Unit being residential flat being Unit No. 16WB located on the 16th Floor of Premises No. 3 Netaji Subhas Chandra Bose Road, Kolkata-700040 together with right to park one medium sized motor car in the multi level car parks on the second floor of the building and right to park one medium sized motor car in the mechanical car parking on the ground floor of the building which is being morefully described in Part-I of the Second Schedule appended to the said agreement dated 15th May 2017.
- b. An ad interim order restraining the Respondents from cancelling the said agreement dated 15th May 2017.

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) The Complainants are hereby directed to submit their total submission regarding his Complaint Petition on a Notarized Affidavit annexing therewith notary attested/self-attested of 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 scan copies, within **30 (thirty)** days from the date of receipt of this order through email.
- b) The Respondents are hereby directed to submit his Written Response on notarized affidavit regarding the Complaint Petition and Affidavit of the Complainants, annexing therewith notary attested supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Complainants, both in hard and scan copies, within **30 (thirty)** days from the date of receipt of the Affidavit of the Complainants either by post or by email, whichever is earlier.
- c) The Respondents are hereby restrained from transferring and / or alienating and / or selling and / or creating any third party right and / or interest in the designated Unit number 14WA at the 14th floor of West Block of the Building Mani Vista, till disposal of this matter or until further order, whichever is earlier.
- d) The Respondent are also hereby restrained from cancelling the Agreement for sale dated 15.05.2017 executed in respect to the designated Unit number 14WA, till disposal of this matter or until further order, whichever is earlier.

Fix **13.06.2025** for further hearing and order.


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority