

ORDER SHEET


WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000064 of 2019

Rajesh Kumar Gupta.....Complainant

AND

M/s N.B. Highrise Pvt Ltd. & Othrs.....Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
<p>----- 19-09-2019</p> <p>Dictated & corrected by me</p> 	<p>Both parties are present today.</p> <p>Heard both the parties in details. There are disputes as regards the delay in making payment in terms of sale agreement containing the schedule of payment and both the parties are in disagreement about the reasons for such dispute because extra work beyond the schedule of sale agreement as requested by the Complainant and the same was agreed upon by the Respondent to be executed on additional payment. However, both the parties are in agreement on the fact that possession is not yet delivered. There are claims and counter claims regarding responsibility of delay. As there are no written agreement between both the parties on additional work as the same was not the part of original sale agreement, the present dispute cropped up, added with delayed completion certificate obtained by Respondent.</p> <p>The Complainant claims that despite making more than 90% of the payment as per agreed payment schedule, the possession of the property as</p>	

per sale agreement as well as registration of deed of conveyance is still pending and he prays for direction to get the possession of the property and execution of the deed of conveyance along with the compensation for delay in possession by 16 months and compensation for mental agony and litigation cost.

The Respondent admitted that Complainant is entitled for possession now as has received the payment as per sale agreement but the payment for extra work which amounts to Rs.1,72,537/- has to be made. The Respondent submitted that he is willing to hand over possession to the Complainant however, the payment for extra work amounting to Rs.1,72,537/- is required to be made before the possession can be handed over. The Complainant dispute the delay in amount and admits that the amount due for payment for extra work shall be Rs.87,670/- according to the work ordered by him to the Respondent.

The Respondent submitted during hearing that completion certificate of the project was obtained only on 22/08/2019 against the application he made to the Building Plan Sanction Authority on 09/07/2018. Admittedly there has been delay on the part of Respondent in completion of the building beyond the agreed time line of possession by six months and cumulative delay of 15 months as on date. Now in order to ascertain the admissibility of interest/compensation for delay in possession as well as delay in payment on the part of Complainant, if in any, the Complainant is asked to submit on affidavit the list of dates of payment as against schedule of payment as per sale agreement as well as for extra work with a copy to Respondent in a week. The Respondent shall file his objection and response affidavit in opposition within next three days thereafter.

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& corrected
by me



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by me



As an interim direction this Authority directs Respondent to hand over possession of the schedule property as per sale agreement and after completing additional work as ordered within one week by Complainant clearing the dues as per sale agreement and extra work agreed upon between both the parties.

Fix 30/09/2019 for final orders.



Designated Authority,
Housing Industry Regulatory Authority,
West Bengal.