

PROCEEDINGS OF THE DAY		5
Day and Date	Wednesday and 20.03.2024	
Complaint No.	MA NO. 71/2024 in CR/3334/2021 Case titled as NISHCHINT CHAWLA VS INTERNATIONAL LAND DEVELOPERS PRIVATE LIMITED	
Complainant	NISHCHINT CHAWLA	
Represented through	Shri Wasim Ashraf Advocate	
Respondent	INTERNATIONAL LAND DEVELOPERS PRIVATE LIMITED	
Respondent Represented	None	
Last date of hearing	Rect. application	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceeding-cum-Order

The above-mentioned matter was heard and disposed of vide order dated 06.12.2023 wherein, the Authority has directed the respondent to refund the entire amount received by it from the complainants alongwith prescribed rate of interest.

The complainant has filed an application for rectification of order dated 06.12.2023 stating that he has not only prayed for the refund of the paid-up amount but also the promised buy-back amount of Rs.20,53,575/- alongwith interest @ 18% per annum as per clause 3 of the buy-back agreement in their complaint.

The Authority observes that issue w.r.t. grant of buy-back amount has already been dealt by the Authority in para 19 of the order dated 06.12.2023. Moreover, as far as objection with respect to invocation of buy-back option is concerned, the same has been duly clarified in clause 7 of the buy-back agreement dated 09.07.2015. Thus, no question w.r.t. granting of buy-back

amount of Rs.20,53,575/- alongwith interest arises. Further, this Authority cannot re-write its own orders and lacks the jurisdiction to review its own order as the matter in issue has already been heard and decided by this Authority.

It is further observed 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 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."

Since the present application involves amendment of substantive part of the order by granting buy-back amount of Rs.20,53,575/- alongwith interest, 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.

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



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

MANA File No. 2024/15 CR/3334/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

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 01.02.2024 filed by the complainant for rectification of order dated 06.12.2023 passed by the authority and the same is hereby **declined**.

Rectification application stands disposed off. File be consigned to registry

Ashok Sangwan
Member
20.03.2024