



HARERA
GURUGRAM

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		12
Day and Date	Wednesday and 22.05.2024	
Complaint No.	MA NO. 228/2024 in CR/1613/2022 Case titled as Manju Kherwa VS Signature Global Private Limited	
Complainant	Manju Kherwa	
Represented through	Shri Jagrup Singh Hazra Advocate	
Respondent	Signature Global Private Limited	
Respondent Represented	Shri Niraj Kumar Advocate	
Last date of hearing	Appl. u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings-cum-order

1. The above-mentioned matter was heard and disposed of vide order dated 11.03.2024 wherein, the Authority has directed the respondent to refund the amount paid by the complainant i.e., Rs.10,25,372/- along with an interest @ 10.85% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount.

A. Facts of the rectification application filed by the respondent:

2. The respondent has filed an application dated 15.04.2024 for rectification of the said order dated 11.03.2024 stating that the Authority in para 28 of the said order had directed the respondent to pay an amount of Rs.10,25,372/- along with interest @10.85% p.a. However, the complainant had made a payment of Rs. 10,00,283/- only which is evident from the reliefs claimed by the complainant in his complaint. Further, the

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MA No 228/2024 in CR 1613/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

complainant again in para 7 of the complaint has mentioned that she has paid an amount of Rs.10,00,283/-, paid by the complainant in three instalments of Rs.2,00,000/-, Rs.1,95,305/- and Rs.6,04,978/-. It is further submitted by the respondent that the Authority has relied upon the customer ledger filed by complainant at page 108 of the complaint which includes a sum of Rs.13,385/- and Rs.11,254/- which was passed on to the complainant as credit on account of some ITC benefit. Since the complainant has withdrawn from the project, the complainant is not entitled for the said benefit. Therefore, para 29(1) of the final order dated 11.03.2024 be corrected and direction of refund amount be modified to Rs.10,00,283/- in place of Rs.10,25,372/- and amount paid be modified in row 11 of Part A of the order.

B. Findings by the Authority

3. The case was listed for hearing on the said rectification application on 22.05.2024. The learned counsel for the respondent argued that the complainant had paid only an amount of Rs.10,00,283/- towards the allotment of the unit in question and same is evident from the relief claimed by the complainant in his complaint. Also, the complainant in para 7 of the complaint has mentioned the amount paid as Rs.10,00,283/-. That the Authority has inadvertently recorded amount paid by the complainant as Rs.10,25,372/- by relying on the customer ledger dated 10.09.2021 annexed at page no. 108 of the complaint, which included a sum of Rs.13,385/- and Rs.11,254/-. The said amount pertains to some ITC benefit which was credited to the complainant. Since the complainant does not wish to continue in the project, therefore, he is only entitled to claim the relief of





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MANO 228/2024/CR/16/3/2022

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refund of amount paid by him and no other additional benefit which was passed on to the complainant in respect of the said allotment.

4. The Authority is of the view that in case wherein the allottee/complainant does not wish to continue in the project, the allottee/complainant is only entitled to the relief of refund the amount paid by the allottee/complainant and if any benefit accrued to the complainant/allottee in lieu of the previous allotment is to be returned to the respondent/promoter. In the factual matrix of the present case, the complainant herself is claiming the relief of amount actually paid by her, i.e., Rs.10,00,283/- and not the amount credited to her in lieu of input tax credit benefit. Therefore, it has been inadvertently mentioned in para 2 (11) and further in para 29(I) of the final order dated 11.03.2024 that the amount paid by complainant is Rs.10,25,372/- instead of Rs.10,00,283/-. Same is a mistake apparent on record and does not constitute amendment of substantive part of this order under Section 39 of the Real Estate (Regulation and Development) Act, 2016. Section 39 of the Real Estate (Regulation and Development) Act, 2016 is reproduced below for ready reference:

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."

5. Accordingly, the said application dated 15.04.2024 filed by the respondent for rectification of order dated 11.03.2024 is held to be maintainable being





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MANO 228/2024 IN CR/1613/2022

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covered under the ambit of Section 39 of the Act, 2016, ibid. Para 2(11) of the final order dated 11.03.2024 shall now be substituted and read as under:

11.	Total amount paid by the complainants	Rs.10,00,283/- (Page no. 108 of complaint, as per customer ledger dated 10.09.2021)
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Further, para 29(I) of the final order dated 11.03.2024 shall now be substituted and read as under:

*I. The respondent/promoter is directed to refund the amount of **Rs.10,00,283/-** received by it from the complainant along with interest at the rate of 10.85% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount.*

6. Application allowed. The above mentioned para no. 2(11) and para 29(I) as amended shall form part of the main order dated 03.01.2024.
7. Rectification application stands disposed of. File be consigned to registry.

Ashok Sangwan
Member
22.05.2024