



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

14

Day and Date	Tuesday and 05.09.2023
Complaint No.	MA NO. 119/2023 in CR/2913/2021 Case titled as AKSHIT GARG Vs PROMPT ENGINEERING PVT LTD
Complainant	AKSHIT GARG
Represented through	Ms Vandana Aggarwal, Advocate
Respondent	PROMPT ENGINEERING PVT LTD
Respondent Represented through	Ms Shriya Takkar, Advocate
Last date of hearing	22.8.2023 Application for rectification
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings-cum-orders

The above-mentioned matter was heard and disposed of vide order dated 13.01.2023 wherein the Authority had directed the respondent to refund the paid-up amount after deducting 10% of the basic sale price on adjustment of the amount already refunded to the complainants after cancellation along with interest at the rate of 10.60% p.a. on the refundable amount from the date of payment till the actual date of refund of the amount.

The respondent has filed an application for rectification of order dated 13.01.2023 in para 44(i) seeking specific direction that deduction of the 10% amount from the paid-up amount should be done in the total consideration of the unit and not in basic sale consideration and the interest on the refundable amount should be granted from the date of cancellation rather than from the date of payment till the actual date of refund.

1. 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. Under the above provision, the authority may rectify any mistake apparent from the record and make such amendment, if the mistake is brought to its notice by the



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MANO-19/2023 HCR/2913/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

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."

2. Since the present application involves amendment of substantive part of the order by seeking specific direction that deduction of the 10% amount from the paid-up amount may be done in the total consideration of the unit and not in basic sale consideration and the interest on the refundable amount may be granted from the date of cancellation rather than from the date of payment, this would amount to review of the order. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016.

3. A reference in this regard may be made to the ratio of law laid down by the Haryana Real Estate Appellate Tribunal in case of **Municipal Corporation of Faridabad vs. Rise Projects vide appeal no. 47 of 2022**; decided on 22.04.2022 and wherein it was held that the authority is not empowered to review its orders.

Thus, in view of the legal position discussed above, there is no merit in the application dated 17.04.2023 filed by the respondent for rectification of order dated 13.01.2023 passed by the authority and the same is hereby declined.

Rectification application stands disposed of. File be consigned to registry.

Ashok Sangwan
Member

05.09.2023