



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

Complaint no. : 2535 of 2021
First date of hearing: 15.07.2021
Date of decision : 12.08.2022

Yogesh Kochhar
R/O : H. no. C-52, Sushant Lok-1, block C,
Sushant Apartment, Gurgaon.

Complainant

Versus

M/s Vatika Limited
Office: Vatika Triangle, 4th Floor, Sushant Lok-
Phase-I, Block-A, Mehrauli-Gurgaon Road,
Gurgaon-122002.

Respondent

CORAM:

Shri K.K. Khandelwal
Shri Vijay Kumar Goyal

**Chairman
Member**

APPEARANCE:

Ms. Preeti Yadav (Advocate)
Sh. Dhruv Dutt Sharma (Advocate)

**Counsel for the complainant
Counsel for the Respondent**

ORDER

1. The present complaint dated 21.06.2021 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

| S. N. | Particulars | Details |
|-------|----------------------------------|--|
| 1. | Name and location of the project | "Vatika Seven Element" at sector 89A, Gurgaon, Haryana |
| 2. | Nature of the project | Group housing |
| 3. | Project area | 14.30 acres |
| 4. | DTCP license no. | 41 of 2013 dated 06.06.2013 valid upto 05.06.2017 |
| 5. | Name of licensee | M/s Strong Infrabuild Pvt. Ltd. & others |
| 6. | RERA Registered/ not registered | Registered vide no. 281 of 2017 dated 09.10.2017 area admeasuring 91345.535 sqm. Valid upto 31.03.2021 |
| 7. | Unit no. | HSG-023/B-504/6th Court |
| 8. | Unit area admeasuring | 1280.26 sq. ft. |
| 9. | Date of allotment | N/A |
| 10. | Date of builder buyer agreement | 14.04.2015 (annexure C1, page 17 of complaint) |
| 11. | Due date of possession | 14.04.2019 |
| 12. | Total sale consideration | Rs. 1,54,50,934/- [as per SOA dated 14.09.2021 on page 28 of reply] |
| 13. | Amount paid by the complainant | Rs. 46,29,519/- [as per SOA dated 14.09.2021 on page 28 of reply] |
| 14. | Occupation certificate | Not obtained |
| 15. | Notice for termination | 03.09.2020 (page 33 of reply) |
| 16. | Cancellation letter | 11.11.2020 (page 34 of reply) |

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

- I. That believing on the said advertisements and on the assurances, allurements and inducements, regarding the abovesaid project, the complainant booked a unit with the respondent in 2013 by paying a sum of Rs. 6,94,584/- as the earnest money. At the time of booking, the concerned officials of the respondent assured to handover the possession of the allotted space within the agreed time of 48 months. Thus, the respondent succeeded in the illegal designs and ulterior motives to extract the money of the complainant by inducing him who was allotted unit being B505, sixth court, Vatika Seven Elements, sector 89-A, Gurgaon. The total sale consideration for the unit was Rs. 1,54,50,935/-. The complainant was assured that the builder buyers agreement would be forwarded in due course. Thereafter on 14.04.2015 and after collecting a sum of Rs. 39,32,896/-, the builder buyer agreement was executed between the parties.
- II. That as per clause 13 of the agreement, "Schedule for Possession of the said Apartment : The Developer based on its present plans and estimates and subject to all justice exceptions, contemplated to complete the construction of the said building/said apartment within a period of 48 months from the date of execution of this agreement.
- III. That in 2015, the respondent had announced a scheme titled PLP under which it expected the buyer to pay a certain percentage amount even though the property was not built and pay the balance only upon completion. That despite not starting the work at the site, the respondent made illegal demands which were paid by the complainant who had already spend a considerable amount in the project and was not left with any alternative but to give in to the illegal demands of the respondent in the hope for a timely delivery of the project. Till date, the complainant has

made a payment of Rs. 46 lakhs to the respondent on the demands raised by it. The property after nearly 7 years is still not complete and the complainant has been writing to the respondent ever since to refund Rs. 46 Lakhs paid and to which it has now stopped responding. So, the complainant also filed a complaint at the CM window. As the respondent failed to discharge its duty to complete and handover the possession of the allotted unit to the complainant within the stipulated time, thus he has cheated him by inducing to invest the hard earned money on believing upon the false assurances. The respondent in a master minded and in a scripted way, succeeded to its ulterior motive and caused wrongful loss to the complainant and wrongful gains to itself.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).

- I. Direct the respondent to Refund Rs. 46,01,713/- paid by the Complainant towards sale consideration of the said Unit along with interest @ 18% p.a.
- II. Direct the respondent to pay Rs.5,00,000/- to the complainant for mental harassment and 50,000/- as litigation expenses.

5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

D. Reply by the respondent

6. The respondent has contested the complaint on the following grounds.

- a. That at the outset, respondent humbly submit that each and every averment and contention, as made/raised in the complaint, unless specifically admitted, be taken to have been categorically denied by respondent and may be read ad travesty of facts.



- b. That the present case and notice was issued vatika limited whereas the developer in the present case is vatika seven elements private limited. Hence, the complaint should be dismissed for want of necessary parties.
- c. That further, without prejudice to the aforementioned, even if it was to be assumed though not admitting that the filing of the complaint is not without jurisdiction, even then, the claim as raised cannot be said to be maintainable and is liable to be rejected for the reasons as ensuing.
- d. That the reliefs sought by the complainant appear to be on misconceived and erroneous basis. Hence, the complainant is estopped from raising the pleas, as raised in respect thereof, besides the said pleas being illegal, misconceived and erroneous.
- e. That the complainant has miserably and wilfully failed to make payments in time or in accordance with the terms of the agreement. It is submitted that the complainant has frustrated the terms and conditions of the agreement, which were the essence of the arrangement between the parties. Hence, the complainant now cannot invoke a particular clause, and the complaint is not maintainable and should be rejected at the threshold. The complainant has also misdirected in claiming refund on account of alleged delayed offer for possession. It has been categorically agreed between the parties that subject to the force majeure events and complainant having complied with all the terms and conditions of the agreement and not being in default under any of the provisions of the said agreement and having complied with all provisions, formalities, documentation etc., the developer contemplated to complete construction of the said apartment within a period of 48 months from the date of execution of the

A



agreement unless, there should be delay due to failure of allottee(s) to pay in time the price of the said apartment.

- f. Further, it had been also agreed and accepted that in case the delay is due to the reasons beyond the control of the developer, then the developer should be automatically entitled to the extension of time for delivery of possession. Further, the developer may also suspend the project for such period as it may consider expedient.
- g. In the present case, there has been a delay due to various reasons which were beyond the control of the respondent and the same are enumerated below:
- i. *Unexpected introduction of a new National Highway being NH 352 W (herein "NH 352 W") proposed to run through the project of the respondent. Under this new development NH 352 W was initially supposed to be developed as sector roads by Haryana Urban Development Authority (HUDA) which took around 3 years in completing the land acquisition process.*
 - ii. *The Haryana Government in alliance with the Town and Country Planning Department in exercise of power vested under Section 45 (1) of Gurugram Metropolitan Development Authority Act, 2017 (GMDA Act) vide its Notification dated 11.04.2018 makes the transfer scheme for transferring the properties falling within the ambit of NH 352 W acquired by the HUDA to GMDA for development and construction of NH 352 W.*
 - iii. *The GMDA vide its letter dated 08.09.2020 had handed over the possession of said properties for construction and development of NH 352 W to the National Highway Authority of India (NHAI). This is showing that still the construction of NH 352 W is under process resulting in unwanted delay in completion of project.*
 - iv. *Further, initially, when HUDA had acquired the sector road and started its construction, an area by 4 to 5 mtrs. was uplifted. Before start of the acquisition and construction process, the respondent had already laid down the services according to the earlier sector road levels, however due to upliftment caused by the HUDA in NH 352 W the company has been constrained to raise and uplift the same within the project, which not only result in deferment of construction of project but also attract costing to the respondent.*
 - v. *Re-routing of High-Tension lines passing through the lands resulting in inevitable change in the layout plans.*
 - vi. *Direct impact on project due to Policy of NILP and TOD issued on 09.02.2016.*

- vii. *Various orders passed by Supreme Court/NGT/EPCA regarding ban on construction activities.*
Due to outbreak of Covid 19, real estate sector has been majorly impacted which has hampered the construction of the project.
- h. That the project "Seven Elements" (Phase-1) has been registered with the authority vide registration no. 281 of 2017. That due to the various reasons and not limited to delay on the part of the allottees, NGT notifications, Covid-19 pandemic, etc, the project has been majorly impacted. The complainant has failed to make payments in time in accordance with the terms and conditions as well as payment plan annexed with the buyer's agreement and as such, the complaint is liable to be rejected. It is submitted that out of the total consideration of Rs. 1,54,50,934/- of the unit, the amount actually paid by the complainant is Rs. 46,29,519/-. It is submitted that the complainant defaulted in making payments towards the agreed sale consideration of the Unit from the very inception.
- i. That various demand letters and reminders as well as notice for termination were sent to the complainant to make the outstanding payment but the respondent's request fell on his deaf ears and he did not pay the outstanding dues pending against the said unit. The complainant after defaulting in complying with the terms and conditions of the allotment letter/ buyer agreement now wants to shift the burden on the part of the respondent whereas it has suffered a lot financially due to such defaulters like the present complainant. It is submitted that under such facts and circumstances, the complainant is not entitled to any relief as prayed for by the complainant in the present complaint.



- j. It is pertinent to mention here that since the complainant failed to make the payment, the respondent was constrained to cancel the allotment of the Complainant vide Letter dated 11.11.2020 and he is now left with no right, title, interest in the said unit.
- k. That it is to be appreciated that a builder constructs a project phase wise for which it gets payment from the prospective buyers and the money received from the prospective buyers is further invested towards the completion of the project. It is important to note that a builder is supposed to construct in time when the prospective buyers make payments in terms of the agreement. It is submitted that it is important to understand that one particular buyer who makes payment in time can also not be segregated, if the payment from other prospective buyer does not reach in time. It is relevant that the problems and hurdles faced by the developer or builder have to be considered while adjudicating complaints of the prospective buyers. It is relevant to note that the slow pace of work affects the interests of a developer, as it has to bear the increased cost of construction and pay to its workers, contractors, material suppliers, etc. It is most respectfully submitted that the irregular and insufficient payment by the prospective buyers such as the complainant freezes the hands of developer/builder in proceeding towards timely completion of the project.
- l. That initially builder buyer agreement dated 14.04.2015 was executed between the complainant and Vatika Ltd. wherein the Vatika Ltd. was in the process of setting up/ constructing a residential group housing colony by the name of 'Seven Elements'. However, Vatika Ltd. has transferred all its project account balance in respect of the said group



housing colony in favor of M/s Vatika Seven Elements Pvt. Ltd, vide a project account transition agreement entered into between the respondent by virtue of which M/s Vatika Seven Elements Pvt. Ltd. stepped into the shoes of the Vatika Ltd. It is pertinent to mention here that an addendum to builder buyer agreement was executed on 15.04.2015 between the complainant and the respondents, wherein the complainant after fully satisfying himself agreed and undertook to pay the total sale consideration and other charges to M/s Vatika Seven Elements Pvt. Ltd. It is submitted that after the execution of the addendum agreement, Vatika Ltd. has no obligation or liability towards the complainant.

7. Copies of all the relevant documents have been files and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority

8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.
12. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in *Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.*" 2021-2022(1)RCR(C), 357 and followed in case of *Ramprastha Promoter and Developers Pvt. Ltd. Versus Union of India and others dated 13.01.2022 in CWP bearing no. 6688 of 2021* wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund',

'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

13. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Objection regarding force majeure conditions.

14. The respondent-promoter has raised the contention that the construction of the project in which the apartment is situated, has been delayed due to force majeure circumstances such as HUDA has to develop the major sector roads for the connectivity of the projects on the licensed land, gas pipeline passed through the sanctioned project, NGT issued directives and measures to counter deterioration in air quality in the Delhi-NCR region, and many other reasons. It is observed by the authority that the construction of the project was delayed on account of gas pipe line passing through land of the subject project & HUDA has to develop the major sector roads for the connectivity of the projects on the licensed land. The said factors might be taken into consideration however, the respondent may get the required period declared as "zero period" from the competent authority. Till then the said period cannot be excluded while calculating the delay in handing over of the

possession. Moreover, as far as NGT orders to directives and measures to counter deterioration in air quality in the Delhi-NCR region, cannot be taken into consideration as the same were imposed for a shorter period of the time. In view of these circumstances, no grace on account of force majeure circumstances can be allowed to the respondent/builder.

G. Findings on the relief sought by the complainant.

G.I Direct the respondent to Refund Rs. 46,01,713/- paid by the Complainant towards sale consideration of the said Unit along-with interest @ 18% p. a.

14. The complainant has submitted that a BBA was executed on 14.04.2015. He paid 46,29,519/- against the total sale consideration of Rs. 1,54,50,934/-. As per clause 13 of the BBA, the possession would be handed over within 48 months from the date of execution of buyer agreement. But the possession was not delivered within the stipulated time period. In the year 2018, the complainant intimated the respondent of escalation in prices and sought refund of the amount deposited with it. The respondent pleaded that there has been a delay due to various reasons which were beyond its control. The respondent further pleaded that the complainant has failed to make payments n time in accordance with the terms and conditions as well as payment plan annexed with the buyer's agreement. The respondent issued reminders on 19.09.2019 for making outstanding payment. On 03.09.2020, a notice for termination issued to the complainant. When the complainant did not pay any heed to said letter, then ultimately on 11.11.2020, respondent issued a letter whereby the allotted unit was cancelled.

15. **Now, the question before the authority is whether the cancellation is valid.**

On consideration of the documents available on record and submissions by both the parties, the authority is of the view that the complainant has paid

46,29,516/- against the total sale consideration of Rs. 1,54,50,934/-. The respondent/builder issued reminder/notices on 19.09.2019, 03.09.2020 respectively for making outstanding payment but having no positive result and ultimately leading to cancellation of unit vide letter dated 11.11.2020 in view of the terms and conditions of the agreement. No doubt, the complainant did not pay the amount due despite reminders but the respondent while cancelling the unit was under an obligation to forfeit the amount paid by the complainant i.e., the earnest money and refund the balance amount deposited by him. The complainant has paid 46,29,516/- to the respondent/builder and the cancellation of the allotted unit was made on 11.11.2020 by retaining the amount beyond 10% which is not legal in view of number of pronouncements of the Hon'ble Apex court.

16. Further, the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, states that:

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment/plot/building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."

17. Keeping in view the aforesaid legal provisions, the respondent is directed to forfeit earnest money which shall not exceed the 10% of the basic sale price of the said unit as per statement of account and shall return the balance amount to the complainant within a period of 90 days from the date of this order.

F II. Direct the respondent to pay Rs.5,00,000/- to the complainant for mental harassment and 50,000/- as litigation expenses

18. The complainant is also seeking relief w.r.t compensation. **Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)**, has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of litigation expenses

G. Directions of the authority

19. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- The respondent is directed to return the amount of Rs. **46,29,519/-** paid by the complainant/allottee after forfeit ^{of} earnest money which shall not exceed the 10% of the basic sale price of the said unit i.e. Rs. 1,38,18,000/- as per statement of account and shall return the balance amount to the complainant along with interest at prescribed rate from the date of cancellation till date of its realization.



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

20. Complaint stands disposed of.

21. File be consigned to registry.


(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.08.2022


(Dr. K.K. Khandelwal)
Chairman



HARERA
GURUGRAM

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

Complaint no. : 2535 of 2021
Date of application : 27.10.2022
Date of decision : 30.05.2023

Yogesh Kochhar
R/o: H.no- C-52, Sushant Lok- 1, block C, Sushant
Apartment, Gurgaon.

Complainant

Versus

M/s Vatika Ltd
Address:Vatika Triangle ,4th Floor Sushant Lok -
1,Block A, Mehrauli Gurgaon Road Gurgaon-122002

Respondent

CORAM:

Sh. Vijay Kumar Goyal
Sh. Ashok Sangwan
Sh. Sanjeev Kumar Arora

Member
Member
Member

APPEARANCE:

Complainant in Person
Sh. Dhruv Dutt Sharma

Complainant
Respondent

ORDER

1. An application dated 27.10.2022, has been filed by the complainant for rectification of order dated 12.08.2022 passed by the Authority. The Authority passed the following order:
 - i. *The respondent is directed to return the amount of Rs. 46,29,519/- paid by the complainant/allottee after forfeit of earnest money which shall not exceed the 10% of the basic sale price of the said unit i.e., Rs. 1,38,18,000/- as per statement of account and shall return the balance amount to the complainant along with interest at prescribed rate from the date of cancellation till date of its realization.*
 - ii. *A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.*

2. Thereafter, the complainant filed an application for rectification of order dated 27.10.2022 and submitted that the refund be allowed without deduction of 10% and challenged the order on the following ground: -

- i. The complainant-applicant submitted that the cancellation dated 11.11.2020 was not valid as none of the demand letters dated 11.03.2019, 06.05.2019, 19.09.2019, 03.09.2020 were issued to the complainant.
- ii. Further that after execution of addendum agreement Vatika Limited extinguished its right in favour of Vatika Seven Elements Private Limited. But such demand letters and termination letter were issued by Vatika Limited.

3. Upon perusal of the document the Authority gives the following finding.

A. Finding by the Authority

4. A unit bearing no.HSG-023/B-504/6th court admeasuring 1280.26 sq.ft.. situated in Sector 89-A, Gurugram in the project "Vatika Seven Elements" of respondent was allotted to the complainant for a total sale consideration of Rs.1,54,50,934/. An agreement dated 14.04.2015 was executed between the parties.

5. The complainant filed the aforesaid application dated 27.10.2022 for rectification of order dated 12.08.2022 wherein requesting that the refund be allowed without deduction 10% and challenged the order on the ground that the cancellation dated 11.11.2020 was not valid as none of the demand letters dated 11.03.2019, 06.05.2019, 19.09.2019, 03.09.2020 were issued to the complainant and further submitted that such cancellation was initiated by Vatika limited after execution of addendum agreement Vatika Limited extinguished its right in favour of Vatika Seven Elements Private Limited.

6. It is observed that he said order dated 12.08.2022 was passed after taking into account documents available on record. As per page no. 32-36 of reply, before such termination letter dated 11.11.2020, it issued demand letters

and pre-termination letter dated 11.03.2019, 06.05.2019, 19.09.2019 and 03.09.2020 respectively.

7. Further, the respondent has taken a plea that such cancellation was initiated by Vatika limited after execution of addendum agreement Vatika Limited extinguished its right in favour of Vatika Seven Elements Private Limited. A bare perusal of cancellation letter dated 11.11.2020, was issued by Vatika Seven Elements Private Limited. The Authority further clarifies that such objections raised by the complainant-applicant were not raised during the proceedings of cases which itself is a ground for rejection of such application as any order by any competent Authority is passed after considering documents on record and pleadings of the parties. Any such application would delay the disposal of complaint only.
8. Moreover, there is no regulation permitting the Authority to rectification its orders except under section 39 providing as under"

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:

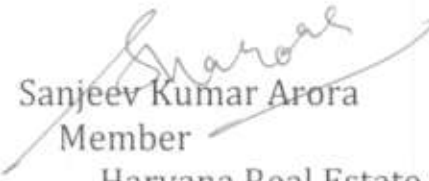
Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

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."

9. It is evident from a perusal of the above-mentioned provisions that the Authority may rectify its orders within the stipulated period for any mistake apparent from the record and amend any order passed by it but shall not change substantive part of its order. So, in view of the specific provisions under the Act, the application filed in not maintainable as it challenges the substantive part of order and is thus, rejected. Even otherwise, a statutory body cannot review its orders unless empowered to do so under the statute

and the Act of 2016, does not enjoying such powers with the authority to review its orders.

10. Thus, in view of factual position discussed above, there is no merit in the application dated 27.10.2022 filed by the complainant for rectification of order dated 12.08.2022 passed by the Authority and the same is hereby ordered to be rejected.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 30.05.2023