

ORDER SHEET

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000025 of 2018

Dipak Kumar Guha.....Complainant

AND

Srijan Realty Limited.Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
3 ----- 31-05-2019	<p>An online complaint was received as per Section 31 of the West Bengal Housing Industry Regulation Act, 2017 vide complaint No. COM-000025 dated 28/12/2018 to the WB Housing Industry Regulation Authority from Complainant Dipak Kumar Guha of Block No 6, Flat No 8F, Greenfield City Project, Jote Sihibrampur, Kolkata – 700141 against Srijan Realty Limited of Srijan house, 36 A/1 Elgin Road, Kolkata-700020 and as per Rule 36 of the West Bengal Housing Industry Regulation Rules, 2018, Notice was issued for the alleged contravention and Respondent along with the Complainant was directed to appear for hearing at the Office of the WB Housing Industry Regulatory Authority, Calcutta Greens Commercial Complex (1st Floor), 1050/2 Survey Park, Kolkata-700 075 along with his reply with the relevant documents on 10/01/2019.</p> <p style="text-align: center;">On 10/01/2019, the Respondent and the Complainant appeared.</p> <p>In his complaint, the Complainant stated that around 1400 HIG flats in Greenfield City Project were registered and handed over to the flat owners during the last 4 years in accordance with the provisions of the General Terms and Conditions agreed upon by the flat owners at the time of purchase of flats. Separate Apartment Owners Association was required to be formed for HIG flat owners. Further the title deeds executed by HIG flat owners contain a clause making the membership of Apartment Owners Association binding on the flat owners. An amount of Rs. 10,000/- was recovered from individual flat owners at the time of purchase of flats towards legal charges including for formation of the Association. The</p>	dispatched on 17.2.19


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Complainant has been following up the matter of formation of Apartment Owners Association with the builder/promoter for the last 2 years. But the builder/promoter has been taking no steps for formation of the Association neither is he giving the Complainant and other flat owners the documents like Building Plan, Site Plan, Completion Certificate and the contact details of all HIG flat owners to form their own Apartment Owners association. The builder/promoter has been delaying the matter in one pretext or another depriving the Complainant and other flat owners of their statutory rights including maintenance of their structures. Of late the builder/promoter has been insisting for formation of a single association for all income groups much against the wishes of the Complainant and other flat owners. The builder/promoter has been levying discriminatory fee structures for the same club facilities.

During the hearing the Respondent was directed to submit reply within ten (10) days and the next date of hearing was fixed on 7/2/19.

On 07/02/19, no hearing was held and the next date of hearing was fixed on 12/3/19.


On 12/03/19, both parties appeared for hearing. The Respondent prayed for time due to non-availability of documents. Accordingly, the next date of hearing was fixed on 22/05/2019.

On 22/05/19, the Respondent appeared and filed hazira but the Complainant was not present. Since the Complainant was absent, the next date of hearing was fixed on 31/05/2019.

On 31/05/19, both the Complainant and the Respondent filed hazira.

During the hearing the Respondent stated that the Complainant has filed the instant case against Srijan Realty Limited although Srijan Realty Limited is not at all the promoter of Green Field Project, hence, the complaint is bad for non joinder of parties.

However, the Complainant during the hearing submitted that the developer ~~or promoter~~ Green Field City Project LLP is a Limited Private Partnership between Bengal Green Field Housing Development Company Limited and Srijan Realty Ltd. The Complainant further submitted that Srijan Realty Limited is developing the property and promoting itself. Thus, Srijan Realty Ltd. is obviously the Respondent.


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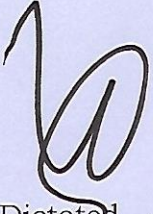
I have gone through the complaint, the document submitted by both the parties and submissions made by both parties during the hearing.

It is fact that the Respondent is the promoter of the said project and it is also a fact that the Respondent is not taking any steps for formation of Association of Apartment Owners; neither is giving flat owners of the said project, necessary documents for formation of the apartment owners association. Thereby the Respondent has violated section 17 of the West Bengal Housing Regulation Act, 2017.

Therefore, it is ordered that the Respondent shall take necessary steps for formation of the Association of Apartment Owners of the allottees of the said project as per provisions of the WB Apartment Ownership Act, 1972, and hand over the necessary documents and plans, including common areas, to the said association of the allottees within a period as per provisions of the WB Apartment Ownership Act, 1972.

The matter is hereby disposed of.

Let a copy of order be communicated to both the parties.



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Designated Authority,
Housing Industry Regulatory Authority