

ORDER SHEET


WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000229

Nandita Mukhopadhyay.....Complainant

AND

Soumita Projects Pvt. Ltd.....Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
<p style="text-align: center;">2</p> <p>----- 18-03-2020</p> <p>Dictated & corrected by me</p> 	<p>Both parties are present filing hazira.</p> <p>Written response on affidavit have been filed on behalf of the Respondent serving a copy of complaint to the Complainant at the time of hearing. This is taken on record</p> <p>2. Respondent, inter alia, offered to return entire deposits along with applicable interest in 12 equal monthly instalments, which is declined by the Complainant. The offer for alternative allotment in other projects and offer for handing over possession of the allotted flat within six months are also declined by the Complainant on the grounds that the family is facing certain economic exigency due to serious illness of husband of Complainant diagnosed with chronic disease.</p> <p>3. Complainant prayed for refund with admissible interest and compensation without further delay. After examining the submissions and counter submissions and facts of the case, this Authority is of the considered view that the promoter failed to fulfil his commitments by not completing project within due date of possession and therefore, Complainant is entitled to get refund of entire deposits paid to the Respondent along with interest and compensation as admissible.</p> <p>4. Respondent did not dispute this factual position and offered refund along with admissible interest within 90 days from today. It is orally that co-</p>	

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operation from the Complainant allowing Respondent to sell the flat allotted to the Complainant by way of issuing proper authorization for sale is solicited. The Complainant while agreeing to such proposal, which is made at the time of hearing insisted such proposal be given in writing on affidavit, in modification to the written response on affidavit filed today. Respondent agreed to such request of complainant

5. The Authority after examining the fact and hearing the parties passed the following ad interim orders :

Ordered,

that the Respondent shall refund an amount of Rs.33,32,800/- along with interest to be paid at the rate of interest as noted in the sale agreement i.e. prevailing SBI Savings Account rate of interest per annum from date of deposit till 01/06/2018 and at the rate of SBI PLR +2% from 01/06/2018 to date of final refund as per rule 18 of WBHIRA Rules 2018. This rate of interest shall be calculated on the principal amount remaining outstanding as on 01/06/2018 from the date of deposit to 01/06/2018 at the rate of SBI savings account interest rate and at the rate of SBI PLR + 2% from 01/06/2018 till final refund on the amount remaining outstanding.

(b) This is clarified that Respondent is entitled to sell the flat as allotted to the Complainant on written authorization against proposal as stated above on affidavit disclosing the admissible amount to be refunded along with schedule of refund in terms of this Authority order and after making payment of 1st instalment in the Bank Account of Complainant. Payment of TA instalment shall be concluded within 30 days from today.

(c) Complainant has to issue appropriate authorisation to the Respondent for sale of the flat, on being satisfied on receipt of 1st instalment in terms of this order and having received written offer on affidavit as regards refund schedule of balance amount in terms of this order of the Authority, which is issued on the consent of the parties.

(d) On full payment of the amount in terms of this order the sale agreement will be deemed cancelled and the Respondent will be at liberty to create third party interest as all rights of the Complainant in the property will cease to exist on satisfactory payment of final amount as per this order.

However, pending cancellation of the sale agreement on satisfactory payment of full amount, the Complainant shall extend required co-operation enabling the Respondent to find out buyer of the property and sale the property.

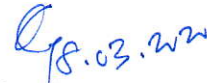
(e) Be it noted that the Respondent shall make the full refund within 15/06/2020 irrespective of whether the allotted property of the Complainant is transferred by sale to third party /new buyer or not and any plea for not getting buyers of such property or any delay in getting buyers of the property shall not be taken as justified plea for non compliance of orders of this Authority to make full and final payment within 90 days from today.

There are no other orders as to costs.

Communicate to both parties.

Fix this matter for compliance as regards first instalment and confirmation of settlement between the parties on 24/04/2020.

Dictated &
corrected by me



(ONKAR SINGH MEENA)

Designated Authority,

Housing Industry Regulatory Authority,

West Bengal.