

ORDER SHEET

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000130 of 2019

Ashish Saha.....Complainant

AND

M/s Nestwood Estates Pvt. Ltd.....Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
5 ----- 04-12-2019	<p>The Complainant is present and files hazira.</p> <p>The Respondent is not present despite notice duly served as per postal slips. Let service return be kept on record.</p> <p>This Authority noted from the facts of the case that Respondent Company did not participate in the hearing on the earlier date despite proper service of the notice and accordingly as stated in the Authority's order dated 13/11/2019, this Authority is satisfied to proceed ex parte in terms of Rule 36(2) of WBHIRA Rules, 2018.</p> <p>The Complainant filed documentary evidences before this Authority which have already taken on record and stated in the Order of this Authority dated 13.11.2019.</p> <p>The evidence produced by the complainant has been examined. This is evident that the Respondent Company invited applications from the prospective home buyers for the project namely " Nestwood Maple" and the Complainant booked the flat by paying the requisite booking money against Application No. 0757 which has been duly accepted and confirmed by Respondent Company and Rs.3,26,507/- has been paid by the Complainant till</p>	

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date to the Respondent. After examining the brochure of the project of the Respondent Company and verifying the money receipts duly acknowledged and confirmatory letter of allotment duly issued by the Respondent Company, this is proved beyond any level of doubt that Respondent Company could not fulfil their obligations made in the allotment letter against Form no.0757 as stated in detail in this Authority's order dated 13/11/2019 and failed to give delivery of possession of the said flat to the Complainant. The Authority is satisfied to the effect that the Complainant booked the flat in their project and the Respondent Company could not fulfil their obligations to complete the project and offer possession to the Complainant for the reasons best known to the Respondent Company.

Accordingly, after careful examination of the facts of the case and documentary evidence produced by the Complainant, this Authority is satisfied that there are serious breaches on the part of the Respondent regarding delivery of possession to the Complainant and therefore it is hereby

Ordered,

that the Respondent Company shall refund entire amount of Rs.3,26,507/- paid by the Complainant alongwith interest at the rate as agreed upon between the parties in the General Terms and Conditions (GTC) from the date of payment to 31.05.2018 and at the rate of SBI Prime lending interest rate plus 2% from 01.06.2018 till the date of final payment of refund. Respondent Company shall refund the amount in the bank account of the Complainant by bank transfer within 45 days from the date of communication of this order.

It is to be noted that failure to comply orders of this Authority shall attract the 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 refund the amount to the Complainant as per this order.

Complainant is at liberty to take steps to approach the appropriate Authority for execution of this order if not complied by the Respondent

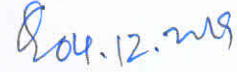
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Company.

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

Complainant petition is thus disposed off.



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