



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1364 OF 2021

Bimlesh Kumari

....COMPLAINANT

VERSUS

Ferrous Infrastructure Pvt. Ltd.

....RESPONDENT

CORAM: **Nadim Akhtar**
 Dr. Geeta Rathi Singh

Member
Member

Date of Hearing: 07.12.2022

Hearing: 2nd Re-hearing

Present: - Ms. Stuuti for Mr. Rishabh Jain, learned counsel for complainant through video conferencing.

Sh. Sourabh Goel, learned counsel for respondent through video conferencing.

ORDER (DR. GEETA RATHEE SINGH -MEMBER)

1. This complaint case was disposed of vide order of Authority, dated 10.05.2022, in terms of complaint case no. 828 of 2019 titled as, "Sube Singh Yadav Vs M/s Ferrous infrastructure Pvt. Ltd.", wherein relief of possession along with upfront delay interest and further monthly interest was granted.

G. Rathee

2. However, application dated 01.07.2022 was filed by Mr. Abhay Jain, learned counsel for complainant in the above captioned complaint case for the purpose of rectification of order passed by Authority dated 10.05.2022 on the ground that there exist error as to calculation of amount of delay interest and further monthly interest to be paid by respondent promoter to complainants. This rectification application was placed before the Authority for consideration, in its meeting dated 06.09.2022, vide agenda item no. 183.04, wherein the Authority in exercise of its power u/s 39 of the RERA Act, 2016 listed the cases on 15.11.2022 for deciding the same after hearing both the parties. However, again the matters were adjourned to 30.11.2022 as the quorum was not complete.

3. During the hearing dated 30.11.2022, learned counsel Mr. Sourabh Goel appeared on behalf of the respondent promoter and sought adjournment on the ground that he had not received the copy of rectification application. Authority allowed his request and directed the respondent promoter to collect copy of aforesaid rectification application from registry of office and file his objections, if any, before the next date of hearing.

4. Today, during the hearing, Ms. Stuuti, appearing on behalf of Mr. Abhay Jain, learned counsel for complainant apprised the Authority that there exist error as to calculation of interest, specified in para no. 3 of order passed by Authority dated 10.05.2022, vide which captioned complaint case was

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disposed of and same may be rectified by the Authority. Relevant part of order is reproduced as under –

“3. Since possession of booked apartments may be delivered by respondent-promoter to the allottee whenever they complete the project and obtain occupation certificate from authorities concerned. However, since inordinate delay has already been caused, respondent-promoter is ordered to pay upfront interest to the allottee as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017. The upfront interest is being calculated from the due date of offering possession i.e., 11.09.2016 upto the date of passing this order i.e. 10.05.2022. Allottee would be further entitled to monthly interest for each month of further delay caused. Upfront interest and monthly interest payable to complainant is shown in the table below:-

Sr. No.	COMPLAIN T NO.	AMOUNT PAID BY THE COMPLAINA NT (In Rs.)	DEEMED DATE OF POSSESSION	UPFRONT DELAY INTEREST CALCULATED BY AUTHORITY TILL 10.05.2022 (In Rs.)	FURTHER MONTHLY INTEREST (In Rs.)
1.	1364/2021	23,03,857/-	11.09.2016	10,23,979/-	15,068/-

4. **Disposed of.** File be consigned to record room after uploading of this order on the website.”

5. On the other hand, no objection has been filed by respondent promoter in captioned complaint case.

Ratna

6. On perusal of record file, it is revealed that there exist error as to calculations. Upfront delay interest is 11,24,681/- instead of Rs. 10,23,979/-, and monthly delay interest is Rs. 16,859/- instead of Rs. 15,068/-. This is because of the fact that earlier paid amount was taken to be Rs. 19,23,605/- after deduction of EDC/IDC and thereupon calculation of interest was made at SBI MCLR Rate @ 9.40%, however, when rectification application was filed, receipts were duly verified by Accounts branch of Authority and total amount paid by complainant was found to be Rs. 21,17,757/-, after deduction of EDC/IDC.

7. Therefore, Authority in exercise of its power u/s 39 of the RERA Act, 2016 allow the rectification of Para no. 3 of order passed by Authority dated 10.05.2022 to the extent of upfront delay interest and monthly delay interest only. Section-39 of the RERA Act, 2016 is reproduced as under-

“Section 39 - Rectification of orders - The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act.”

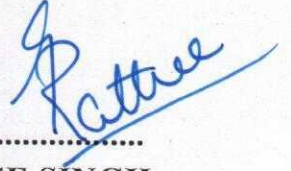
8. Therefore, in view of inadvertent errors apparent on record, order dated 10.05.2022 stand rectified to the extent of calculation of upfront delay interest and monthly delay interest, in Para no. 3 only, and is to be read as under –

“3. Since possession of booked apartments may be delivered by respondent-promoter to the allottee whenever they complete the project and obtain occupation certificate from authorities concerned. However, since inordinate delay has already been caused, respondent-promoter is ordered to pay upfront interest to the allottee as per provisions of Section 18 of the RERA Act, 2016 and Rule 15 of RERA Rules, 2017. The upfront interest is being calculated from the due date of offering possession i.e., 11.09.2016 upto the date of passing this order i.e. 10.05.2022. Allottee would be further entitled to monthly interest for each month of further delay caused. Upfront interest and monthly interest payable to complainant is shown in the table below:-

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1.	1364/2021	23,03,857/-	11.09.2016	11,24,681/-	16,859/-

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9. **Disposed of.** File be consigned to record room of Authority after uploading of this order on website of Authority.



.....
DR. GEETA RATHEE SINGH
[MEMBER]



.....
NADIM AKHTAR
[MEMBER]

