



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 | | 34 |
|-------------------------------|--|-----------|
| Day and Date | Tuesday and 08.08.2023 | |
| Complaint No. | MA NO. 131/2023 in CR/5116/2019 Case titled as Nand Lal Agarwal Vs JMD Limited | |
| Complainant | Nand Lal Agarwal | |
| Represented through | Shri Mayank Gupta Advocate | |
| Respondent | JMD Limited | |
| Respondent Represented | Shri Venket Rao and Pankaj Chandola Advocates | |
| Last date of hearing | Application u/s 39 of the Act. | |
| Proceeding Recorded by | Naresh Kumari and HR Mehta | |

Proceedings-cum-Order

The respondent has filed an application dated 25.04.2023 regarding clarification in the detailed order dated 06.10.2020 wherein it is stated that directions issued by the Ld. Authority w.r.t the maintenance charges are ambiguous and is not clear, therefore the respondent has approached the Ld. Authority vide present application seeking clarification of the same. The relevant portion of judgment dated 06.10.2020 for which clarification has been sought is reproduced herein below for ready reference:

"(iii) The respondent is directed to do the needful within one month. If there are any maintenance charges from the date of offer of possession, the same are declared invalid."

It is further stated that from the verbatim of aforesaid direction in the order, it cannot be specifically ascertained as to for which period the Ld. Authority has declared the maintenance charges as invalid. The respondent further states that on in interpretation of the said direction, it could be understood that the Ld. Authority has declared the maintenance charges from the date of offer of possession till the date of order (06.10.2020) plus one month i.e. 06.11.2020 as invalid.



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
MANO-131/2023 IN CR/516/2019

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

The respondent further states that complainant has filed an execution petition bearing no. 3672/2021 against the order dated 06.10.2020. It is to be noted that the respondent abiding by the order of the Ld. Authority has already handed over physical possession of the unit, executed the conveyance deed in respect of the said unit and paid an amount of **Rs.12,04,801/-** as per its calculation to the complainant as delayed possession interest. However in the execution matter, only issue that is left to deal with is respect to maintenance charges. Therefore, the respondent has filed present application for clarification of order dated 06.10.2020.

The authority observes that **firstly**, there is no provision in the Act which empowers the authority to clarify its order. **Secondly**, there is provisions under section 39 of the Act which deals with rectification of the order, however, the ambit and scope of section 39 of the Act is very limited. 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 three cases, **firstly**, when the application for rectification is filed **after 2 years from the date of the order made under this Act**, **secondly**, orders against which appeal has been preferred, **thirdly**, 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."
(Emphasis Supplied)

The present complaint was disposed of by the authority on 06.10.2020 and the respondent has filed the present application on 25.04.2023 which is after the limitation period of 2 years as provided under section 39 of the Act and is not for any rectification.



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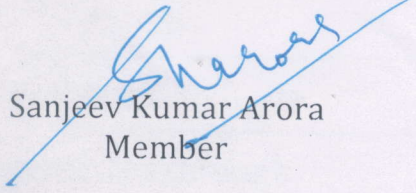
हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

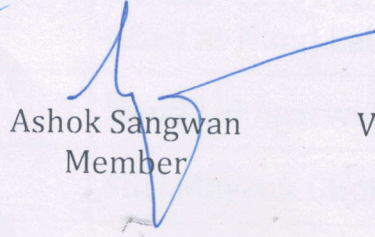
MANO-13/2023 MCR/516/2019

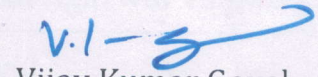
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In view of the above facts, the application of clarification dated 25.04.2023 stands rejected. File be consigned to the registry.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
08.08.2023