

ORDER SHEET


**WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY**

**Complaint No. COM-000282 of 2020**

**Pritha Roy Sarkar.....Complainant**

**AND**

**Siom Realty Pvt Ltd.....Respondent**

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
<p style="text-align: center;">1</p> <p>-----</p> <p>05-03-2020</p> <p>Dictated &amp; corrected by me</p> 	<p>Complainant is present filing hazira.</p> <p>Ld. Advocate Aindrila De is also appearing on behalf of the Complainant filing vakalaltnama which is taken on record.</p> <p>Respondent is represented by Ms. Purbasa Mukherjee and Mr. Vivek Jhunjhunwala, employees of the Respondent Company, filing proper authorization. The complaint petition has already been served upon the Respondent.</p> <p>2. This is the case of the Complainant that a flat was booked in the project “Mani Casa” on 14/06/2017 entering into an agreement with the Respondent for purchase on payment of Rs.87,93,565/- consideration money as per schedule of payment detailed in the sale agreement. The Complainant has claimed to have made payment of Rs.21,23,834/- duly acknowledged by the Respondent Company. The Complainant has alleged that the Respondent is not allowing her to cancel the agreement, which she applied due to some financial difficulties and some sudden exigency in the family and sought direction upon the Respondent to allow the cancellation of the allotment as per the provision of law.</p> <p>3. Heard the parties in detail.</p> <p>4. This is noted that the project “Moni Casa” is registered under WBHIRA vide registration no. HIRA/P/NOR/2018/000126. It is orally submitted on</p>	

behalf of the Respondent that they are willing to accept the cancellation and refund of the deposits after making deductions in terms of default clauses as recorded at clause no.9 of the sale agreement. It is noticed that default clause provides for deduction of 20% of total consideration money on cancellation of the allotment by the purchaser. However, it is admitted on behalf of the Respondent that no communication on the request of the purchaser for cancellation has been made by the Respondent Company till date. Further, it is also stated that there has been no communication as regards the amount calculated for refund on cancellation and respondent company claims entitlement to deduct 20% on total consideration amount.

5. Complainant submitted that the cancellation has been opted by her due to some financial exigency compelling the Complainant to withdraw from the project sought trouble due to some unforeseen circumstances. It is claimed that respondent has not responded on application for cancellation made by email and followed up with company on several occasions.

6. After examining the documents and considering the facts of the case, this is appropriate to direct the Respondent to communicate their response on the communications for cancellation made by the Complainant within two weeks from today, specifically disclosing the amount being offered for refund giving the reasons supported by the provisions of the law for any amount proposed to be being deducted on cancellation.

7. Let a written response on affidavit on the Complaint be filed by Director of the Respondent Company within two weeks from date of communication of this order, serving a copy to the Complainant.

8. Be it noted that WBHIRA Act, 2017 read with Rules therein shall be applicable for any cancellation considering that the project is registered under WBHIRA and provisions of section 11(5) read with section 13(1) with Rule 9 Annexure "A" para 7.5 shall be applicable for the Project.

9. It will be helpful if the Director of the Respondent Company appears on next date of hearing in order to decide the complaint petition after recording evidence and hearing the parties.

Dictated  
& corrected  
by me



Fix this matter for further hearing and order on 27/03/2020.

20.03.2020

(ONKAR SINGH MEENA)  
Designated Authority,  
Housing Industry Regulatory Authority,  
West Bengal.

Dictated  
& corrected  
by me

