

ORDER SHEET

**WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY**

Complaint No. COM-000032 of 2019

Shanti Pada Dikshit.....Complainant

AND

The Chairman, Eden Realty Ventures Pvt. Ltd.. .....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 000032, dated 07.01.2019 by this Authority from the Complainant, namely, Santi Pada Dikshit of Flat No. 3C, 3<sup>rd</sup> Floor, Purba Rag-1, Sisir Kunjua, Madhyamgram-1, North 24-Pgs. against the Eden Realty Ventures Pvt. Ltd.</p> <p>Accordingly, a notice under rule 36 of the West Bengal Housing Industry regulation Act,2018 was issued by this Authority for hearing on 22.01.2019.</p> <p>On 22.01.2019, the Respondent appeared but the Complainant failed to appear in spite of proper notice.</p> <p>The Complainant in his complaint has stated that the Complainant has applied for a flat in the project named SOLARIS under Eden reality Ventures Pvt. Ltd. through lottery for a type ' C ' flat and the Complainant has paid Rs. 1,00,000/- as application money for participating in the said lottery process. After the process of lottery, the Complainant was selected for the allotment of concerned Flat as per the information provided by the Respondent. But the Respondent did not issue any allotment letter. After a few days of the lottery process was over the Complainant fell in financial crisis due to various reasons and for these reasons the Complainant made representation before the Respondent for a refund of the application money as the Complainant was not in a position to purchase the said Flat due to his economical hardship. The Respondent replied the said representation that as the provisional allotment was issued in favour of the Complainant as such company refused to refund the application money to the Complainant as per the general terms and condition.</p>	

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The Respondent during the hearing was directed to file reply within 10 days and the Complainant was directed to file the counter reply within 10 days thereafter. Accordingly, the next date of hearing was fixed on 19.02.2019 at 12.00 noon.

On 19.02.2019, both the parties appeared and the Respondent filed reply and duly handed over the copy of the same to the Complainant. The Complainant during the hearing sought time to file counter reply against the reply filed by the Respondent. Hence the Complainant was directed during the hearing to file the counter reply within 10 days and serve a copy of the same to the Respondent. Accordingly, the next date of hearing was fixed on 04.04.2019 at 12.45 pm.

On 04.04.2019, the Complainant filed the counter reply against the reply filed by the Respondent. During the hearing the Respondent submitted another application and handed over a copy of the same to the Complainant. On receiving of the said application of the Respondent, the Complainant during the hearing submitted that the Complainant wants to counter the said application submitted by the Respondent. Accordingly, the matter once again fixed for hearing on 23.04.2019 at 12.00 noon.


On 23.04.2019, both parties appeared and during the hearing the Complainant stated that they do not want to provide any representative to counter the application filed by the Respondent on 04.04.2019. However, the Complainant stated during the hearing that said application of the Respondent is baseless.

The next date of hearing was fixed on 22.05.2019.

On 22.05.2019, the Respondent appeared and filed hazira but the Complainant did not appear for hearing. Since the Complainant did not appear, the next date of hearing was fixed on 31.05.2019.

On 31.05.2019, both the Complainant and the Respondent appeared for hearing. The Complainant during the hearing has stated that the Complainant participated in the lottery for allotment of the said flat in the project of the Respondent and duly won the lottery and got selected for the said flat but no communication or document with regard to the forfeiture of application money if cancellation of such allotment was done, was issued by the Respondent to the Complainant. Hence, the Respondent is not entitled for forfeiture of the application amount.

Hence, the forfeiture done by the Respondent for cancellation of the allotment by the Complainant is bad in law. Therefore, the Complainant requested the authority to pass an order for refund of the application amount along with interest.

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


It is fact that the Complainant participated in the lottery for allotment of flat in the project of the Respondent and duly won the said lottery and got selected for the said flat but no communication or document with regard to the forfeiture of application money if cancellation of such allotment was done, was issued by the Respondent to the Complainant. Respondent has also failed to provide any such document or communication with regard to forfeiture of application money for cancellation of such allotment.

Therefore, it is ordered that the Respondent shall refund the application money paid by the Complainant along with interest at the rate of State Bank of India prime lending rate per annum for the period from payment made till 01/06/2018 i.e, the date of commencement of West Bengal Housing Industry Regulation Act, 2017 and after 01/06/2018 the Respondent shall pay an interest at the rate of State Bank of India of prime lending rate + 2% per annum till the payment made by the Respondent. The Respondent shall pay the aforesaid application amount along with the aforesaid interest within 45 days from the date of communication of this order.

A compliance shall be made by the Respondent within 10 days therefrom.

The matter is hereby disposed of.

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

  
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Designated Authority,

Housing Industry Regulatory Authority