



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

IN COMPLAINT NO. 2211 OF 2022

(Reopened for correction of order Rectified via Application)

Dinesh Kaushik @ Dinesh Kumar Sharma

....COMPLAINANT

VERSUS

M/s Suncity Projects Pvt. Ltd

....RESPONDENT

CORAM: Nadim Akhtar
Chander Shekhar

Member
Member

Date of Hearing: 01.07.2024

Hearing: 1st

Present: - Sh. Neeraj Gupta, counsel for complainant through VC
Sh. Himanshu Gupta Advocate, counsel for respondent

ORDER (NADIM AKHTAR - MEMBER)

1. Ld. counsel for complainant stated that copy of rectification application has not been received by him. As per office record, notice was issued on 05.06.2024 along with copy of rectification application filed by the respondent which was successfully delivered on 08.06.2024.
2. Ld. counsel for the respondent filed an application on 24.05.2024 praying for the rectification of the order dated 08.11.2023 passed in the present complaint, whereby respondent has stated that inadvertently amount to be paid by respondent as delay interest to the complainant in para 34 and 36(ii) of the order has been mentioned as ₹ 42,56,136/-. However, in table mentioned in para 34 of the order, amount to be paid was mentioned as ₹ 23,71,136/-. Further, respondent stated that at para 36(v) of the order, respondent is directed to pay cost of ₹ 5,000/- to the Authority and ₹ 2,000/- to the complainant, which was imposed vide order dated 20.04.2023 for delay in filing reply. Learned counsel for the respondent intimated that the said cost stands already paid and proof of payment is also annexed at page no 40 and 41 of the application. In addition, respondent stated that while deciding the case on merits Authority had not considered the statutory rules and notification dated 08.07.2015 issued by DTCP, Haryana and inadvertently concluded that offer of possession given by the respondent way back in year 2012 is illegal. Accordingly,



respondent prayed for necessary corrections in the final order dated 08.11.2023.

3. Authority under section 39 of the RERA Act, 2016 is mandated to rectify clerical mistakes apparent on the face of record. On perusal of the application and records, it is revealed that inadvertently amount of ₹ 42,56,136/- was mentioned in para 34 and 36(ii) of the order is a clerical mistake, however correct amount was mentioned in tabular manner form in para 34 which is ₹ 23,71,136/-. Accordingly, amount mentioned at para 34 and 36(ii) is being substituted and corrected as amount mentioned in para 34, i.e., ₹ **23,71,136/-** to be paid by respondent to the complainant on account of delay interest.
4. Secondly, at para 36(v) respondent was directed to pay ₹ 5,000/- payable to the Authority and ₹ 2,000/- payable to the complainant which was imposed vide order dated 20.04.2023 for delay in filing reply. Respondent stated that said amount stands paid and proof of payment is also annexed at page no 40 and 41 of application. Accordingly, para 36(v) is substituted as cost stands paid.
5. Relief sought by the applicant respondent is allowed by substituting the amount as "**23,71,136/-**" at para 34 and 36(ii) to be paid by respondent to complainant as delay interest and para no 36(v) is substituted as amount of ₹ 5,000/- payable to the Authority and ₹ 2,000/- payable to the complainant **stands paid by respondent.**

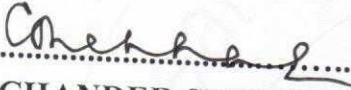



6. Lastly, respondent has stated that while deciding deemed date of possession rules and notification dated 08.07.2015 issued by DTCP, Haryana was not taken into consideration. Authority clarifies that order dated 08.11.2023 whereby relief of possession along with delay interest was granted to the complainant was passed after duly taking into consideration all the documents filed by both the parties. Now, by making further submissions for challenging authenticity of order which was already passed on merits by the Authority cannot be set-aside by the Authority, since it will amount to reviewing Authority's own order which was passed on merits.
7. Further more, Authority under section 39 of the RERA Act, 2016 is only mandated to rectify only clerical mistakes apparent on the face of record. The RERA Act, 2016 does not entrust the power of review on the Authority.
8. In fact the proviso 2 of section 39 of the RERA Act, 2016, categorically provides that the Authority "shall not" while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of the Act. A bare perusal of the application, leaves no doubt that the respondent is not praying for correction of the clerical mistake but is seeking the relief of rehearing the matter and deciding the case afresh on point of deemed date of possession.



9. For the above stated reasons, the present corrections sought by way of present application in the order dated 08.11.2023 are allowed to the extent of clerical mistake only and rest of the matter which requires review of the order is dismissed for above stated reasons in para 4-6 of this order. According, captioned complaint is **disposed off**.

File be consigned to record room after uploading of this order on the website of the Authority.


.....
CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]