

# *Aishwarya Kumar Awasthi*

ADVOCATE

CHAMBER: 10, OLD POST OFFICE STREET, GROUND FLOOR,

ROOM NO. - 6, KOLKATA - 700 001.

MOBILE: 9831743910.

E-MAIL: [akaadv@outlook.com](mailto:akaadv@outlook.com).

October 11, 2019

Indus Builders,  
69, Ganesh Chandra Avenue,  
9th floor, P.S. Bowbazar,  
Kolkata 700013.

**RE:** Breach of your obligations under memorandum of understanding dated 20 December, 2016

**My client:** Poulomi Bose

Dear Sirs,

1. A Memorandum of Understanding (MOU) dated 20 December, 2016 was executed, inter alia, between Indus Builders as a developer/seller and my client as the buyer. As per the said agreement, for the purchase of a flat measuring 500 ft<sup>2</sup> super built-up area on the first floor along with one storeroom of 85 ft<sup>2</sup> super built-up area on the ground floor of the building to be developed at premises No. 42 Nalini Ranjan Avenue, P.S. New Alipore, Kolkata 700053, my client paid Indus Builders a consideration of Rs. 62 lakhs.

2. As per clause 2 of the said agreement read with the development agreement dated 20 December 2016 executed between the owners of the said premises and Indus Builders as developer, it was the developer's obligation to obtain a sanctioned building plan for construction of the new building at the premises within 12 months from the date of execution of the MOU. Indus Builders has, however, acted in default of this obligation and has failed to obtain a sanctioned building plan despite more than two years having elapsed from the date of execution of the MOU.

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3. Clause 5 of the MOU obliges Indus Builders to handover to my client, possession of the completed flat and storeroom within 27 months from the date of sanction of the building plan. From a combined reading of clauses 2 and 5 of the MOU it becomes abundantly clear that Indus Builders is under an obligation to obtain sanction of the building plan within 12 months from the execution of the MOU dated 20 December, 2016 and to handover possession of the completed flat and storeroom to my client within 27 months thereafter. Indus Builders is thus under an obligation to handover possession of the constructed flat and storeroom to my client no later than March 2020.

5. Since Indus Builders has already acted in breach and default of its obligation to obtain sanction of the building plan despite two years having elapsed from the date of execution of the MOU, and further as there is clearly no attempt on its part to even now expeditiously proceed with obtaining of sanction of the building plan and commence construction of the new building, my client is of the considered opinion that Indus Builders is neither ready nor willing, or is otherwise unable to fulfill its obligation to handover possession of the completed flat and storeroom to my client on or before March 2020.

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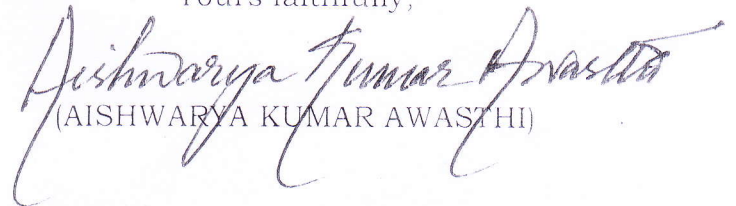
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6. In the circumstances my client is entitled to put an end to the contract and demand a refund of the sale consideration of Rs. 62 lakhs paid to Indus Builders together with interest thereon at the rate of 24% per annum, which she hereby does. You are requested to arrange for such payment within 10 days from the date of receipt of this letter, failing which my client will be compelled and constrained to seek legal recourse against you.

Thanking you,

Yours faithfully,

  
(AISHWARYA KUMAR AWASTHI)