

**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 : 10/23/2019

Date of receipt by post : \_\_\_\_\_

Complaint No. : COM000169

Signature : \_\_\_\_\_

Authorized Officer : \_\_\_\_\_

**IN THE HOUSING INDUSTRY REGULATORY AUTHORITIES OFFICE**

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

Between

Kirity Nayak Complainant(s)

And

Tarak Nath Konar, Nabagopal Konar, Smt.Chandana Konar, Bhola Das,  
Mrs.Tinku Chatterjee & Other 2. Respondent(s)

**Details of claim :**

1. Particulars of the complainant(s) :

- (i) Name of the complainant : Kirity Nayak
- (ii) Address of the existing office / residence of the complainant :
- (iii) Address of the service of all notice : Kirity Nayak.

Flat No.2 ,Fourth Floor,  
Saradamoyee Apartment,  
Budha More, Asansol,,  
Paschim Bardhaman-713301.

2. Particulars of the respondents:

(i) Name(s) of the respondent : Tarak Nath Konar, Nabagopal Konar, Smt.Chandana Konar, Bhola Das,  
Mrs.Tinku Chatterjee & Other 2.

(ii) Office address of the respondent : M/S PUSPAM REALCON, Court More, Kachari Road, Opp Sani  
Mandir, P.O. Asansol, P.S- Asansol (S), District: Paschim Bardhaman, West Bengal 713304.

(iii) Address for service of all notices : 1. M/S PUSPAM REALCON,  
Court More, Kachari Road, Opp Sani Mandir,  
P.O. Asansol, P.S- Asansol (S),District: Paschim Bardhaman,713304

2. Tarak Nath Konar, Naba Gopal Konar, Smt.Chandana Konar, Budha Village, Asansol, P.O.- Asansol,District:  
Paschim Bardhaman,Pin-713301.

3. Bhola Das, South Dhadka, P.O. Asansol, District: Paschim Bardhaman, 713302.

4. Mrs. Tinku Chatterjee, Kazi Nazibul Islam, Kazi Naimuddin, M/S CHATTERJEE ENTERPRISE,  
Sripally, P.O. Asansol, P.S: Asansol(S), District: Paschim Bardhaman,713304.

3. Jurisdiction of the Authority : Project is under territorial jurisdiction of WBHIR

4. The complainant declares that the subject matter of the claim falls within the jurisdiction of the Authority. Facts of the case:

Your Complainant states that:

A. The Respondents started the real estate project on 2012 over a plot of land of 769.51 sq.mt. without registration u/s 3 of W.B. Building(Regulation of Promotion of Construction and Transfer by Promoters)Act,1993 or u/s 3&4 of

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West Bengal Housing Industry Regulation Act, 2017 and no completion certificate is issued till date.

B. Your Complainant had entered into an agreement (Annexure 1) with PUSPAM REALCON, a firm represented by its partner TARAK NATH KONAR on 30.09.2015 for purchase of a Flat measuring about 1275 Sq.ft.

C. In terms of the said agreement your complainant has paid full consideration (Rs.2960000/-) of the said flat and a sale deed being no. 06865 of 2016 (Annexure 2) was executed on 16.08.2016 by other 7 respondents but no possession in terms of Section 19(10) of WB HIRA Act, 2017, was handed over unto the Allottee.

D. The respondents did not provide basic amenities, facilities as per the said agreement and also made several illegal constructions in the said project in contrary to the building sanction plan.

E. Your Complainant repeatedly requested the respondents even served legal notice (Annexure 3) but yet to receive lawful possession of the apartment due to the unavailability of completion/occupancy certificate which was not issued by the Authority due to the illegal act of the respondents.

F. Your Complainant being misrepresented and cheated by the respondents had invested his hard earned savings and amount of loan into the said project and even his present occupancy shall be deemed to be illegal in terms of Section 36 of the W.B. Municipal (Building) Rules, 2007.

Hence this Complaint.

**GROUND(S)**

- i. Non adherence to sanctioned plan and projects specifications is illegal u/s 14.
- ii. Obligation of Respondents to transfer the lawful possession unto allottee within the specified time is binding u/s 17.
- iii. Breach of agreement entitled the allottee for appropriate compensation u/s 18.

(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) :

**PRAYER:**

A. The respondents may be ordered to complete all necessary incomplete works of the housing project including drainage, sewerage, soak-pits, rainwater and waste water drainage systems, water proofing, interior and exterior finishing, fire safety systems etc. Immediately.

B. Suitable order may be passed against the respondents for taking necessary step/steps for legalization/regularization of all deviation of the building/floor, final layout, apartment size, floor plan, as well as the number of floors etc. within a time bound period.

C. The respondents may be ordered to deliver possession of the apartment No. F-02 to your Complainant after providing Certificate of Occupancy and/or completion certificate issued by the Asansol Municipal Corporation immediately.

D. The respondents may be ordered to pay interest to your Complainant @ 18% P.A on Rs. 2960000/- (Rupees Twenty Nine Lakh Sixty thousand) only as interest for delay in delivery of possession from 29.09.2016 till the actual date of handing over the possession of the said apartment.

E. If the respondents are not willing or unable to handover the lawful possession of the said apartment, necessary order may be passed against the respondents u/s 18 of the Act to refund to your complainant the entire amount of consideration received by the respondents with interest @18% P.A thereon from the date of actual payment by your Complainant till the date of refund including amount incurred in respect of registration fees, stamp duties, service charges, interior additional construction costs by your Complainant along with proper and adequate compensation for the deliberate act of deficiency, negligence and illegal acts of the respondents.

F. And to pass such further or other order or orders as to Your Lordship may deem fit and proper.

FOR THIS ACT OF KINDNESS YOUR COMPLAINANT SHALL REMAIN OBLIGED FOREVER.

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(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:

A. An ad-interim order U/S 36 do issue directing the respondents not to alienate, sell any part or portion of the said building in favour of any other person/s till disposal of the instant complaint petition.

B. An ad-interim order U/S 35 do issue directing the respondents to submit before your Lordships all necessary clearance, sanctioned building plan/s, sewerage and water supply plan/s, inspection report/s, notice/s issued by the Appropriate authority in respect of the said building project.

C. An ad-interim order U/S 35 do issue appointing some authorised Official of your Authority to make an onsite inquiry in relation to the illegal affairs relating to the said building project.

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

(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).

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)

Annexure 1

Annexure 2

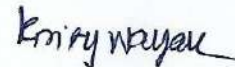
Annexure 3

**Verification**

I **Kirity Nayak** son / daughter of **Lt. Baidyanath Nayak** 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 : ASANSOL

Date : 23/10/13



**Signature of the applicant(s)**