

FORM 'J'
See rule 36(1)

COMPLAINT TO AUTHORITY
Complaint under section 31 of the Act

For use of Authority(s) office :

Date of filing : 9/13/2019

Date of receipt by post : _____

Complaint No. : COM000140

Signature : _____

Authorized Officer : _____

IN THE HOUSING INDUSTRY REGULATORY AUTHORITIES OFFICE

Calcutta Greens Commercial Complex (1st Floor), 1050/2, Survey Park, Kolkata-700075

Between
Nepal Kashi Sharma Complainant(s)
And
Shubham Constructions Respondent(s)

Details of claim :

1. Particulars of the complainant(s) :
 - (i) Name of the complainant : Nepal Kashi Sharma
 - (ii) Address of the existing office / residence of the complainant :
 - (iii) Address of the service of all notice : A-2/2, Flower Valley, 493/B, G.T. Road (South), Shibpur, Howrah-711 102
2. Particulars of the respondents:
 - (i) Name(s) of the respondent : Shubham Constructions
 - (ii) Office address of the respondent : 36/1A, Garcha Road, Kolkata-700 019
 - (iii) Address for service of all notices : 36/1A, Garcha Road, Kolkata-700 019
3. Jurisdiction of the Authority :
4. The complainant declares that the subject matter of the claim falls within the jurisdiction of the Authority. Facts of the case:
 - a) That Agreement dated 14th July, 2010, was signed by and between Shubham Constructions (hereinafter referred to as "Developer") and ourselves for purchase of Flat No. 2B admeasuring 855 sq. ft. on 2nd Floor of Premises No. 224A, S.N. Roy Road, Kolkata-700 038, together with parking spaces for total consideration payable by us as per Payment of Schedule in Part I, and we had paid a total sum of Rs.22,06,500/- to the Developer on signing of the said Agreement.
 - b) That by a Sale Deed dated 14.07.2010 executed between the Developer and ourselves, Developer agreed to deliver the said Unit/Flat in favour of ourselves on such terms and conditions as recorded therein.
 - c) That it is important to state the Plan has been sanctioned way back in 2006 being B.S. No. 2006/30101 dated 24.05.2006 for construction of the building on the above said premises.
 - d) That two separate blocks of building which were supposed to be constructed on that said premises and one of the blocks/buildings collapsed as the land beneath the said building gave way/loosened due to improper foundation and the same is still lying unattended.
 - e) That the other building in which the subject Unit/Flat that is being purchased is lying incomplete. Ourselves on various occasions have requested the Developer for inspection of the Flat so that ourselves can take a decision for making the balance payment of Rs.5,89,650/- but the same has been denied.
 - f) By a letter dated 24.06.2019 our Advocate Sri A.N. Chowdhury of M/s. ANC Law Chambers sought for compensation due to inordinate delay of more than 6 years in completing the building and has sought to adjust against balance payment towards consideration.
 - g) By a letter dated 10.07.2019 the Respondents Subham Constructions raised an impugned demand of Rs.7,52,587/- after charging GST @ 12% on Rs.6,06,500/-.

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h) Further Ms. Debobeena Mukherjee, Advocate on behalf of Subham Constructions disputed our claim and annexed copy of the demand letter dated 10.07.2019 and copy of the C.C. issued by the Kolkata Municipal Corporation dated 05.03.2019 giving Full Completion Certificate with respect to G+IV storied residential building of height 14.5 Mtr. Over a land area 568.568 SQM. Sanction Plan vide B.P. No. 2006130101 dated 24.05.2006 and subsequently regularized vide D/Case No. 20-D/XIII/15-16 dated 09.08.2016 (ref.no. 017/XIII/17-18 dated 25.10.2017) approved by O.S.D. (B) dated 25.10.2017.

i) In reply to the above letter of Ms. Debobeena Mukherjee, Advocate on behalf of Subham Constructions, our Advocate Sri A.N. Chowdhury through a letter dated 06.08.2019 has requested to advise her Client to take steps for handing over the Flat within 15 days and pay the balance amount i.e. due on account of interest.

(give a concise statement of facts and grounds for complaint)

5. Relief(s)

In view of the facts mentioned in paragraph 4 above, the complainant prays for the following relief(s) :

- (i) To direct Subham Constructions to cause conveyance in our favour being the Petitioner herein who have waited for 9 long years for acquiring / purchasing the subject flat.
- (ii) To get the building certified by a Civil Engineer / Consultant that the flat is habitable and usable. All necessary specifications have been duly complied with in construction of the building.

(Specify below the relief(s) claimed explaining the grounds of relief(s) and the legal provisions (if any) relied upon)

6. Interim order, if prayed for:
mentioned below

Pending final decision on the complaint the complainant seeks issue of the following interim order:

- (a) Imposition of stay with respect to sale / transfer of the flat to any third party till the dispute is resolved.

(Give here the nature of the interim order prayed for with reasons)

7. Complainant not pending with any other court, etc:

The complainant further declares that the matter regarding which this complaint has been made is not pending before any court of law or any other authority or any other tribunal(s).

The complainant further declares that the matter regarding which this complaint has been made is not pending before any court of law or any other authority or any other tribunal(s).

8. Particulars of bank draft in respect of the fee in terms of sub-rule (1) of rule 36:

- (i) Amount : 1000
- (ii) Name of the bank on which drawn : BillDesk Online Payment

9. List of enclosures :

(Specify the details of enclosures with the complaint)

Sale Agreement

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Verification

I Nepal Kashi Sharma son / daughter of Late Kashi Sharma the applicant do hereby verify that the contents of paragraphs (1 to 7) are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place : Kolkata

Date : 16-09-2019

N. Sharma
Signature of the applicant(s)