

ORDER SHEET


WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000075 of 2019

Rinki Gupta.....Complainant

AND

Eden Realty Ventures Pvt. Ltd.Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
4 ----- 12-12-2019 Dictated & corrected by me 	<p>Complainant is present filing hazira.</p> <p>Ld Advocate Shri Sanjoy Bhattacharya of the Respondent is present, filing hazira.</p> <p>Heard both the parties in detail.</p> <p>The case of the Complainant is that he booked one (1) BHK flat of "A" type, flat no.1017, Tower-1, under Zone-12 in the project 'Solaris City Serampore Project' of the Respondent Company vide Flat Application No.55688 by deposit of application amount of Rs. 45,000/- on 22/12/2018. A provisional allotment letter has been issued to him on 22/04/2019 by the Respondent Promoter and the Complainant was informed that his application was successful in the E-Lottery process held on 15-04-2019 and amount of Rs.85524/- is required to be paid by him on or before 07/05/2019.</p> <p>Thereafter, Complainant requested for cancellation of the allotment and requested for refund of the application amount but the Respondent company refused to refund the said amount stating the reason that as per clause 8 (B)</p>	

Dictated
& corrected
by me



point (ii) of the GTC,- that has binding clause where the applicant has only paid the application amount and in case of rejection / cancellation of application or allotment for any reason whatsoever after being successful in the E-Lottery the entire application amount shall be forfeited by the promoter and no amount shall be refunded to the applicant by the Promoter.

On examination of the facts of the case and the documentary evidences and hearing the submission of both the parties, the Authority is satisfied to the effect that Rs. 45,000/- has been deposited by the Complainant as the application fee and that the application amount is liable to be forfeited in case of cancellation of allotment by the Allottee as per General Terms and Conditions (GTC) agreed upon between the parties. As per clause 8(B) point (ii) of the GTC the application amount paid by the applicant shall be forfeited by the promoter and no amount shall be refunded by the promoter to the applicant.

Complainant argued that this is a case of rejection of application and to be guided by clause 7(F), though Complainant could not deny the facts that GTC clauses are binding upon the parties and provisional allotment letter was duly delivered to the Complainant to satisfy the requirements of allotment, therefore, contention of Complainant is contrary to documentary evidence admitted in this case.

Therefore, it is hereby

Ordered,

the promoter is entitled to invoke the provisions of GTC and as per provisions the Complainant is not entitled to refund in terms of clause 8(B) of the GTC duly proved beyond doubts and therefore, complaint petition is dismissed.

Let a copy of this order be served to both the parties.

With the above directions the matter is thus disposed off.


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