



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 386 OF 2021

(Reopened for deciding Rectification Application)

Kartar Singh

....COMPLAINANT

VERSUS

Ansal Properties & Infrastructure Pvt. Ltd.

....RESPONDENT(S)

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

**Member
Member**

Date of Hearing: 08.02.2023

Hearing: 1st

**Present: - None for the complainant.
None for the respondent**

ORDER (DR. GEETA RATHEE SINGH -MEMBER)

1. Ld. counsel for the complainant filed an application praying for the correction of orders dated 01.06.2022 passed in the present complaint

G. Rathee

whereby the captioned complaint was disposed of and respondent was directed to refund the paid amounts by the complainant along with interest.

Complainant in the present application has raised the following grounds :

(A) Complainant has alleged that he had paid an amount of Rs. 12,60,440/-. Whereas in order dated 01.06.2022, it has been observed by the Authority that complainant has annexed receipts of Rs. 11,60,439/- only and therefore he is entitled to refund along with interest an amount of Rs. 11,60,439. Complainant has stated that mistakenly while calculating the paid amount page no 54 of the complaint was skipped. Therefore, appropriate amended be made in the final order.

(B) Secondly, name of the counsel for the complainant has been mistakenly written as Atul, whereas, Mr. Rakesh Handa was the counsel for the complainant. Therefore, his name be substituted in the final order.

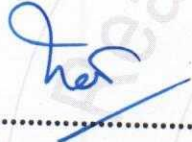
2. On perusal of records and order dated 01.06.2022, it is observed that respondent was directed to refund the paid amount of Rs. 11,60,439- along with interest i.e. Rs. 10,10,804/-. In total an amount of Rs. 21,71,243/- was to be refunded to the complainant by the respondent-promoter. However, complainant in the present application has prayed for recalculating the paid amount and interest thereon. He alleged that while calculating the total paid amount by the complainant, page no, 54 of the complaint was skipped due to which total amount paid by the complainant was considered as Rs.

11,60,439 and not Rs. 12,60,440/-. Therefore, appropriate amendments be made in the final order. Secondly, he stated that presence of the counsel for complainant in the final order dated 01.06.2022 was mistakenly mentioned as Sh. Atul, whereas Sh. Rakesh Handa was the counsel for the complainant. Therefore, his name be substituted for Mr. Atul in the final order.

3. Authority on consideration of oral and written submission/documents submitted by the parties, is of the view that firstly, the total amount to be refunded by the respondent promoter cannot be rectified for the reason that said amount was correctly calculated after perusal of all the receipts submitted by the complainant. Further, complainant stated that at page no. 54, there is receipt of Rs. 1,00,000/- which was mistakenly skipped, but on perusal of records, it is found that at page no. 54, there is a legal notice and no receipt was attached therein.
3. Authority under section 39 of the RERA Act, 2016 is mandated to rectify clerical mistakes apparent on the face of record. The RERA Act, 2016 does not entrust the power of review on the Authority. However, name of the counsel for complainant is being substituted from Mr. Atul to Mr. Rakesh Handa as it is an error apparent on record.
4. Relief sought by the applicant complainant is partially allowed by substituting the name of counsel for complainant From Atul to Mr. Rakesh Handa. Further, it is clarified that complainant's first ground has no merits in it and it is in the nature of review application and not rectification of error apparent on the face of record. If the first relief is allowed, the same shall

result in amendment of the operative/substantive part/review of the judgment of the Authority.

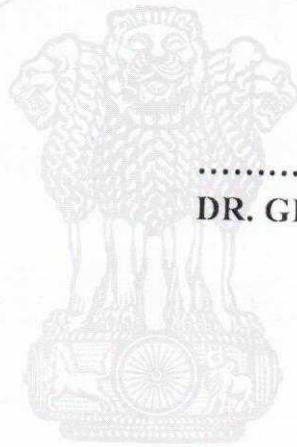
5. In fact the proviso 2 to section 39, categorically provides that the Authority "shall not" while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of the Act.
6. For the above stated reasons, the present rectification application is hereby **disposed off** with partially allowing second relief i.e. substituting the name of the counsel for the complainant.



.....
NADIM AKHTAR
[MEMBER]



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



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