

ORDER SHEET

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000047 of 2019

PARTHA SARATHI SAR.....Complainant

AND

CHITRAHILL REALTYRespondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
4 ----- 29-05-2019	<p>An online complaint was received as per Section 31 of the West Bengal Housing Industry Regulation Act, 2017 vide complaint No. COM-000047 dated 24/03/2019 at the WB Housing Industry Regulatory Authority from Complainant Partha Sarathi Sar of 1C-1407, Avidipta Near Medica Hospital, Kolkata, Kolkata, Purba Jadavpur, 700099 and as per Rule 36 of the West Bengal Housing Industry Regulation Rules, 2018, NOTICE was issued for the alleged contravention and the Respondent as well as the Complainant were directed appear for hearing at the Office of the WB Housing Industry Regulatory Authority on 16/4/19.</p> <p>On 16/4/19, both the parties appeared.</p> <p>The Complainant in his complaint has stated that one Flat No. M-3/1 with garage was booked by the Complainant and an agreement of sale was executed on 24.03.2014 and as per the said agreement the property has to be handed over within 42 months from the date of Agreement (as per Clause 9.5 of the Agreement). However, the property has yet not been handed over by the Respondent though 90 % of the payment has already been done by the Complainant. The Complainant further submitted in his complaint that the work in progress of the said project is very slow and no specific date of completion has been provided by the Respondent in this regard.</p> <p>During the hearing the Complainant submitted that the Complainant is paying Rs. 24,853/- as monthly EMI for the said Flat to the Bank and simultaneously is also paying Rs. 14,500/- as home rent plus Rs. 3,000/- as monthly rent for the garage in which the Complainant is now residing. In his complaint the Complainant sought relief that as per Clause 11.2 of the Agreement, the Respondent is liable to refund the full amount along with interest.</p> <p>During the hearing the Respondent submitted an application seeking time to file reply against the present complaint. Accordingly, the next date of hearing was fixed on 30.04.2019.</p>	


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On 30/4/19, the Complainant appeared but the Respondent did not appear in spite of proper notice. Hence, last opportunity was provided to the Respondent to file reply and the next date of hearing was fixed on 16/05/19.

On 16/5/19, both the parties appeared.

During the hearing the Respondent submitted that since the cease work of court is still going on their advocate is unable to attend the hearing before this authority. Accordingly, the Respondents sought further time to file their reply. Accordingly, the next hearing was scheduled on 29/5/19.

On 29/05/19, both the parties appeared and the Respondent submitted his reply wherein the Respondent has submitted that the Respondent failed to provide possession of the Flat to the Complainant as the sanction plan for the said project was received from the competent authority in the month of February, 2018 only. The Complainant during the hearing submitted that the Complainant wants to refund of the entire amount paid to the Respondent along with interest.

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


It is fact that the Complainant has paid 90% of the total consideration of the unit to the Respondent. However, the possession of the Flat as per the agreement dated 24.03.2014 has not been made. Therefore, the Respondent has violated section 17 of the West Bengal Housing Industry Regulation Act, 2017.


It is hereby ordered that the Respondent shall refund the entire amount paid by the Complainant along with an interest @ 18% per annum from the date of payment made till 01.06.2018, i.e., the date of commencement of the West Bengal Housing Industry Regulation Act,2017 as per Clause 11.1 (breach of purchaser covenants) of the agreement dated 24.03.2014 executed between both the parties, as there is no clause for breach of the developer's covenants in the said agreement and after 01.06.2018, the Respondent shall pay an interest on the entire amount paid by the Complainant @ 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 payment made by the Respondent.

The Respondent shall make the aforesaid refund and the aforesaid interest within a period 45 days from the date of communication of this order.

The matter is hereby disposed of.

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


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Designated Authority,
Housing Industry Regulatory Authority