



PROCEEDINGS OF THE DAY		7
Day and Date	Tuesday and 27.02.2024	
Complaint No.	MA NO. 378/2023 in CR/1058/2022 Case titled as Rajesh Khana and Anubhava Khana VS Vatika Limited	
Complainant	Rajesh Khana and Anubhava Khana	
Represented through	Shri Garvit Gupta, Advocate	
Respondent	Vatika Limited	
Respondent Represented through	Shri Pankaj Chandola, Advocate	
Last date of hearing	9.1.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings-cum-orders

The present complaint was heard and disposed of vide order dated 08.08.2023 wherein the Authority has directed the respondent to provide possession of the alternative plot/unit as agreed between the parties at the same rate at which the unit was earlier purchased within 2 months from the date of this order. Further, the authority has awarded delayed possession charges to the complainant at the prescribed rate of interest i.e., 10.75% p.a. from due date of possession i.e. 15.01.2013 till the actual handing over of possession or offer of possession + 2 months whichever is earlier.

Rectification application dated 26.09.2023 has been filed by the counsel of the complainant whereby the complainant is proposing following rectification as under:

S.No.	Matter sought to be rectified	Relevant page of detailed order dated 08.08.2023 showing error	Proposed rectification by the applicant-complainant with relevant page of paper book showing error



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण गुरुग्राम
MANO-378/2023 INCR/1058/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. हा. विभाग गुरु. निजिवा लाईन, गुरुग्राम, हरियाणा

1.	Unit no.	"15/ST82D-1-9" [Para 3, page 2 of order dated 08.08.2023]	15/ST82D-1-4 (Plot no. 15/ 24/ Simplex/ ST.82D1-4) [Page 65 to 68 of complaint]
2.	Unit no.	"15/ST82D-1-9" [Para 4, S.no.5, page 3 of order dated 08.08.2023]	15/ST82D-1-4 (Plot no. 15/ 24/ Simplex/ ST.82D1-4) [Page 65 to 68 of complaint]
3.	Description of the unit	Para 28. The respondent is obligated to provide alternative plot/units to the complainants at the same rate at which the unit was earlier purchased. Also, omission in para 33 (i) of the order dated 08.08.2023	The authority due to oversight failed to mention a very important aspect that the alternate plot/unit should be of the same size and have to be at the similar location as rightly observed by it in the proceedings dated 08.08.2023.
4.	Payments to be made by the complainant	Para 33(v)- The complainant is directed to pay outstanding dues, if any, after adjustment of interest for delayed period and to take possession of the subject unit within two months from date of this order.	The said payment can only be done by the complainant when an alternate plot/unit is offered to the complainant by the respondent. Thus, the said computation should commence not from the date of order but from the date of offer of possession of an alternate plot.

On last date of hearing, i.e., 09.01.2024, the counsel for the respondent wished to file reply to the application for rectification filed by the complainant. However, the respondent has failed to file the same till date.

The authority w.r.t. the abovementioned item bearing no. 1. & 2. observes that both of these are mere clerical mistakes wherein the unit no. has been



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

MANO

378/2023 In CR/1058/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. बज्जु. सी. विभाग गुरु, सिविल लाईन, गुरुग्राम, हरियाणा

Inadvertently mentioned as incorrect. The unit no. is matter of record and the aforesaid error is mistake apparent from the record. The correct unit no. is 15/ST82D-1-4 (Plot no. 15/ 24/ Simplex/ ST.82D1-4).

With regard to item no. 3, it is a matter of record that the authority vide proceedings dated 08.08.2023 has ordered as under:

"The respondents are directed to allot an alternate unit of the same size, similar location and at the same price at which the original unit was allotted."

In view of the above, the authority observes that vide proceedings of the even date, the authority had directed the respondent to allot an alternate unit of the same size, similar location and at the same rate at which the original unit was allotted. However, while preparing detailed order, the words "of the same size, similar location" has been inadvertently omitted.

With regard to item no. 4, the authority observes that as per direction at s.no.1, the authority had directed the respondent to allot an alternate plot/unit of the same size, similar location at the same rate at which the unit in question was earlier purchased, within 2 months from the date of this order, thus, in view of the same the complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period and take the possession of the alternate unit within two months from date of offer of possession of the alternate plot in terms of aforesaid direction at S.no. (i).

The aforesaid errors were inadvertently committed while preparing the detailed order dated 08.08.2023 and the aforesaid errors being typographical, apparent from the record and clerical in nature, the rectification in detailed order dated 08.08.2023 is allowed under section 39 read with section 38(2) of the Act. This order be read with and in continuation of detailed order dated 23.02.2023 as under:

"33. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoters as per the functions entrusted to the Authority under section 34(f) of the Act of 2016:

- i. *The respondent is directed to allot an alternate plot/unit of the same size, similar location at the same rate at which the unit in question was earlier purchased, within 2 months from the date of this order.*
- ii. *The respondent is directed to pay interest at the prescribed rate of 10.75% p.a., for every month of delay from the due date of possession i.e., 15.01.2013 till the actual handing over of possession or offer of possession + 2 months whichever is earlier.*
- iii. *The respondent is under obligation as per section 17 of the Act to get the conveyance deed executed in favour of the complainants. Accordingly, the respondent is directed to get the conveyance deed within 90 days of possession in favour of the complainants after obtaining valid OC.*



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा मू-संपदा विनियामक प्राधिकरण, गुरुग्राम

MANO 518/2023 HCR/1058/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. सी. विभाग गृह, सिविल लाईन, गुरुग्राम, हरियाणा

- iv. *The respondent is directed to pay arrears of interest accrued till the date of this order within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per rule 16(2) of the rules.*
- v. *The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period and take the possession of the alternate unit within two months from date of offer of possession of the alternate plot in terms of aforesaid direction at S.no. (i).*
- vi. *The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e. 10.70% which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.*
- vii. *The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement."*

Rectification application stands allowed. File be consigned to registry.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member