

ORDER SHEET

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000034 of 2019

Utpalendu Ghosh.....Complainant

AND

Sambit Basu..Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
4 ----- 31-05-2019	<p>An online complaint was received as per Section 31 of the West Bengal Housing Industry Regulation Act,2017 vide complaint No. COM-000034 dated 08/02/2019 to the WB Housing Industry Regulation Authority from Complainant Utpalendu Ghosh of Flat 4D, Block A, Narayani Tower, 8A & 8B Kabi Bharat Chandra Road, Kolkata- 700028 and both the Complainant and the Respondent were called for hearing on 7/3/2019.</p> <p>On 7/3/19, both the parties appeared.</p> <p>The Complainant in his complaint has stated that the Complainant has taken a villa with the Respondent on 17/06/2016 and as per the sale agreement the land registration should have been done by 16/06/2017 by making rest of the payment of the land registration and the Respondent was supposed to hand over the villa within one year six months from the date of land registration to the Complainant. The Complainant also stated in his complaint that the Complainant duly followed the said agreement and did the land registration on 10/04/2017. Thus, the due date for delivery of the villa was on 10/10/2018.</p> <p>The Complainant also stated in his Complaint that as per section 4.3 of the Sale Agreement the Respondent was supposed to complete necessary mutation and conversion of land and take necessary permission for the villa. But it has been almost two years since last registration; mutation and conversion are still not done. The Complainant made follow up for multiple occasions for mutation and conversion and get the villa constructed but the Respondent has stated to the Complainant that the mutation is stuck for some Government issues.</p>	

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The Respondent has also stated that he recently found out from HIRA website that this project is not yet registered with HIRA and the Respondent also kept the Complainant's original land registration deed and does not want to give until villa construction is started.

The Complainant in his complaint sought the relief that the Complainant wants refund of the money paid to the Respondent with interest as the Respondent has not kept his commitment and missed delivery deadline already.

The Respondent during the hearing sought time to file his reply. Accordingly, next date of hearing is fixed on 04/04/2019.


On 4/4/19, both the parties appeared. During the hearing, the Respondent stated that he would refund the money with interest but no intimation has been received from the Complainant that he would withdraw from the allotment and the Respondent also stated that he is expected a mail from the Complainant that the Complainant withdraw from his allotment of villa and refund money with interest.

The Complainant during the hearing, in presence of the Respondent, has stated that he would withdraw from the allotment as the villa was not delivered on 10/10/2018 as per agreement and claimed for refund of the money with interest. Accordingly, the next date of hearing was fixed on 25/04/2019.

On 25/4/19, both the parties appeared. The Complainant during the hearing has stated that the Complainant only wants refund of the amount paid to the Respondent with the prevailing savings rate of interest. The Respondent, during the hearing has submitted that the Respondent requires some further time to file their reply. Accordingly, the Respondent was provided with 7 (seven) days time to file the reply and service the same to the Complainant and the next date of hearing was fixed on 22/5/2019.

On 22/05/2019, the Complainant appeared for hearing but the Respondent was found absent. Since the Respondent was absent, the next hearing was fixed on 31/05/2019.

On 31/05/2019, the Complainant appeared for hearing but the Respondent was found absent. The Complainant during the hearing has stated that the Complainant has booked a villa with the Respondent on 17/06/2016 and as per the sale agreement the land registration should have been done by 16/06/2017 by making rest of the payment of the land registration and the Respondent was supposed to hand over the villa within one year six months from the date of land registration to the Complainant. The Complainant also stated during the hearing that the Complainant duly followed the sale agreement and did the land registration on 10/04/2017 but the Respondent has failed to deliver the Villa within the due date on 10.10.2018. Hence, the Complainant wants refund of the money with interest.


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I have gone through the complaint, the documents submitted by the parties and the submissions made by all the parties during the hearing.


It is a fact that the Complainant has booked a villa with the Respondent on 17/06/2016 and as per the sale agreement the land registration should have been done by 16/06/2017 by making rest of the payment of the land registration and the Respondent was supposed to hand over the villa within one year six months from the date of land registration to the Complainant. It is also a fact that the Complainant duly followed the sale agreement and did the land registration on 10/04/2017 but the Respondent has failed to deliver the Villa within the due date on 10.10.2018.

It is also a fact that the Respondent has stated that he would refund money with interest if the allotment is withdrawn by the Complainant.

Therefore, it is hereby order that the Respondent shall refund the entire amount paid by the Complainant along with interest at the rate of State Bank of India Prime Lending Rate per annum from the date of payment made by the Complainant till 01.06.2018, i.e., the date of commencement of the West Bengal Housing Industry Regulation Act, 2017, as per Clause 11.3 of the agreement dtd. 20.06.2016 executed between the parties and after 01.06.2018, the rate of interest shall be at the rate of State Bank of India Prime Lending rate plus @ 2% per annum as per rule 18 of the West Bengal Housing Industry Regulation Rules, 2018 till the date of refund made by the Respondent. The Respondent shall refund the said amount along with the interest to the Complainant within 45 days from the date of communication of this order.

The present matter is hereby disposed of.

Let a copy of the order be communicated to both the parties.


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Designated Authority,
Housing Industry Regulatory Authority