

# Tribunal orders developer to buy back flat after two decades due to lack of completion certificate

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KOLKATA: In a landmark judgment, the West Bengal Real Estate Appellate Tribunal (WBREAT) directed a developer to buy back a flat he sold two decades ago. The buyer lived in the flat for 19 years but was unable to do the mutation because the developer failed to get the completion certificate from the civic body. The promoter was asked to not only return the amount paid for the flat but also the stamp duty and registration fee paid by the buyer. The buyer, Sibsankar Koley, resided in the flat on Nagendra Nath Road in Nagerbazar since 2006 and registered the property. However, he was unable to complete the mutation as the developer failed to obtain the Completion Certificate for the G+4 storied building. Additionally, the property was entangled in a

legal dispute between the landowner and the developer.

The Tribunal set aside an order by the West Bengal Real Estate Regulatory Authority (WBREERA) that dismissed Koley's complaint against the promoter. WBREERA also rejected a plea for directing the developer and the landlady to execute and register a Deed of Conveyance. WBREAT, while allowing the appeal, ordered the promoter to refund the entire amount Koley paid for the flat, including stamp duty and registration fees. Koley was asked to vacate the flat and return it to the promoter within 45 days.

"The Tribunal has not imposed any interest on the amount upon the promoter as the buyer was in possession of the flat since July 3, 2006," the Tribunal, led by Chairperson Justice Rabindranath Samanta and comprising Judicial Member Gour Sundar Banerjee and Administrative Member Dr Subrat Mukherjee, stated.

### Key takeaways

- Landowner Renu Bala Paul entered into a development agreement with promoter Satchidananda Mitra of Sona Enterprise in March 2004 for the construction of a G+4 building at Nagendra Nath Road.
- Sibsankar Koley booked a 940 sq ft flat from the promoter's share in January 2005 and took possession in July 2006, despite the promoter's failure to obtain the Completion Certificate.
- A dispute arose in 2013 when the landlady filed a title suit at the Barasat Civil Judge Court, which remains unresolved.
- Koley approached the West Bengal State Consumer Disputes Redressal Commission against the promoter and the landlady in 2011. The landlady contested the maintainability of the case and secured favourable rulings from Calcutta High Court and Supreme Court.
- In February 2017, the District Consumer Disputes Redressal Forum in Barasat directed the promoter to execute and register a Deed of Conveyance in Koley's favour.
- Koley discovered the promoter did not own the flat he "transferred" to him, prompting him to move WBRERA and then WBREAT. The latter asked Mitra to buy back the flat and told Koley to hand over possession in 15 days.