

COMPLAINT TO AUTHORITY

Complaint under section 31 of the Act

For use of Authority(s) office :

Date of filing : 7/17/2020

Date of receipt by post: _____

Complaint No. : COM000420

Signature : _____

Authorized Officer : _____

IN THE HOUSING INDUSTRY REGULATORY AUTHORITIES OFFICE

Calcutta Greens Commercial Complex (1st Floor), 105/2, Survey Park, Kolkata-700075

Between
PRAKASH PATWARI Complainant(s)
And
EMAMI INFRASTRUCTURE LIMITED Respondent(s)

Details of claim :

1. Particulars of the complainant(s) :
 - (i) Name of the complainant : PRAKASH PATWARI
 - (ii) Address of the existing office / residence of the complainant : 68 JESSORE ROAD, DIAMOND CITY NORTH BLOCK-26, FLAT-3C, North 24-Parganas, South Dumdum, Dum Dum, 700055
 - (iii) Address of the service of all notice : 68 JESSORE ROAD, DIAMOND CITY NORTH, BLOCK-26, FLAT-3C, BEHIND DIAMOND PLAZA MALL KOLKATA -700055
2. Particulars of the respondents:
 - (i) Name(s) of the respondent : EMAMI INFRASTRUCTURE LIMITED
 - (ii) Office address of the respondent : 2. JESSORE ROAD North 24-Parganas Barrackpur - II Dum Dum, West Bengal, 700025
 - (iii) Address for service of all notices : ACROPOLIS 1858/1, RAJDANGA MAIN ROAD, 13TH FLOOR KASBA, KOLKATA - 700107

3. Jurisdiction of the Authority : North 24-Parganas

4. The complainant declares that the subject matter of the claim falls within the jurisdiction of the Authority. Facts of the case:
upon an application by M/s Prak Consultancy Pvt. Ltd. On dated 06.07.2011 with payment made of Rs 2,00,000/-, Emami had executed a sub-lease agreement dated 20th July, 2016 respect of a Flat No. B2-703 along with a car parking space and servants' quarter in the Emami City Project on Jessore Road. I duly paid all sums as demanded by Emami in due compliance of the terms and conditions of the letter of allotment. In terms of the sub lease Agreement executed with all flat owners, the tower in which the allotted Flat was situated was scheduled to be completed within March 2017 with a grace period of 9 months. Further, the allottees of the Flats were entitled to receive compensation for delay in construction of the Project and delayed handover based on Clause 6.6.2 and 6.6.3 of the Agreement. It is stated on behalf of us that they met with your representatives on 11th November, 2018 and it was proposed that the flat numbered as B2-703 be exchanged and assigned in favour of us and accordingly a mail was sent on 24th January, 2019 for the new upgraded flat but it was informed that the same was unavailable and D2J 1204 was the only available flat which I was compelled to accept and mail regarding the same was sent on 24th April, 2019 which Emami confirmed on 24th May, 2019. The exchange formalities were commenced after that. Despite continuous follow up by us, Emami did not respond for a long time and only on 20th November, 2019 was a mail sent by Emami demanding payment of Rs. 42,59,289 for exchange of the flat within 15 days and I requested for allowing time of 3 days for submission of this entire large sum. Emami responded on 13th December, 2019 acknowledging the delay

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from their end and demanded payment by 31st December, however without providing required documents for financing which was duly intimated to them on 10th January, 2020.

(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):

In light of the breach of terms and conditions of the Agreement between the parties and grossly unfair trade practices perpetrated by Emami, I am entitled to interest from 1st March, 2017 to 31st August, 2017 on the sum such paid at the PLR of State Bank of India and in terms of the same, are entitled to receive Rs. 474,781/- for the period of March 2017 to August, 2017. Furthermore, in terms of Clause 6.6.3, and due to the failure in handing over the Flat even during the extended construction grace period, I am entitled to receive interest at the prevailing SBI PLR-2% per annum and in terms of the same, they are entitled to receive Rs. 526,726/- for the period of September 2017 to February, 2018.

Further, due to delay in handover of the Flat as the handover of keys had taken place has not taken place till date, I am entitled to receive interest at the 18% per annum and in terms of the same, they are entitled to receive Rs. 2,124,056/- for the period of March, 2018 to 23rd November, 2019.

Based on the above, I am legally and legally entitled to receive a sum of Rs. 3,125,563/- from Emami and the calculation for same is enclosed herewith.

I had to run pillar to post in order to obtain possession of the allotted Flat and same has been delayed without any fault on their part. Despite investing hard earned money and the savings into this flat, its possession after delay of more than two and half years. In view of the abject deficiency in service and blatantly unfair trade practices adopted by Emami, demanding payment of Rs. 3,125,563/- from Emami on account of delay in handover of possession of the flat sub leased from Emami despite payment of full consideration, deficiency in service, breach of representations and warranties and unfair trade practices.

Further, on account of the mental trauma inflicted by Emami and the incessant harassment caused to me, Rs. 11,00,000 is sought along with legal costs estimated at Rs. 2,50,000.

(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:

none

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

none

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

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

no

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)

agreement

Demand letter

payment detail

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Verification

I **PRAKASH PATWARI** son / daughter of **ATMA RAM PATWARI** 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: **12/07/2020**



Signature of the applicant(s)