



HARERA
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HARYANA REAL ESTATE REGULATORY AUTHORITY
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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 04.04.2024
Complaint No.	MA NO. 69/2024 in CR/7629/2022 Case titled as Sachin Vats and Dhurv Vats VS Ashiana Dwelling Private Limited
Complainant	Sachin Vats and Dhurv Vats
Represented through	Shri S.D. Kaushik Advocate
Respondent	Ashiana Dwelling Private Limited
Respondent Represented	Shri Nitish Harsh Gupta Advocate
Last date of hearing	Application for rectification
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings-cum-order

The above-mentioned matter was heard and disposed of vide order dated 21.12.2023 wherein the Authority had directed the respondent to refund the paid-up amount of Rs.18,97,394/- after deducting 10% of the basic sale consideration of Rs.78,86,220/- being earnest money along with an interest @10.85% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of surrender i.e., 17.08.2017 till actual refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

The respondent has filed an application for rectification of order dated 31.01.2024 in para 18(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.

The counsel for the complainant has brought to the notice of the Authority that as per clause No.1.1 of the BBA clearly provides that the allottee hereby agrees to acquire and purchase the said apartment for the said price of apartment of



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MA/69/2024/CR 7629/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

Rs.78,86,220/- and the said agreement is duly executed and hence, 10% deduction is to be made from this amount of Rs.78,86,220/-.

As per 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.

It is observed by the Authority as per payment plan (Schedule B) annexed with the BBA in which it is clearly mentioned that total sale consideration is Rs.94,86,970/- inclusive of parking, PLC, Club development charges, electrical sub station charges, fire fighting charges, power back-up installation charges, pipe cooking gas installation charges, EDC/IDC, IFMS and Advance maintenance charges.

The Authority observed that the amount of Rs.94,86,970/- is total sale consideration inclusive of all other charges and not the basic sale consideration. Further the sale consideration and the basic sale consideration is the same amount i.e. of Rs. 78,86,220/- and hence in view of the same, the said rectification filed by the applicant-respondent cannot be rectified.

Thus, in view of the legal position discussed above, there is no merit in the application dated 31.01.2024 filed by the applicant-respondent for rectification of order dated 21.12.2023 passed by the authority and the same is hereby declined.

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

V.I-3
Vijay Kumar Goyal
Member
04.04.2024