



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

M/s BPTP Ltd
1. **COMPLAINT NO. 1696 of 2022**
....COMPLAINANT(S)

VERSUS

Moli Gyan
....RESPONDENT(S)

M/s BPTP Ltd
2. **COMPLAINT NO. 1698 of 2022**
....COMPLAINANT(S)

VERSUS

Purnima Ramakrishna
....RESPONDENT(S)

M/s BPTP Ltd
3. **COMPLAINT NO. 1699 of 2022**
....COMPLAINANT(S)

VERSUS

Prabhat Kumar
....RESPONDENT(S)

M/s BPTP Ltd
4. **COMPLAINT NO. 1720 of 2022**
....COMPLAINANT(S)

VERSUS

Brig Shailendra Malik
....RESPONDENT(S)

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 17.08.2022

Hearing-3RD in all cases

Present: - Mr. Hemant Saini, Ld. counsel for complainant.

Mr. P.R. Sikka, Ld. Counsel for the respondent.

ORDER (DILBAG SINGH SIHAG-MEMBER)

Complainant (BPTP Ltd) is seeking review of the order passed by the Authority in bunch of complaints bearing no. 687/2019, 1376/2018, 1381/2018 and 1380/2018 which were decided vide order dated 27.07.2021 with a lead case no. 687/2019. In said order, it was recorded that counsel for the respondent (BPTP Ltd) had stated that respondent had applied for occupation certificate on 28.02.2019 but the same has not been received. Relevant part of the order is being reproduced as follows:

“Admittedly respondent has issued offer of possession dated 07.08.2018 to the complainant alongwith demand for payment of additional Rs 12,37,403/-. However, said offer is not accompanied with occupation certificate issued by State government agencies. Today, ld. counsel for respondent stated that developer had already applied for grant of Occupation Certificate on 28.02.2019 but the same has not been received till date. However, the construction work of unit is complete and it is ready for possession. In these circumstances, the impugned offer of possession is not a valid offer of possession in eyes of law and complainant was not bound to accept the same. Therefore, the Authority in conformity of view already expressed vide order dated 01.12.2020 decides that offer of possession dated 07.08.2018 cannot be called a lawful offer, hence the

same stands quashed. Admittedly even the application for grant of occupation certificate was applied on 28.02.2019. Therefore, now the respondent will offer a fresh possession after receiving occupation certificate from the department. As a logical consequence, the additional demands made alongwith invalid offer of possession also stands quashed.”

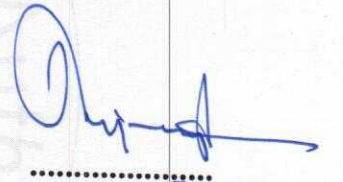
2. Sh. Hemant Saini, Id. counsel for complainant stated that present complaints have been filed seeking review of aforementioned part of order to the effect that occupation certificate has been received by the respondent on 28.02.2019. In support, copy of occupation certificate has been placed on record as Annexure R-2. He argued that delay interest in all cases be re-calculated taking into account the receipt of occupation certificate dated 28.02.2019.
3. Learned counsel for respondents argued that under section 39 of the Act this Authority has power of rectification of orders only when mistake is apparent on face of record and not otherwise. He submitted that allowing amendment in calculation of delay interest will result in change in substantive part of the order which is prohibited under the law by way of review.
4. He further submitted that occupation certificate dated 28.02.2019 which has now been produced before this Authority was in the possession of the complainant earlier as well, but they did not place the same on record while filing their reply to the original complaint.
5. Authority observes that complainant (BPTP Ltd) was in possession of occupation certificate dated 28.02.2019 now being submitted by them at the



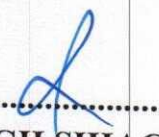
time of filing reply to the original complaint no. 687/2019, 1376/2018, 1381/2018 and 1380/2018. Complainant was duty bound to submit proper record at the time of filing reply to the original complaints. Authority has decided the matter on the basis of evidence adduced. Now after final decision, complainant (BPTP Ltd) cannot be allowed to produce additional evidence.

Further re-calculation of delay interest at this stage will amount to alteration of substantive part of the order which is not allowed as per section 39 of RERA Act. Therefore, recalculation of interest at this stage cannot be allowed and prayer of the complainant is dismissed in this regard.

6. Cases are **disposed of as dismissed**. File be consigned to record room after uploading order on the website of the Authority.



.....
RAJAN GUPTA
[CHAIRMAN]



.....
DILBAG SINGH SIHAG
[MEMBER]