## ORDER SHEET

## WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Complaint No. COM-000169 of 2019

Kirty Nayak......Complainant

AND

M/s Puspam Realcon & Ors.....Respondent

Sl. Number	Order and signature of Officer	Note of
and date of		action
order		Taken
		on order
1	Complainant is represented by Ld. Advocate Pingal Bhattacharjya filing	
12-12-2019	vakalatnama	
	Respondent promoter M/s Puspam Realcon is not present though notice	
	has been duly served as per postal slips. Let the service return be kept on	
	records.	
	Others Respondents namely Bhola Das, Naba Gopal Konar, Tinku	
	Chatterjee, Chandana Konar, Kazi Naimuddin and Kazi Nazibul, all joint	
	owners of the land are by Ld. Advocate Uday Kumar Mondal filing	
	vakalatnama, Respondent land owners are also present.	
	Heard the Ld. Advocate of parties present today in details.	
	The case of the Complainant as stated in the complaint petition and	
	written submissions filed on behalf of the Complainant does not disclose	
	contraventions of any provisions of WBHIRA Act, 2017 (henceforth the Act)	
	and there are no grounds made out in the complaint petition which can be	
Dictated	proved by documentary evidence or submissions of the parties that can	
& corrected by me	satisfy this Authority to proceed further in terms of Rule 36 (2) of WBHIRA	· ·
&	Rules, 2018.	
	The Complainant admitted the fact that possession of the property has	

been delivered on 29/09/2016 and deed of sale executed on 16/08/2016 as recorded in the complaint petition and therefore, the provisions of section 19(10) of the WBHIRA Act, 2017 as argued by Ld. Advocate of the Complainant are not applicable in the instant case where physical possession of the apartment or property has already been delivered and deed of sale executed. Further, provisions of section 3 of WBHIRA Act, 2017 are also not applicable in the case where cause of actions are retrospective i.e, prior to 01/06/2018, the date from which the present Act has been commenced.

Dictated & corrected by me



Ld. Advocate representing the Complainant filed a supplementary affidavit on behalf of the Complainant which, inter alia claimed violations of provisions of the West Bengal Municipal Rules, 2007 by the Respondent promoter, particularly Rule 36 of the said Rules which prohibit to use of building without occupancy certificate. Such provisions of the Municipal laws are required to be enforced by concerned Municipal Authority and has no relevance in the instant case. For these reasons the claims in supplementary affidavit are not admissible under WBHIRA Act, 2017 to prove isolations of the Act.

The Complainant can avail the legal remedies available before the appropriate forum.

Considering the provisions of the law and in absence of any conclusive proof which can prove contraventions of any provisions of WBHIRA Act, 2017, the complaint petition is not maintainable and accordingly dismissed.

The complaint petition is thus disposed off.

Let this order be served to both the parties.

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