



**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. विधायक गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

<b>PROCEEDINGS OF THE DAY</b>		<b>15</b>
Day and Date	Friday and 23.02.2024	
Complaint No.	MA NO. 39/2024 in CR/4813/2021 Case titled as Mahima Gupta VS Jubilant Malls Pvt Ltd	
Complainant	Mahima Gupta	
Represented through	Shri Umesh Gupta, husband of the complainant.	
Respondent	Jubilant Malls Pvt Ltd	
Respondent Represented	Shri Rishabh Gupta, Advocate (filed POA)	
Last date of hearing	Rectification application	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

### **Proceedings**

The applicants/complainants vide application dated 19.01.2024 have requested for rectification of order dated 15.12.2023 in the above captioned complaint which was disposed of by the authority w.r.t. correction of the following :-

<b>S.No.</b>	<b>Existing details on in detailed order dated 15.12.2023</b>	<b>Correction asked</b>
1.	The complainant is entitled to delayed possession charges as per the proviso of section 18(1) of the Real Estate (Regulation and Development) act, 2016 at the prescribed rate of interest i.e., 10.75%p.a. for every month of delay on the amount paid by him to the respondent from due date of possession i.e., 31.12.2021 till the offer of	The complainant asked for the correction that the delay possession charges shall be granted till actual handing over of possession and not till offer of possession plus two months.



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MANO 31/2024/CR/4813/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. डी. विन्हाम गृह, सिविल लाईन, गुरुग्राम, हरियाणा

	possession of unit plus two months i.e., till 02.10.2022 at prescribed rate i.e., 10.75% p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules	
2.	No such relief was sought by the complainant in the main complaint.	Also, the complainant asked for the direction to the respondent to execute conveyance deed.

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 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 seeking specific direction that delay possession charges be allowed till handing over of possession and not till offer of possession plus two months and execution of conveyance deed, this would amount to review of the order. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2<sup>nd</sup> 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***



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MANO 31/2024 INCR/481.3/2024

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

**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 19.01.2024 filed by the respondent for rectification of order dated 15.12.2023 passed by the authority and the same is hereby declined.

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

  
Sanjeev Kumar Arora  
Member  
23.02.2024