

**ORDER SHEET**

**WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY**

Complaint No. COM-000146 of 2019

Kunal Kumar Sen.....Complainant

AND

Usashi Realstates Pvt. Ltd.....Respondent

| Sl. Number<br>and date of<br>order | Order and signature of Officer  | Note of<br>action<br>Taken<br>on order |
|------------------------------------|---|--|
| 2<br>-----<br>04-12-2019           | <p>The Complainant is present, filing hazira.<br/>The Respondent is not present despite notice duly served as per postal slips.<br/>Let service return be kept on record.</p> <p>The Complainant filed a written submission stating that a notice has been served to the Respondent Company addressed to Mr. S.K.Patra, authorised signatory of the Respondent Company which has been duly served. The return of service by the Complainant is also taken on record.</p> <p>This Authority noted from the record of the case that Respondent Company did not participate in the hearing on the earlier occasion despite proper service of the notice and accordingly as stated in the Authority order dated 13/11/2019, this Authority is compelled to proceed ex parte in terms of Rule 36(2) of WBHIRA Rules, 2018.</p> <p>The Complainant filed documentary evidence before this Authority which are already taken on record.</p> <p>Heard the Complainant and examined documents.</p> <p>After examining the brochure of the project and advertisement issued by the Respondent Company and verifying the money receipts and confirmatory letter of allotment duly acknowledged by the Respondent Company, this is proved beyond any doubt that Respondent Company could not fulfil the commitments made in general terms and conditions as stated in the GTC annexed to the provisional allotment letter against application no.PTP0096/16 AND PTP0097/16 as stated in details in this Authority order dated 13/11/2019.</p> <p>The Complainant filed a photographic evidence of physical progress of the project which confirmed that the project has not yet commenced as assured in the allotment letter and in GTC and there is no possibility, considering the present physical status of the project, to deliver the possession within 40 months timeline, ending in January, 2020. This is not at all possible to complete the project in next two months as available in terms of the original agreement between the parties as stated in the GTC and therefore, there is no option but to issue directions for refund in terms of section 18 of WBHIRA Act, 2017.</p> |  |

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Accordingly, after careful examination of the facts of the case and evidence produced by the Complainant, it is

Ordered,

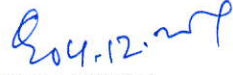
that Respondent Company shall refund entire amount of Rs.17,61,000/- paid by the Complainant along with admissible rate of interest till refund of entire amount.

Respondent Company shall refund the amount in the bank account of the Complainant by bank transfer within 45 days from the date of this order.

Be it noted that failure to comply orders of this Authority shall attract invoking penal provisions of WBHIRA Act, 2017 in terms of section 63 of the Act.

The Complainant is allowed to serve the copy of final order along with the order dated 13/11/2019 and demand the amount as per this final order. Complainant is at liberty to take steps to approach the appropriate Authority for execution of order, if not complied by the Respondent Company.

Complainant petition is thus disposed off.



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

Dictated  
& corrected  
by me

