



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 2855 of 2019 (Reopened for rectification application dated 29.09.2022)

Ravi Madan

...Complainant.

Versus

Trishul Dream Homes Ltd.

...Respondent.

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

Date of hearing: 17.01.2023

Hearing: 1st

Present: - Mr. Nitin Kant Setia, learned counsel for complainant
 None for respondent

ORDER (NADIM AKHTAR-MEMBER)

1. Ld. Counsel for the complainant filed an application dated 29.09.2022 for rectification of order dated 05.05.2022 passed in this present complaint. Grounds raised are as follows:

- I. That the Hon'ble Authority decided 3 similar matters vide common order dated 05.05.2022. However, in one of the three complaints bearing Complaint No. 2855 of 2019 titled "Ravi Madan vs Trishul Dream Homes Ltd.", in which present applicant was the complainant, the

complainant inadvertently annexed 6 cheques whereas there were a total of 7 cheques. One cheque dated 20.12.2017 for an amount of Rs. 2,63,500/- was not annexed as it was inadvertently missed while filing of the complaint.

- II. That though there was an error in not annexing the 7th cheque dated 20.12.2017 with the complaint causing wrong calculation of the total amount paid by the complainant, the same can be rectified as it will not cause any wrongful gain to the complainant or any wrongful loss to the Respondent.
- III. That if the present application is allowed and the refund is recalculated after adding the amount of the 7th cheque the complainant will receive nothing more than what he is entitled under the law.
- IV. That the total amount actually paid by the Applicant/ Complainant after calculating all the 7 cheques is Rs. 17,27,391/-. Therefore the refund amount be calculated again after taking Rs. 17,27,391/- as the "amount paid by the Applicant/ Complainant".
- V. That the mandate of the act in cases of refund is that the entire amount paid has to be refunded and if the present order is not corrected it would be against the provisions of the section.

2. Perusing the order dated 05.05.2022 and the complaint file, it can be observed that the order of refund has been passed in the captioned complaint after thoroughly considering the facts and information provided by the complainants. All the material

facts had already been taken into consideration while passing the given order. Now, the complainant cannot pray for rectification of the order of the Authority on the ground that he failed to attach some documents/cheques. Allowing the prayer of the complainant will amount to changing the substantive part of the order. The Authority cannot rectify its decision in this captioned matter since there is no factual error apparent on the face of record.

3. Relief sought by the applicant complainant is in the nature of review application and not rectification of error apparent on the face of record and if the relief is allowed the same shall result in amendment of the operative/substantive part/review of the judgment of the Authority.

4. 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.

5. For the above stated reasons, the present rectification application is hereby dismissed.



DR. GEETA RATHEE SINGH
[MEMBER]



NADIM AKHTAR
[MEMBER]