ORDER SHEET

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Prantika Choudhury.......Complainant

AND

Nestwood Estates Pvt. Ltd.......Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on orde
24-02-2020 Dictated & corrected by me	Authorised representative and father-in-law of the Complainant is present and files hazira. The Respondent is not present despite due service of notice as per postal slips. Let the service return be kept on record.	
	This Authority noted from the facts of the case that Respondent Company did not participate in the hearing on the earlier date also, that is on 22:01.2020 despite proper service of the notice and accordingly this Authority is satisfied to proceed ex parte in terms of Rule 36(2) of WBHIRA Rules, 2018.	
	The Complainant filed documentary evidences before this Authority which have been already taken on record and duly stated in the Order of this Authority dated 22.01.2020.	
	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 a 2BHK flat measuring 978 sq ft by paying the requisite booking money against Application No. 0773 which has been duly accepted	

and acknowledged by Respondent Company and a Memorandum of Understanding was executed between the parties in this regard on 06.05.2017.

The Complainant paid total Rs.4,13,247/- in this regard to the Respondent.

The details of the payments are as follows:-

Dictated & corrected by me



Complainant paid Rs.50,000/- vide cheque No. 866427 dated 26.08.2014,Rs, 90,000/- vide Cheque No.685004 dated 26.09.2014 ,Rs.28,247/- vide Cheque No.509032 dated 26.09.2014,Rs.23,00,00/- vide Cheque No.125511 dated 14.11.2014 and Rs.15,000/- vide Cheque No.00439 dated 08.12.2014 .

The Complainant was compelled to seek refund of entire amount from the Respondent Company as the project could not be started as assured in the General Terms and Conditions of the allotment and application Brochure. In the year 2019, the Responded refunded Rs.50,000/- to the Complainant. Total Rs. 3,63,247/- has not been refunded back till date by the Respondent.

After examining the brochure of the project of the Respondent Company and verifying the money receipts ,confirmatory letter of allotment duly issued by the Respondent Company and the Memorandum of Understanding executed on 06.05.2017, this is proved beyond any level of doubt that Respondent Company could not fulfil their obligations made in the allotment letter against Form no.0773 as stated in detail in this Authority's order dated 22/01/2020 and failed to give delivery of possession of the said flat to the Complainant within the year 2019 as agreed between the parties. 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 within the time as agreed between the parties 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 within the time as agreed

Dictated & corrected

between the parties and therefore it is hereby

Ordered.

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by me

that the Respondent Company shall refund entire amount of Rs.3,63,247/paid by the Complainant alongwith interest at the rate as agreed upon between
the parties in the 'Memorandum of Understanding executed between the
parties on 06.05.2017' 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 22/01/2019 and seek refund of the amount from the Respondent 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 Company.

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

This Complainant petition is thus disposed off.

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