

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

Complaint No. WBRERA/COM000555

Santanu Goswami And Nandita Goswami Complainants

Vs

Bengal Shelter Housing Development Limited..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
02 19.11.2024	<p>Complainants (Mob. No. 9836151150 & email Id: gosai83@yahoo.in) are present in the physical hearing and signed the Attendance Sheet.</p> <p>Advocate Subhro Kanti Roy Chowdhury (Mobile - 9831581182 & email Id: 2018skandassociates@gmail.com) is present in the physical hearing today on behalf of the Respondent filing vakalatnama and signed the Attendance Sheet.</p> <p>Complainant submitted Notarized Affidavit dated 06.09.2024, as per the last order of the Authority dated 31.07.2024, containing their total submission regarding this Complaint Petition, which has been received on 10.09.2024.</p> <p>Let the said Affidavit of the Complainant be taken on record.</p> <p>Respondent submitted Notarized Affidavit, containing their Written Response which has been received on 18.11.2024.</p> <p>Let the said Affidavit of the Respondent be taken on record.</p> <p>Heard both the parties in detail.</p> <p>Complainant prayed for immediate refund of the Principal Amount of Rs.10,76,647/- alongwith interest as per the RERA Act and Rules.</p> <p>Advocate of the Respondent stated that the project 'Neel Diganta' is a abandoned/ scrapped project of the Respondent therefore it is not an ongoing project as per section 3 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the RERA Act) and does not come under the purview of the said Act and this matter is not maintainable before this Authority.</p> <p>After hearing both the parties, the Authority is of the considered opinion that the matter is maintainable before this Authority and the Respondent is liable to refund the Principal Amount alongwith interest to the Complainant as per the provision contained in section 18 of the RERA</p>	

Act read with Rule 17 of the West Bengal Real Estate (Regulation and Development) Rules, 2021, on the following grounds:-

- a) Section 3 of RERA Act is only applicable in case of registration of real estate project with the WBRERA Authority. Section 31 of the RERA Act is the provision for filing Complaint when there is any violation of RERA Act. In section 31 or anywhere in any other provision of the RERA Act, there is no such restriction that Complaint can be filed only in case of ongoing projects or against the projects which are registered with WBRERA. Therefore, a Complaint can be filed before the WBRERA Authority even if the project is not registered with WBRERA or the project is not an ongoing project.
- b) Even if for arguments sake if we consider that only ongoing projects and registered projects will come under the purview of RERA Act then also this instant project will surely come under the purview of the RERA Act as although the project is abandoned / scrapped, all the refunds have not yet been made to the Allottees, including the instant Complainant, and therefore the cause of action is still continuing and the project will be considered as an ongoing project as all the refunds have not yet been made to the Allottees and concerned Allottees has the continuing cause of action of filing a Complaint before the WBRERA Authority to get the refund of their Principal Amount alongwith interest as per RERA Act and Rules; and
- c) If all the projects which have been abandoned / scrapped before the coming into force of the RERA Act, do not come under the purview of RERA Act with the plea that they are not ongoing project then the allottees of such projects will have no remedy to get the refund under the RERA Act and the very purpose of enactment of this Act will be frustrated.
- d) As the Respondent failed to construct, develop and deliver the flat booked by the Complainant within the schedule timeline, therefore as per section 18 of the RERA Act read with Rule 17 of the West Bengal Real Estate (Regulation and Development) Rules, 2021, he is very much liable to make the refund of the Principal Amount alongwith interest to the Complainant within 45 days.

Hence, it is hereby,

ORDERED

That the Respondent shall refund the Principal Amount of **Rs. 10,76,647/-** alongwith interest at the rate of SBI PLR +2% per annum from the dates of respective payments made by the Complainant till the date of realization within a period of **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.

Complainants shall send their bank account details to the Respondent through email within **3 days** from the date of receipt of this order of the Authority through email.

If the Respondent fails to comply the abovementioned order of this Authority within the stipulated time period, the Complainant is at liberty to file an Execution Application in A4 size paper praying for Execution of this order before this Authority, serving a copy of the same to the Respondent.

With the above directions the matter is hereby disposed of.

Let the copy of this order be served to both the parties through speed post and also by email immediately.

Let a copy of this order be also uploaded in the WBRERA website under the heading 'Authority Order'.



(JAYANTA KR. BASU)

Chairperson

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority