



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY

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Day and Date	Thursday and 06.07.2023
Complaint No.	CR/4750/2021 Case titled as Rahul Jayprakash and Shakuntla Jayprakash Vs Emaar MGF Land Limited
Complainant	Rahul Jayprakash and Shakuntla Jayprakash
Represented through	Shri Rishabh Jain Advocate
Respondent	Emaar MGF Land Limited
Respondent Represented through	Shri Harshit Batra advocate
Last date of hearing	27.04.2023
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The complainant has filed an application dated 19.09.2022 regarding rectification of proceeding of the day dated 08.09.2022 wherein it is stated that the date of offer of possession is 01.06.2019 and the date of keys handover is 05.07.2019. Whereas the final offer of possession was made to the complainants on 02.03.2021 by the respondent. Moreover, the keys given to the complainants allottees on 05.7.2019 by the respondent promoter was for limited purpose of carrying out fit-outs/interim possession only.

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 and 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



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CR/4750/2021

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." (Emphasis Supplied)

The present complaint was filed on 24.12.2021 and the same was disposed of by the authority on 08.09.2022. It has come to the notice of the authority that the alleged offer of possession dated 02.03.2021 was not placed on the record while filing the complaint nor the same was placed on record by the respondent. The said document of offer of possession has now been filed along with the application for rectification.

In view of the above facts, the authority is of the considered view that the present application of rectification dated 19.09.2022 cannot be considered as the alleged offer of possession dated 02.03.2021 was not filed while filing the complaint or during the course of argument and hence its taking on record of the said document after the disposal of complaint amounts to amending the substantive part of the order dated 08.09.2022 which is not within the scope of section 39 of the Act. Therefore, the said application dated 19.09.2022 stands rejected. File be consigned to the registry.

V.I - 3
Vijay Kumar Goyal
Member
06.07.2023