

ORDER SHEET

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000020 of 2018

Mr. Ashish Saxena.....Complainant

AND

Mr. Eken BoseRespondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
5 ----- 06-05-2019	<p>An online complaint was received as per Section 31 of the West Bengal Housing Industry Regulation Act, 2017 vide complaint No. COM-000020 dated 06/12/2018 at the WB Housing Industry Regulatory Authority from Complainant Mr. Ashish Saxena of Lake Town, Kolkata - 700089 against Mr. Eken Bose of Uniworld City, Kolkata- 700160 and as per Rule 36 of the West Bengal Housing Industry Regulation Rules, 2018, NOTICE was issued for the alleged contravention and both the Complainant and the Respondent were directed appear for hearing at the Office of the WB Housing Industry Regulatory Authority, along with relevant documents, if any, on 03/01/2019.</p> <p>On 03/01/2019, both the parties appeared. The Complainant submitted that one time full payment to the tune of Rs. 57,60,058/- was made in the year 2008 and agreement for sale was executed between them on 08/01/2008 and prayed for immediate possession of the flat or refund of the amount paid to the Respondent with interest and penalty as per West Bengal Housing Industry Regulation Act, 2017.</p> <p>The Respondent has submitted that a Court case in this regard is pending before the Hon'ble Supreme Court of India, wherein interim protection has been given by the Hon'ble Court that no other court or Authority shall take any Coercive steps against the petitioner No.3 and its subsidiary companies in the said court case.</p> <p>Since, the Respondent failed to produce any document that the Respondent is the petitioner No.3 or its subsidiary company in the said court case pending before the Hon'ble Supreme Court of India, the Respondent is directed to furnish the document before this Authority in order to prove his submission and the next date of hearing was fixed on 10/01/2019.</p>	

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On 10/01/2019, both the parties appeared and as per the previous order dt. 03/01/2019 of this Authority, the Respondent submitted a copy of Impleadment Petition filed by Unitech Ltd. before the Hon'ble Supreme Court of India in SLP(CrI) No. 5978 – 5979 of 2017 and subsequent order thereto allowing the said Impleadment Petition.

The Respondent further submitted that an Amicus Curiae has been appointed by the Hon'ble Supreme Court of India for compilation of a list of projects and the names of the consumers and the amount deposited project wise.

The Respondent was therefore, directed to place documents before this Authority to state that the project wherein the Complainant has booked his flat is also enlisted in the aforesaid list as prepared as per direction of the Hon'ble Supreme Court of India and the Respondent was also directed to submit before this Authority the present status of the case before the Hon'ble Supreme Court of India.

On the next date of hearing on 12/03/2019, detailed list of housing projects undertaken by the Unitech Limited throughout India which were filed before the Hon'ble Supreme Court of India in SLP(CrI) No. 5978-5979 of 2017 was submitted and a copy was given to the Complainant. The Complainant sought further time to file his reply.

On the next date of hearing on 06/05/2019 the matter was taken up and I have gone through the documents related with the instant matter and the submissions made by both the parties during the hearing.

It is a fact that a court case is pending before the Hon'ble Supreme Court of India, wherein an interim protection has been given by the Hon'ble Apex court of India that no other court or Authority shall take any coercive steps against the petitioner No.3 & its subsidiary companies.


It is not proved that the Respondent company in the present petition is a subsidiary company of the petitioner No. 3 in the case before the Hon'ble Supreme Court of India and the housing project wherein the Complainant has booked his flat has also been made part of the court case before the Hon'ble Supreme Court of India.

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Therefore, last opportunity is provided to the Respondent to submit an affidavit of declaration stating that the Respondent company in the present petition is a subsidiary company of the petitioner No. 3 in the case before the Hon'ble Supreme Court of India and the housing project wherein the Complainant has booked his flat has also been made part of the court case before the Hon'ble Supreme Court of India and the Respondent shall also submit proper documents in support of such affidavit of declaration.

The Respondent is directed to submit such affidavit along with supportive documents within 15 days from the date of communication of this order.

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


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Designated Authority,
Housing Industry Regulatory Authority