



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No. 2731 of 2022

Kusum Sharma

....COMPLAINANT(S)

VERSUS

Asian Developers ltd.

....RESPONDENT(S)

CORAM:

Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Date of Hearing: 30.11.2022

Hearing- 1st

Present: - Mr. Akshat Mittal, Ld. Counsel for the Decree Holder
None for the respondent/Judgement Debtor

ORDER (DR. GEETA RATHEE SINGH-MEMBER)

1. Ld. counsel for the complainant/Decree Holder sh. Akshat Mittal filed this complaint no. 2731 of 2022 praying for review of the order dated 29.10.2019 passed in the complaint no. 1025 of 2018. Ld. counsel raised following grounds for review:

- A. That the project in question in complaint no. 1025 of 2018 was 'Avenue-18', situated in the revenue estates of Bawal, Haryana. However, the instant matter was clubbed and decided alongside

Dr. Geeta Rathee

other matters pertaining to the other project namely 'Bawal Residency'.

B. That a common order was passed to dispose-off the matters, and the factum of the difference of the project could not be highlighted before the Authority. Authority vide order dated 29.10.2019 directed the Asian Developers Ltd. and M/S Saera Auto India Pvt. Ltd. liable jointly and severally to refund the amount to the complainant along with interest.

C. That, the complainant filed the execution no. 738 of 2020 for the Execution of the order dated 29.10.2019, wherein during the course of proceedings, it was noticed that the project in question is different wherein the role of the respondent differ and wherein M/s Saera Auto India Pvt. Ltd. was not the land owner of the plot. Authority observed as follow:

"In view of above submissions of both the parties and perusal of record, Authority observes that in complaint no. 1025 of 2018, complainant had filed complaint seeking relief against respondent Asian developers ltd. only and M/S Saera Auto India Pvt. Ltd. was not pleaded as a party to complaint. During proceedings complaint no. 1025 of 2018 was inadvertently clubbed with a binch of complaints in which M/s Saera Auto India Pvt. Ltd. is a necessary party and accordingly a common order was passed in all complaints. Thereafter, at the time of filing of execution, complainant in complaint no. 1025/2018 impleaded both Asian Developer Ltd. and M/s Saera Auto India Pvt. Ltd. as a party in execution complaint no. 738 of 2020. However, upon reflection it is found that M/s Saera Auto India Pvt. Ltd. has no bearing in compliant no. 1025 of

2018 since the project in question in complaint no. 1025 of 2018 pertains to a plot bearing GH-18, situated at Bawal, Rewari whereas plot allotted to M/s Saera Auto India Pvt. Ltd. by HSIIDC was GH-16, situated at Bawal, Rewari. Authority after due consideration had held M/s Saera Auto India Pvt. Ltd. liable jointly and severally alongwith Asian Developers Ltd. towards allottees of the project which was to be constructed on plot GH-16. Complaint no. 1025/2018 had been mistakenly made a part of said group of complaints”.

D. That, execution petition no. 738 of 2020 was disposed-off being infructuous on 29.07.2022, and the Authority granted liberty to the complainant to file for review of the order dated 29.10.2019 passed in complaint no. 1025/2018.

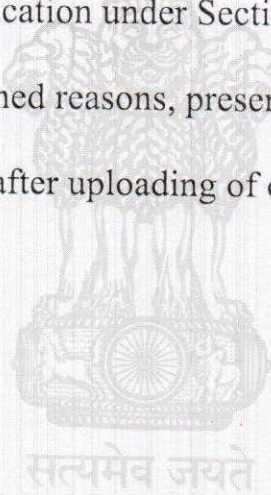
E. Consequently, the complainant filed this review application, seeking review of the order dated 29.10.2019 passed in complaint no. 1025/2018. Complainant prays that the complainant be reopened and effective directions be given afresh to the concerned respondent(s) to refund the amount of Rs. 6,85,391/- paid by the complainant qua the flat in question along with interest.

2. During hearing, ld. counsel sh. Akshat Mittal prayed that the application for review of the order dated 29.10.2019 passed in complaint no. 1025/2018 be allowed, the complaint no. 1025/2018 be reopened and effective direction be given afresh to the respondent.

3. Section 39 of the Real Estate (Regulation and Development) Act, 2016 provides for rectification of the mistakes which are apparent from the record and power of review has not been vested with the Authority. In the absence of express provision w.r.t. to review of the own orders in RERA, Act of 2016, the same cannot be exercised by this Authority.

4. However, from the perusal of the complaint file, it appears that the prayer is in the nature of rectification of the mistake apparent from the record and therefore, the ld. counsel for the complainant is given a liberty to file a fresh application for rectification under Section 39 of the RERA Act, 2016.

5. For the aforementioned reasons, present complaint is **dismissed**. File be consigned to record room after uploading of order in website of the Authority.



Geeta Rathee

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DR. GEETA RATHEE SINGH
[MEMBER]

Nadim Akhtar

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NADIM AKHTAR
[MEMBER]