



HARERA
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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

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PROCEEDINGS OF THE DAY

Day and Date	Wednesday and 21.02.2024
Complaint No.	MA NO. 463/2023 in CR/4757/2022 Case titled as Sanjay Gupta VS NBCC India Limited
Complainant	Sanjay Gupta
Represented through	Shri Kapil Yadav proxy counsel
Respondent	NBCC India Limited
Respondent Represented	Rao Vikram Nath Advocate
Last date of hearing	Appl. for rectification of order 17.01.2024
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The above-mentioned matter was heard and disposed of vide order dated 18.10.2023 wherein, the Authority had directed the respondent to refund the entire amount paid by the complainant towards the sale consideration alongwith stamp duty and registration charges as well as other charges paid by him if any, within a period of 90 days from the date of the order.

The respondent has filed rectification application dated 12.12.2023 seeking rectification of the order dated 18.10.2023 to the extent that the relief provided therein be subjected to the re-conveyance of the unit in favor of the respondent.

It is 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.



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MA No. 463/2023/HR/CR/457/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

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."

The authority observes that in para 15 of the order dated 18.10.2023, the authority has duly recorded that as the respondent has itself admitted its liability vide its offer letter dated 29.07.2022, to refund the entire paid up amount received by it towards the sale consideration alongwith charges paid on account of stamp duty and registration as well as delayed payment charges paid by the complainant if any, in lieu of the complainant-allottee executing conveyance deed with NBCC for re-conveyance of the allotted unit in its favour. Accordingly, in para 16 of the said order, the authority directed the respondent to refund the entire amount paid by the complainant in terms of offer letter dated 29.07.2022. However, while passing the order, directions with respect to re-conveyance of the allotted unit in favor of NBCC was left unrecorded as per the offer letter dated 29.07.2022.

Since the present application involves amendment of mistake apparent from the record, the same is allowed in the interest of justice.

This order shall be read as part and parcel of the final order dated 18.10.2023. Application stands disposed off. File be consigned to registry.

Ashok Sangwan
Member
21.02.2024