

ORDER SHEET


WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000065 of 2019

Vinahast Property Pvt. Ltd.....Complainant

AND

Bengal Unitech Infrastructure Pvt Ltd.....Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
4 ----- 18-11-2019 Dictated & corrected by me 	<p style="text-align: center;">Authorised representative of both the parties are present and filed hazira.</p> <p>It is noticed from the record of the case that the Complainant filed online complaint petition on 20/04/2019 against the Respondent Company Bengal Unitech Universal Infrastructure Pvt. Ltd.</p> <p>The case of the Complainant is that an apartment bearing apartment no.- 1103 on 11th Floor, Tower-01 having super built up area measuring 3348 sq ft in the project "AIR" in Uniworld City, in New Town, Kolkata Project of the Respondent Company was booked and an agreement for sale was signed between both the parties on 28/11/2012 promising allotment of the apartment as stated in Clause 1.a under the heading 'apartment' against consideration amount of Rs.2,05,19,025/- inclusive of basic price and car parking space charges. As per clause 5.a of the agreement the possession of the apartment was agreed to be delivered by 30/09/2016. Out of the total consideration money, the Complainant has already paid a sum of Rs.19,34,173/- to the Developer, in terms of sale agreement para 2.6 and receipt signed by Respondent are filed.</p> <p>The Respondent company was served the copy of the complaint petition along with the copy of the agreement for sale, which provides for obligations</p>	

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on the part of the Respondent Company to deliver the possession as per agreement or pay admissible compensation as per law in the event of Respondent not in a position to offer the allotment in that case refund the money collected from the Complainant. Respondent Company did not deny the claims and facts stated in the complaint petition and their obligations in the agreement for sale but took the plea before this Authority by filing Affidavit that the Respondent Company M/s Bengal Unitech Infrastructure Pvt. Ltd is a subsidiary Company of the M/s Unitech Ltd and the projects relating to Unitech Ltd are sub judice in Apex Court in SLP (Crl) Nos.5978-5979 of 2017 and therefore, this Authority, accordingly the Respondent does not have jurisdiction to dispose of the complaint application in the present form. However, Respondent Company also stated in its written submission on 30/05/2019 that the apartment of the Complainant is ready for possession and offered the Complainant that the possession can be delivered in 4th quarter of 2019.

As per SLP (Crl.) Nos.5978-5979 of 2017 in the matter of Sanjay Chandra & Anr. -Vs- State Govt. of NCT of Delhi, by an order dated 30/10/2017 of the Hon'ble Supreme Court of India M/s Unitech Ltd. has been impleaded as petitioner No.3 but the Respondent did not submit any stay order passed by Hon'ble Supreme Court in this matter or any direction passed by the Hon'ble Apex Court restricting the jurisdiction this Authority to pass orders as per the WBHIRA Act, 2017 and rules made there under. This Authority is duty bound to proceed under Rules 36(2) of WBHIRA Rules, 2018 on the complaints filed under section 31 of the WBHIRA Act, 2017 in absence of any specific orders passed by Appellate Court/Apex Curt restricting jurisdiction of the WBHIRA Authority.

Today during the hearing it is found that the property is not yet ready for delivery of the possession and there is no specific time line offered from the Respondent as to when the possession can be delivered to the Complainant.

Complainant vehemently denied the claims made by the Respondent company that flat is ready for delivery of possession and pray orders for refund along with admissible interest compensation in terms of sale

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agreement. Let the written declaration filed at the time of hearing be kept on record.

Heard both the parties and examined the facts and documentary evidences. The Respondent admitted the claims made in documentary evidence and facts filed by the Complainant.

In view of the submissions made on behalf of the Respondent Company offering the possession of the property in 4th quarter of 2019, the Respondent Company is directed to deliver the possession within two weeks of receipt of this order. The delivery of the possession has to comply all the requirements of the agreement for sale and should be acceptable to the Complainant as per obligations of the agreement. In the event of Respondent Company is not in a position to comply the order and deliver the possession as per order of this Authority, this Authority shall hear both the parties on next date of hearing and issue the final order as regards refund and compensation as admissible.

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

Fix the matter for final hearing and orders on 04/12/2019.


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