



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

**RECTIFICATION APPLICATION DATED 20.09.2022
IN
COMPLAINT NO. 507 OF 2019**

Sanjay Thareja

....COMPLAINANT(S)

VERSUS

M/S Landmark Apartments Ltd.

....RESPONDENT(S)

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

**Member
Member**

Date of Hearing: 01.06.2023

Hearing: 12th

Present: - Mr. Vishal Garg Narwana, learned counsel for the complainant
Sanjay Thareja, the complainant
Mr. Shubnit Hans, learned counsel for the respondent through video conference

ORDER (NADIM AKHTAR-MEMBER)

The present complaint was disposed of vide order dated 12.08.2022. A rectification application has been filed by the complainant on 20.09.2022 wherein he stated that in the said order dated 12.08.2022. However, Authority has allowed the refund on the principal amount of ₹35,31,000/-, however, he has

paid ₹45,50,000/- to the respondent builder. He further stated that respondent has also issued the statement of account to him wherein he admits the payment of ₹45,00,000/-. Therefore, it is prayed that the said order may be rectified and principal amount of ₹45,50,000/- may be considered as correct.

2. Perusal of the order dated 12.08.2022 reveals that Authority while passing the final order has considered all the proofs of payments as submitted by the complainant. Relevant part of the order is reproduced below:

The total interest payable by the respondents to the complainants works out to Rs. 30,15,922/- calculated in terms of Rule 15 of HRERA Rules 2017 i.e at the rate of SBI MCLR + 2 % which is 9.80% p.a. simple interest. Details are as follows:

S. No	Principal Amount	Date of Payment	Interest Accrued till 12.08.2022 @ 9.80%	Total
1.	Rs. 5,00,000/-	14.01.2013	Rs. 4,69,595/-	Rs. 9,69,595/-
2.	Rs. 3,00,000/-	18.04.2013	Rs. 2,74,185/-	Rs. 5,74,185/-
3.	Rs. 5,00,000/-	21.06.2013	Rs. 4,48,384/-	Rs. 9,48,384/-
4.	Rs. 6,50,000/-	07.10.2013	Rs. 5,64,050/-	Rs. 12,14,050/-
5.	Rs. 7,00,000/-	15.04.2014	Rs. 5,71,729/-	Rs. 12,71,729/-
6.	Rs. 4,00,000/-	22.06.2014	Rs. 3,19,399/-	Rs. 7,19,399/-
7.	Rs. 4,81,000/-	20.10.2014	Rs. 3,68,580/-	Rs. 8,49,580/-
Total	Rs. 35,31,000/-		Rs. 30,15,922/-	Rs. 65,46,922/-

Complainant claims to have paid Rs. 45,50,000/- but receipts corresponding to Rs. 35,31,000/- has only been annexed with complaint file. Complainant was directed to supply receipts for the balance amount but again receipts for only Rs. 35,31,000/- was submitted. In absence of any substantive proof for payment of total Rs. 45,50,000/-, Authority is hereby allowing refund of only that amount of Rs. 35,31,000/- for which proper receipts has been

annexed. The Authority hereby orders that the respondents shall refund the principal amount of Rs. 35,31,000/- plus interest amount of Rs. 30,15,922/- which works out to be Rs. 65,46,922/- to the complainant, within a period of 90 days i.e. the period prescribed under Rule 16 of the HRERA Rules, 2017.

3. During the oral arguments, learned counsel for the complainant submitted that proof of payments of the amount of ₹ 45,50,000/- has already been placed on record in the complaint file. In support of his argument, he has drawn the attention of this Authority towards the statement of bank account of the complainant showing the proofs of the remaining payments of sum of ₹9,19,000/- made to the respondent.

Complainant submitted that he has already submitted the receipts amounting to ₹35,31,000/- alongwith said statement of the bank account in the complaint file.

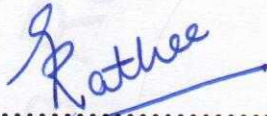
3. In view of the above submissions made by the complainant, Authority has again perused the complaint case filed before the Authority which reveals that no such statement of account is placed on record by the complainant. Only the proofs of receipts amounting to ₹35,31,000/- have been annexed in the complaint file. Authority has passed the order dated 12.08.2022 in all its wisdom and if the prayer/ request of the complainant is allowed at this stage, it will amend the substantive part of the order which amounts to review of its final order.

Further, under section 39 of RERA Act, 2016, only error apparent on record can be rectified. However, the Authority cannot amend the substantive part of this order passed under the provisions of RERA Act, 2016. Further, proviso to

section 39 provides that the Authority while rectifying any mistake apparent from record, shall not amend the substantive part of its order passed under the provisions of this Act.

Thus, the Authority cannot review its order and consequently application filed by the respondent for the modification of the order dated 12.08.2022 is rejected. Respondent is at liberty to avail other remedies available as per law.

File be consigned to record room after uploading the order in continuation of order dated 12.08.2022.



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DR GEETA RATHEE SINGH
[MEMBER]



.....
NADIM AKHTAR
[MEMBER]