

ORDER SHEET

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000158

Bikash Kumar BathwalComplainant

AND

Emami Realty Limited.....Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
8 ----- 13.01.2021	<p>Ld. Advocate Smt. Saheli Sen representing the Complainant is present in the online hearing by filing hazira through email.</p> <p>Ld. Advocate Binota Roy and Vedika Sureka are present in the online hearing representing the Respondent and filing hazira and authorization through email.</p> <p>Heard both the parties at length.</p> <p>Ld. Advocate of the Complainant submitted that till date physical possession of the flat booked by the Complainant has not been delivered to the Complainant in violation of the order of this Authority, dated 25/02/2020 and order of the West Bengal Housing Industry Appellate Tribunal (WBHIAT) dated 29/12/2020 in Case No.HIAT/MISC.APPEAL-003/2020. Complainant prays before the Authority for immediate delivery of possession of the flat to the Complainant and she also requested for imposition of section 63 containing the provision of penalty upon the Respondent for each day of default in complying with the order of this Authority.</p> <p>The West Bengal Housing Industry Appellate Tribunal (WBHIAT) in its order dated 29/12/2020 while disposing of Case No.HIAT/MISC.APPEAL-003/2020 as per the direction of Hon'ble High Court at Calcutta in C.O.1573 of 2020 read with C.O. 1314 of 2020 has been pleased to direct the Respondent to comply with the order passed by this Authority in its interim order dated 25/02/2020 as well as the order of the Tribunal dated 27/11/2020</p>	

since the payment of consideration money has been made by the Complainant and the Respondent in turn is supposed to deliver the possession of the booked flat only in terms of agreement for sale executed between the parties, since further there is already direction of the Tribunal that the Complainant will join in the deed of conveyance along with his father Ajay Kumar Bathwal who are son and father in relation.

The Ld. Advocate of the Respondent submitted that a fresh case has been filed by the Respondent in the Hon'ble High Court in Calcutta with C.O. 19 of 2021 and she has also sent by email an internet downloaded copy of the order of the Hon'ble High Court in C.O. 19 of 2021 dated 11/01/2021. The Hon'ble High Court in the said order categorically observed that there is no reason to pass any specific interim order at this stage as the matter is going on.

Let the internet downloaded copy of the order of the Hon'ble High Court, Calcutta be kept on record.

After hearing both the parties and after examination of the case record and also taking into consideration the order of the Hon'ble High Court in the cases mentioned herein before and order of the WBHIAT in Case No.HIAT/MISC.APPEAL-003/2020 Authority is of the opinion that there is no legal impediment in carrying out the order of this Authority dated 25/02/2020.

Therefore, the Authority is pleased to direct the Respondent to comply with the order of this Authority dated 25/02/2020 and deliver the physical possession of the flat booked by the Complainant within 18/01/2021 to the Complainant and submit the compliance report within one week from the delivery of possession of the flat.

Along with the above mentioned compliance report, the Respondent is also directed to show cause as to why action will not be taken up against him as per the provision of section 63 of the WBHIRA Act, 2017, for non-compliance of the order of this Authority dated 25/02/2020 till date.

In the last order of this Authority in this matter the order no. has been

typed incorrectly as Order no.1. It is hereby corrected and and it shall be read as order no.7 in place of order no.1.

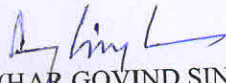
Fix 05/02/2021 for further hearing and order.



(SANDIPAN MUKHERJEE)

Chairperson

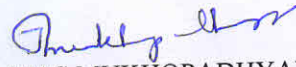
West Bengal Housing Industry Regulatory Authority



(HAR GOVIND SINGH)

Member

West Bengal Housing Industry Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Housing Industry Regulatory Authority