

COMPLAINT TO AUTHORITY
Complaint under section 31 of the Act

For use of Authority(s) office :

Date of filing : 11/14/2019

Date of receipt by post : _____

Complaint No. : COM000179

Signature : _____

Authorized Officer : _____

IN THE HOUSING INDUSTRY REGULATORY AUTHORITIES OFFICE

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

Between

TOPVIEW ENCLAVES LLP Complainant(s)

And

AAR ESS HOMES PVT. LTD. Respondent(s)

Details of claim :

1. Particulars of the complainant(s) :

(i) Name of the complainant : TOPVIEW ENCLAVES LLP

(ii) Address of the existing office / residence of the complainant :

(iii) Address of the service of all notice : TOPVIEW ENCLAVES LLP

25D, Harish Mukherjee Road, 1E, 1st Floor, Kolkata - 700025, West Bengal

2. Particulars of the respondents:

(i) Name(s) of the respondent : AAR ESS HOMES PVT. LTD.

(ii) Office address of the respondent : 16 Rameswar Malia, 1st Bye Lane, 3rd Floor, Howrah, West Bengal – 711101

(iii) Address for service of all notices : AAR ESS HOMES PVT. LTD.

16 Rameswar Malia, 1st Bye Lane, 3rd Floor, Howrah, West Bengal – 711101

3. Jurisdiction of the Authority : KOLKATA

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

The COMPLAINANT has booked 2 (two) flats being Flat No - E on the Third floor AND Flat No – E on the Fourth Floor of Block – A along with 2 (two) car parking spaces at "Cosmic Oxford" situated at L.R. Khatian No. 1594 within Mouza Mirzapur, J.L. No. 26, P.S. Sankrail, District – Howrah, West Bengal - 711103 an Integrated Housing Complex Project developed by the RESPONDENT through two 'REGISTERED AGREEMENT FOR SALE' dated 31st December, 2017. At the time of execution of the Registered Agreement for Sale the COMPLAINANT has already made the full consideration amount of all the two flats purchased at the "Cosmic Oxford" an Integrated Housing Complex Project which the Respondents have accepted and acknowledged. As per Clause No 5.3 of the 2 (two) Registered Agreement for Sale dated 31st December, 2017, the RESPONDENTS had promised to construct, make inhabitable and deliver possession of the 2 (two) flats along with 2 (two) car parking spaces to the COMPLAINANT on or before 31/03/2019 which was the essence of the contracts. The RESPONDENTS have willfully neglected to deliver possession of the 2 (two) flats along with 2 (two) car parking spaces to the COMPLAINANT in the Integrated Housing Complex Project - "Cosmic Oxford". The RESPONDENTS willfully neglected to take registration of the Integrated Housing Complex Project - "Cosmic Oxford" inclusive of the facilities as per the rules laid down in the West Bengal Housing Industry Regulation Act, 2017. The Integrated Housing Complex Project was ongoing on the date of commencement of the West Bengal Housing Industry Regulation Act, 2017, and the Integrated Housing Complex Project is still ongoing. The Occupancy Certificate and Completion Certificate of the Integrated Housing Complex Project were not issued on the date of commencement of the West Bengal Housing Industry Regulation Act, 2017.

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(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) :

- a) That the Respondents be directed to pay the Complainant, the total consideration amount paid by the Complainant, i.e., 29,55,200/- (Rupees Twenty Nine Lakhs Fifty Five Thousand and Two Hundred Only) along with interest @ 15% compounding yearly.
- b) That the Respondents be directed to pay the Complainant, compensation for monetary loss and mental agony, a sum of Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) and also a sum of Rs. 2,00,000/- (Rupees Two Lakhs Only) toward legal expense.
- c) That the Respondents be directed to register the Integrated Housing Complex Project inclusive of the facilities herein above stated as per the provisions of West Bengal Housing Industry Regulation Act, 2017.

(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:

That the Respondents be directed to deposit with the West Bengal Housing Development Authority, the total consideration amount paid by the Complainant for purchase of the 2 (two) Flats more specifically mentioned in the "SCHEDULE OF FLATS" in "Cosmic Oxford" situated at L.R. Khatian No. 1594 within Mouza Mirzapur, J.L. No. 26, P.S. Sankrail, District – Howrah, West Bengal - 711103, and the Complainant will face serious inconvenience if no interim order is passed and any delay in granting the interim order will defeat the ends of justice.

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

That the Respondents be directed to deposit with the West Bengal Housing Development Authority, the total consideration amount paid by the Complainant for purchase of the 2 (two) Flats more specifically mentioned in the "SCHEDULE OF FLATS" in "Cosmic Oxford" situated at L.R. Khatian No. 1594 within Mouza Mirzapur, J.L. No. 26, P.S. Sankrail, District – Howrah, West Bengal - 711103, and the Complainant will face serious inconvenience if no interim order is passed and any delay in granting the interim order will defeat the ends of justice.

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

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

That the Complainant further declares that the matter regarding which the complaint has been made is not pending before any Court of Law or any authority or any tribunal.

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 A_BROCHURE

Annexure B_Flat No_E_3rd floor

Annexure B_Flat No_E_4th floor

COPY OF PETITION

FORM 'J'
See rule 36(1)

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Verification

I TOPVIEW ENCLAVES LLP son / daughter of NA 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 : 14/11/19

TOPVIEW ENCLAVES LLP



Designated Partner/Authorised Signatory

Signature of the applicant(s)