

**West Bengal Real Estate Regulatory Authority
Calcutta Greens Commercial Complex (1st Floor)
1050/2, Survey Park, Kolkata – 700 075.**

Complaint No.WBRERA/COM-0000125

Modassair JawaidComplainant

Vs.

1. Cancun Constructions
2. Sri. Debasis Biswas
3. BON Marque Pvt. Ltd. Respondents

| Sl. Number and date of order | Order and signature of Officer | Note of action taken on order |
|------------------------------------|--|--|
| 1 ----- 01.06.2023 | <p>Shri. Saurav Chandra, Authorized Representative of Complainant, is present in the online hearing filing hazira and authorization through email.</p> <p>Respondents are absent in the online hearing despite due service of notice through email. The Notice of the Hearing sent by speed post contains the track record that; - "Item returned addressee left without instructions".</p> <p>Heard the Complainant in detail.</p> <p>As per the Complainant, he visited the flat on March, 2019, against which an Agreement for Sale was executed between the Complainant and Respondent no. 1 & 2, just before three months and he found that someone residing in the same flat which is fully furnished with interior work. On cross checking by the Complainant, the neighbours of the building named as 'Klinton Tower', confirmed that the said flat has been occupied</p> | |

since last two months by those people and they are living with due permission of the Respondent No. 1. The Complainant immediately called the Respondent No. 1, 2 & 3 and confronted about all the possibility of some body's occupation in the same flat for which the Respondent No. 1 and 2 has signed an Agreement for Sale just three months back i.e. on 01.12.2018. The Respondent No. 3 has taken Service Charge from the Complainant just five months back i.e. on 13.10.2018. The Complainant being cheated by the Respondent No. 1, 2 & 3 asked them to return the Service Charge plus booking money of (Rs.1,00,000+4,00,000) = Rs. 5,00,000/- with immediate effect. In turn the Respondent No. 3 proposed via email dated 13.03.2019 to shift the booking of the Complainant in their other project namely '**Orange Nest**'. In reply, the Complainant via email dated 23.04.2019 clearly refused the proposal of shifting of the booking and demanded the entire Booking Money and Service Charges back. On 14.11.2019 and 18.01.2020, the Complainant received Return Memo Report of cheques with a remark "Insufficient Fund" and till date not received any amount from the Respondent.

The Complainant prays before the Authority for relief of:-

- a) An order of immediate Refund of the Booking amount for Rs. 4,00,000/- plus interest;
- b) An order for immediate Refund of Service Charge amount of Rs.1,00,000/- plus interest;
- c) An order of Compensation of Rs.5,00,000/-;
- d) An order for Litigation Cost of Rs.30,000/-;
- e) An order for exemplary punishment etc.

After hearing the Complainant, the Authority is satisfied to

admit this matter for further hearing and order.

The Complainant is directed to submit his total submission regarding his Complaint Petition on a Notarized Affidavit annexing therewith notary attested supporting and a signed copy of the Complaint Petition and send the original Affidavit to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within 7 days from the date of receipt of this order through email.

The Respondent is directed to submit his Written Response regarding the Complaint Petition on a Notarized Affidavit annexing therewith notary attested supporting documents, if any, and send the original to the Authority serving a copy of the same to the Complainant, both in hard and soft copies, within 7 days from the date of receipt of the Affidavit of the Complainant either by post or by email, whichever is earlier.

Fix **28.06.2023** for further hearing and order.



(SANDIPAN MUKHERJEE)

Chairperson


West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority