

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: 18/01/2020

Date of receipt by post: _____

Complaint No: COM 000262

Signature: _____

Authorized Officer: _____

IN THE HOUSING INDUSTRY REGULATORY AUTHORITY OFFICE
Calcutta Greens Commercial Complex (1st Floor), 1050/2, Survey Park, Kolkata-700075

Between

ARINDAM MITRA —Complainant(s)

* And

1. Janapriyo Real Estate Pvt. Ltd. (CIN - U70100WB2007PTC120389)
2. Mr. BHARAT NASKAR, Managing Director & all other Directors —Respondent(s)

Details of claim:

1. Particulars of the complainant(s):

- (i) Name of the complainant: Mr. ARINDAM MITRA
- (ii) Address of the existing office / residence of the complainant: —
31 A / 1, BEER PARA LANE, QUEENS ENCLAVE, Flat No 2B, Post Office - Ghu Ghu Danga, Kolkata - 700030.
- (iii) Address of the service of all notice :
31 A / 1, BEER PARA LANE, QUEENS ENCLAVE, Flat No 2B, Post Office - Ghu Ghu Danga, Kolkata - 700030.

2. Particulars of the respondents:

- (i) Name(s) of the respondents :
 1. M/s Janapriyo Real Estate Pvt. Ltd. (CIN - U70100WB2007PTC120389),
 2. Mr. BHARAT NASKAR, Managing Director,
 3. All Directors (Mr. Kanchan Naskar, Mr. Ashis Naskar and Mr. Rakesh Naskar)
- (ii) Office address of the respondent : —
JANAPRIYO BHAVAN, 151/A, JODHPUR GARDEN, 2nd floor, Police Station - Lake, Kolkata - 700045

Arindam Mitra
21-01-2020

FORM "J"
See rule 36 (1)
COMPLAINT TO AUTHORITY
Complaint under section 31 of the Act

(iii) Address for service of all notices : —
JANAPRIYO BHAVAN, 151/A, JODHPUR GARDEN, 2nd floor, Police Station -
Lake, Kolkata – 700045

3. Jurisdiction of the Authority:

The West Bengal Housing Industry Regulation Act 2017

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

Facts of the case: —

One advertisement (giving mobile number 9830083120) dated 19-10-2013 in the "Ananda Bazar Patrika", displayed that, "Development of a Mini Township in Shyamnagar (North 24 Paraganas district of West Bengal) beside the "Kalyani Expressway" with black top roads, drains, water supply, electricity etc. is in progress, where plots of lands will be sold whose possession will be given within March 2016.

Telephoning that number the Applicant contacted Mr. Subrata Mondal who introduced himself as representative of the Respondent. Visiting the site, the Applicant saw a barren land unapproachable due to slushy and muddy terrain.

Therefore, the Applicant chose four plots (No 220, 221, 232 and 233 of four cottahs each) to purchase relying upon the Brochure and paid the total amount of Rs. 44,09,200/-.

This complaint pertains to plot No 221 whose cost is Rs. 10,50,600/- being a separate sale agreement.

Paying the full amount the Applicant approached the Respondent to give possession of his land and make registration after identification. But the Respondent was reluctant to do so. After reporting to Police Station, the Respondent gave "Draft Sale Deeds" but those were full of errors and omissions. Corrections of the Drafts were going on from both ends. But the Respondent suddenly started claiming that, "the Drafts are finalised and accepted by the Applicant". Whereas the Applicant repeatedly requesting for some further corrections. Accordingly, several communications including legal notices were exchanged between the parties.

All of a sudden the Respondent cancelled the Sale agreements and forfeited the entire amount by blaming the Applicant for not carrying out registration.

The Applicant demands the entire amount with interest and compensations, since the Respondent is a Defaulter in doing "Development works" and giving possession.

Summary and details of complaint, correspondences with significances and grounds of claim are explained at point No 9 in "List of Enclosures" as Annexure-01.

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

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21-01-2020

FORM "J"
See rule 36 (1)
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5. Relief(s) —

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

Unless orders are passed as prayed herein, The Applicant shall suffer irreparable loss, injury and prejudice. In the facts and circumstances as stated herein, the Applicant most respectfully prays before the Honourable Authority this Hon'ble Authority may graciously be pleased to pass an order directing: —

- 1) The Respondents to pay the Applicant a sum of Rs. 10,50,600/- (Rupees Ten lacs fifty thousand six hundred only) as refund of the consideration amount of the plot of land already paid to them by the Applicant,
- 2) The Respondents to pay the Applicant a sum of Rs. 9,61,847/- (Rupees Nine lacs sixty one thousand eight hundred forty seven only) towards interest worked out @ 18% per annum on daily basis applied on every part payment from the date of receipt of the amount to till 31-01-2020 (assumed date of refund). [In case the refund is made earlier to 31-01-2020 the interest amount will be less on the other hand if the date of refund is after 31-01-2020 the amount will be more according to the revised calculation to be submitted],
[Please refer to the Calculation Table as per Annexure-03 herein]
- 3) The Respondents to pay the Applicant a sum of Rs. 4,00,000/- (Rupees Four lacs only) as Compensation for mental harassment, inconvenience and other losses,
- 4) The Respondents to pay the Applicant a sum of Rs. 2,00,000/- (Rupees Two lacs only) as Litigation cost.

(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: —

This fervent appeal is placed before the Honorable Authority to issue the following interim orders to the Respondent because the Applicant paid a substantial amount of Rs. 10,50,600/- on November 2016 but the Respondent is utilising that amount in their business and earning profit from that without carrying out any effective development works in the project till date.

- 1) An order directing the Respondent to deposit forthwith a sum of Rs. 10,50,600/- (Rupees ten lacs fifty thousand six hundred only), being the sum actually paid by the Applicant to them, at the office of the WB HIRA till disposal of this instant application,
- 2) An order of inquiry into the affairs and functioning of the respondents and for appointment of any suitable person for conducting such inquiry,
- 3) An order restraining the respondents from carrying on and/ or from continuing with any such acts contrary to the provisions of the said Act and/ or selling/ encumbering and/ or dealing with any part or portion of the said project till completion of any inquiry, or until such further orders may be passed in connection therewith,
- 4) Ad-interim orders in terms of the prayers above,
- 5) Such further and/ or other order or orders as this Hon'ble Authority may be deemed fit and proper.

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

- 1) An order directing the Respondent to deposit forthwith a sum of Rs. 10,50,600/- (Rupees ten lacs fifty thousand six hundred only), being the sum actually paid by the Applicant to them, at the office of the WB HIRA till disposal of this instant application,

FORM "J"
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COMPLAINT TO AUTHORITY
Complaint under section 31 of the Act

- 2) An order of inquiry into the affairs and functioning of the respondents and for appointment of any suitable person for conducting such inquiry,
- 3) An order restraining the respondents from carrying on and/ or from continuing with any such acts contrary to the provisions of the said Act and/ or selling/ encumbering and/ or dealing with any part/ or portion of the said project till completion of any inquiry, or until such further orders may be passed in connection therewith,
- 4) Ad-interim orders in terms of the prayers above,
- 5) Such further and/ or other order or orders as this Hon'ble Authority may be deemed fit and proper.

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

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

The Applicant declares that the matter regarding which this appeal has been made is not pending before any court of law or any other authority or any other tribunals.

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)

- 1) Annexure-01 — 221 Summary & Details of Complaint, Correspondences & Ground of Claim
- 2) Annexure-02 — List of enclosures plot no 221
- 3) Annexure-03 — Interest calculation table as on 31-01-2020
- 4) Annexure-A — newspaper Advertisement dt 19-10-2013 in ABP
- 5) Annexure-B — newspaper Advertisement dt 07-12-2013 in ABP
- 6) Annexure-C — Brochure
- 7) Annexure-D — Copies of all receipted bank cheques for plot nos 220-221-232-233
- 8) Annexure-E — Bank statements & Pass Books
- 9) Annexure-F — Full Payment Receipt - Plot No - 221
- 10) Annexure-G — Sale Agreement - 221
- 11) Annexure-H — email dt 05-08-2017 - Request for registration of six Plots
- 12) Annexure-I — Ltr No 2 dt 07-08-2017 Registered AD
- 13) Annexure-J — email dt 13-08-2017 — Request for registration of 6 plots
- 14) Annexure-K — email dt - 19-08-2017 — Reply by JPRE giving a plea of GST for registration of 6 Plots
- 15) Annexure-L — Ltr No 4 dt 30-08-2017 Speed Post AD
- 16) Annexure-M — email dt - 28-10-2017 — Fwd_ Draft deeds of Arindam Mitra
- 17) Annexure-N — Legal Notice dt 6-1-18 with 6 draft sale deeds
- 18) Annexure-O — Complaint to Police Station dt 05-02-2018
- 19) Annexure-P — Complaint to Police Station dt 10-02-2018
- 20) Annexure-Q — email dt 09-03-2018 Payment Receipt 36 & 27
- 21) Annexure-R — email dt 10-03-2018 - Full payment receipt
- 22) Annexure-S — Draft Sale Deed for plot 221 by Subrata Mondal on 16-03-2018

FORM "J"
See rule 36 (1)
COMPLAINT TO AUTHORITY
Complaint under section 31 of the Act

- 23) Annexure-T — Complaint to Police Station dt 22-03-2018
- 24) Annexure-U — email dt 22-03-2018 Draft Sale Deed 46 (Old no 36)
- 25) Annexure-V — email dt 28-03-2018 correction of six Draft Sale Deeds
- 26) Annexure-W — email dt 04-04-2018 from JPPE - correction of six draft sale deeds
- 27) Annexure-X — email dt 08-06-2018 - six Draft Sale Deeds
- 28) Annexure-Y — email dt 12-06-2018 Six Draft Sale Deeds
- 29) Annexure-Z — email dt 20-06-2018 — KCE - 6 Draft Sale Deeds (42,46,220,221,232 &233)
- 30) Annexure-ZA — email dt 01-07-2018 Reminder for Schedules for Draft Sale Deeds
- 31) Annexure-ZB — email dt - 10-07-2018 — six Draft Schedules given
- 32) Annexure-ZC — Speed Post dt 29-07-2018 intimating JPPE about the errors and omissions
- 33) Annexure-ZD — email dt 02-08-2018 — Confirmation Regarding letter dt 29-07-2018
- 34) Annexure-ZE — email dt - 03-08-2018 responce of JPPE with objectionable remarks
- 35) Annexure-ZF — legal notice dt 13-08-2018 by Khaitan Arindam to JPPE
- 36) Annexure-ZG — Reply of JPPE dt 12-09-2018
- 37) Annexure-ZH — legal notice dt 19-09-2018 by Khaitan to JPPE
- 38) Annexure-ZI — Reply of JPPE dt 22-10-2018
- 39) Annexure-ZJ — legal notice dt 13-11-2018 by Khaitan to JPPE
- 40) Annexure-ZK — Ltr 199 (06 A Mitra) dt 9-2-19 to jpre
- 41) Annexure-ZL — Letter - 200 (07 A Mitra) dt 28-02-2019 to jpre
- 42) Annexure-ZM — Letter-204 dated 19-03-2019 A Mitra to JPPE
- 43) Annexure-ZN — Caveat dt 27-03-2019 Plot No 221 Barasat
- 44) Annexure-ZO — cancellation of Sale agreement & forfeiture of money (221)
- 45) Annexure-ZP — Letter no 206 dated 21-05-2019 A Mitra to JPPE
- 46) Annexure-ZQ — Caveats 221 dt 21-06-2019 Barrackpore and Barasat Courts
- 47) Annexure-ZR — Gmail Consignment Received from JPArindam 21-6-2019
- 48) Annexure-ZS — Letter 210 (13 A Mitra) dt 4-7-19 to JPPE
- 49) Annexure-ZT — Letter 212 (14 A Mitra) dt 14-7-19 to jpre
- 50) Annexure-ZU — Letter 214 (15 A mitra) dt 23-7-19 to jpre
- 51) Annexure-ZV — Letter 216 (16 A Mitra) dt 2-8-19 to jpre
- 52) Annexure-ZW — Letter from A Mitra to JPPE dt 3-9-19
- 53) Annexure-ZX — Ashique Mondal - Legal Notice - Arindam Mitra - 17-09-2019
- 54) Annexure-ZY — Caveats 221 dt 23-09-2019 Barrackpore and Barasat Courts
- 55) Annexure-ZZ — Recent Project photographs showing NO DEVELOPMENT

I ARINDAM MITRA son / daughter of MADAN MOHAN MITRA 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 : 21-01-2020.

Arindam Mitra
21-01-2020

Signature of the applicant(s)