



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1070 OF 2021

(Reopened for deciding Rectification Application)

PRAVEEN KUMAR SINGH

....COMPLAINANT(S)

VERSUS

H.L PROMOTERS PRIVATE LIMITED

....RESPONDENT(S)

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

**Member
Member**

Date of Hearing: 08.02.2023

Hearing: 1st

Present: - None for the Complainant.

Sh. Shekhar Verma, learned counsel for the respondent

Geeta Rathee

ORDER (DR. GEETA RATHEE SINGH -MEMBER)

1. Ld. counsel for the respondent filed an application praying for the rectification of orders dated 07.04.2022 passed in the present complaint, whereby the captioned complaint was disposed of and respondent was directed to deliver the possession to the complainant along with interest from the date of expiration of extension granted to respondent i.e. 22.05.2020 till actual offer of possession i.e. 18.02.2021 which amounts to ₹ 4,15,469/-. Respondent in the present application has raised the following grounds :

(A) Respondent has alleged that in the final order dated 07.04.2022, an event dated 22.05.2021 or 22.05.2020 or 23.05.2021 has been mentioned at page nos. 8,9 and 11, which is not emanating from the records of the captioned file. He submitted that as per agreement, deemed date of possession was April 2020. However, due to Covid- 19 project got delayed and possession was offered on 18.02.2021 to the complainant. Furthermore, he submitted that respondent had already compensated the complainant for delay caused from the period 24.09.2020 till the date of offer of possession i.e 18.02.2021.

(B) Respondent counsel argued that inadvertently complainant was awarded interest from 22.05.2020 till 18.02.2021, however it should have been from 24.09.2020 till 18.02.2021.

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2. On perusal of records and orders dated 07.04.2022, it is observed that respondent was directed to deliver the possession along with delay interest amounting to ₹ 4,15,469/- calculated from the date of expiry of extension granted to respondent (i.e. 22.05.2020) till actual offer of possession (i.e. 18.02.2021). However, respondent in the present application has prayed for recalculating the delay interest payable to the complainant because as per respondent-promoter agreement, event dated 22.05.2021 or 22.05.2020 has never happened and same does not match to the records available in the file. Respondent alleged that said date was mistakenly mentioned in the final order. However, correct date for delay interest comes from 24.09.2020 till actual date of offer of possession i.e. 18.02.2021, which is already transferred in the complainant's statement of account.
3. Authority on consideration of oral and written submissions/documents submitted by the parties, is of the view that firstly, the delay interest amount of ₹ 4,15,469/- calculated by the Authority cannot be rectified for the reason that said amount was correctly calculated after perusal of all the documents placed on record by both the parties. Further, respondent stated that at page no. 8,9 and 11, an event dated 22.05.2021 or 22.05.2020 was inadvertently mentioned. To clarify it, Authority has gone through all documents and has concluded that the dates mentioned on page no 8,9 were mistakenly mentioned as 22.05.2021 or 23.05.2021. Correct date from which delay interest was granted to complainant is mentioned on page no.11 of the order i.e. 22.05.2020. Said date was taken from written submissions filed by respondent-promoter on 19.04.2022 in the Authority, wherein the event

dated 21.05.2020 was mentioned at page no.1. Respondent has relied upon statement that till said date covid- 19 was in effect and thereafter certain relaxations were given to complete the pending works of the project. Therefore, Authority granted the benefit to respondent promoter till the date 21.05.2020. Accordingly, relief to complainant for delay interest was calculated from 22.05.2020 till actual date of offer of possession i.e. 18.02.2021.

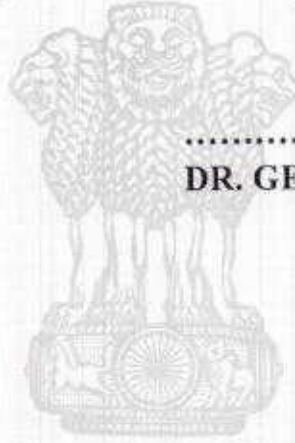
4. Further, Authority under section 39 of the RERA Act, 2016 is mandated to rectify only clerical mistakes apparent on the face of record. The RERA Act, 2016 does not entrust the power of review on the Authority. However, clerical mistake mentioned on page no. 8 and 9 of the order, wherein dates were mistakenly mentioned as 22.05.2021 or 23.05.2021 is being corrected and substituted with **22.05.2020**.
5. Relief sought by the applicant respondent is partially allowed by substituting the dates mentioned at page no. 8,9 of the final order as 22.05.2021 or 23.05.2021 with correct date mentioned at page no.11 of the final order i.e. 22.05.2020. Further, it is clarified that respondent's second ground has no merits in it as it is in the nature of review application and not rectification of error apparent on the face of record. If the second relief is allowed, the same shall result in amendment of the operative/substantive part/review of the judgment of the Authority.

6. 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.
7. For the above stated reasons, the present rectification application is hereby **disposed off** with partially allowing first relief i.e. substituting the dates mentioned at page no. 8,9 of the final order as 22.05.2021 or 23.05.2021 with correct date mentioned at page no.11 of the final order i.e. **22.05.2020**.

File be consigned to record room after uploading of this order on the website of the Authority.



.....
NADIM AKHTAR
[MEMBER]



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