



HARERA
GURUGRAM

Complaint No. 4942 of 2020

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM**

Complaint no.	:	4942 of 2020
Date of application	:	07.02.2023
Date of decision	:	10.05.2023

Kishore Kumar Bhimwal Jaswant Singh R/o: H. no. 625, Sector-47, Gurugram, Haryana-122001	Complainant
Versus	
M/s Imperia Wishfield Pvt. Ltd. Address: A-25, Mohan Cooperative, Industrial Estate, Near Sarita Vihar Metro Station, New Delhi	Respondent

CORAM:	
Sh. Ashok Sangwan	Member

APPEARANCE:	
Sh. Siddhant Sharma (Advocate)	Complainant
None	Respondent

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ORDER
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1. An application dated 07.02.2023, has been filed by the complainant for rectification of order dated 14.12.2022 under section 39 of the Act, 2016 passed by the authority wherein the total paid up amount is mentioned as Rs. 16,36,197/- instead of Rs. 17,07,480/-. Secondly, the complaint was filed in the joint name. However, on 15.07.2021 complainant no. 2 i.e., Sh. Jaswant Singh sold his rights and so his name should be deleted from the detail order.

A. Finding by the authority

2. The complainant no. 1 filed an application for rectification of order dated 14.12.2022 wherein such directions are given:

i. The respondent is directed to refund the amount i.e., Rs. 16,36,197/- received by it from the complainants along with interest at the rate of 10.35% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount.

ii. the respondent is further directed not to create any third party rights against the subject unit before full realization of the paid up amount along with interest thereon to the complainants and even if any transfer is initiated with respect to subject unit, the receivable shall be first utilized for clearing dues of allottee.

iii. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.

3. The complainant no. 1 in its application dated 07.02.2023 has stated that the authority vide order dated 14.12.2022 has directed to refund the paid-up amount of Rs. 16,36,197/- instead of Rs. 17,07,480/- (mentioned at page no. 77 of the complaint), as the complainant no. 1 has paid an amount of Rs. 17,07,480/- to the respondent.
4. Secondly, the complainant no. 1 has requested to delete the name of the second allottee i.e., Sh. Jaswant Singh as he has sold his rights during the course of hearing i.e., 15.07.2021.
5. The authority observes that section 39 deals with the *rectification of orders* which empowers the authority to make rectification within a period of 2 years from the date of order made under this Act. The authority may rectify any mistake apparent from the record and make such amendment, if the mistake is brought to its notice by the parties. However, rectification cannot be allowed in two cases, *firstly*, orders against which appeal has been preferred, *secondly*, to amend substantive part of the order. The relevant portion of said section is reproduced below.

Section 39: Rectification of orders

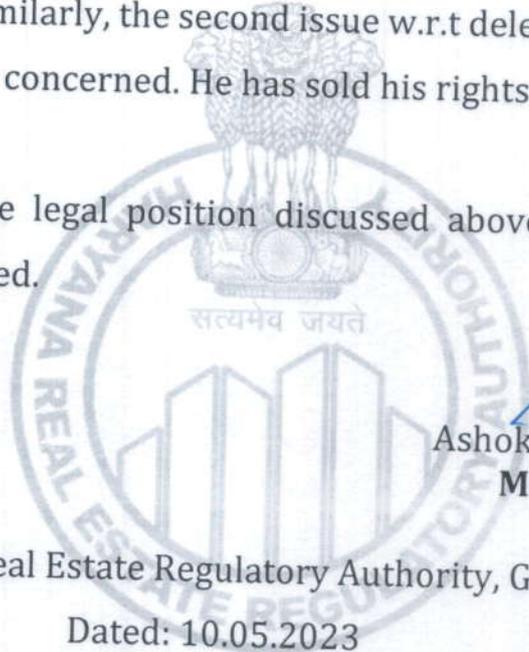


"The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

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."

6. The authority while disposing off the said application observes that the amount mentioned in the detailed order is wrong and the said mistake is clerical in nature. Similarly, the second issue w.r.t deletion of co- allottee i.e., Sh. Jaswant Yadav is concerned. He has sold his rights and his name is liable to be deleted.
7. Thus, in view of the legal position discussed above, the application for rectification is allowed.



Ashok Sangwan
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 10.05.2023

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