

PROCEEDINGS OF THE DAY		14
Day and Date	Wednesday and 21.08.2024	
Complaint No.	MA NO. 292/2024 in CR/5985/2022 Case titled as Neha Arora VS Vatika Limited	
Complainant	Neha Arora	
Represented through	Ms. Niharika Sharma proxy counsel	
Respondent	Vatika Limited	
Respondent Represented through	None	
Last date of hearing	Application u/s 39 of the Act/24.07.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings-cum-orders		
<p>1. The above-mentioned matter was heard and disposed of vide order dated 15.03.2023 wherein, the Authority has directed the respondent to refund the amount paid by the complainant along with an interest @ 10.70% 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.</p> <p>A. Brief facts of the rectification application filed by the respondent:</p> <p>2. The complainant has filed an application dated 13.05.2024 for rectification of the said order dated 15.03.2023 stating that the Authority in para 3 of the said order, detailing the complaint no., reply status, unit no., allotment date, date of execution of builder buyer agreement, total sale consideration, amount paid and relief sought had inadvertently mentioned the amount paid by the complainants to be Rs.18,73,650/-. However, the complainants had made a payment of Rs.23,63,150/- which is evident from account statement annexed by the complainants as Annexure P-5 to their complaint. The respondent had annexed a copy of statement of accounts at page 21 of its reply wherein a refund of Rs.4,89,499/- to complainants on 11.04.2017 is shown after which</p>		



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

MAN 292/2024 IN CA 598/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

the total amount paid by the complainants comes down to Rs.18,73,650/- . A cheque bearing no. 000376 dated 17.04.2017 amounting to Rs.4,89,499/- was issued by the respondent to the complainants but the same was never encashed by the complainants. Same is also evident from the fact that respondent neither in para 7 of its reply denied the amount of Rs.23,63,150/- being paid by the complainants nor did the respondent in its reply or during the course of proceedings ever pleaded the fact that a cheque dated 17.04.2017 of Rs.4,89,499/- was issued by it to the complainants. Therefore, the complainants are entitled to a complete refund of the amount paid by them, i.e., Rs.23,63,150/- and in lieu of the same, amount paid by the complainants in para 3 of the said order dated 15.03.2023 must be rectified.

B. Findings by the Authority

3. The Authority is of the view that it has been inadvertently mentioned in para 3 of the final order dated 15.03.2023 that the amount paid by complainant is Rs.18,73,650/- instead of Rs.23,63,150/-. 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."

4. Accordingly, the said application dated 13.05.2024 filed by the complainant for rectification of order dated 15.03.2023 is held to be maintainable being covered under the ambit of Section 39 of the Act, 2016, ibid. Para 3 of the final order dated 15.03.2023 shall now be substituted and read as under:



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New PWD Rest House, Civil Lines, Gurugram, Haryana

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

Project Name		Tranquil Heights (Group Housing Colony)					
Sr. No	Complaint No./Title/Date of filing	Reply status	Unit no.	Allotment letter	Date of execution of builder buyer's agreement Due Date	Total sale consideration Amount Paid up	Relief sought
1.	CR/1443/2021 Saurabh Jain vs Vatika Limited	Received	801, tower E (Page 13 of complaint)	17.11.2014	21.05.2015 21.05.2019	TC-Rs. 1,66,89,520 /- AP- Rs. 21,30,500/-	Refund.
2.	CR/5985/2022 Neha Arora & Anr. vs Vatika Limited	Received	1404, building A (page 21 of complaint)	NA	05.05.2015 (taken from the stamp duty) [page no. 41 of complaint] 05.05.2019	TC-Rs. 1,13,88,335/- AP- Rs. 23,63,150/-	Refund.
3.	CR/6154/2022 Rahul Chauhan Through Sachin Chauhan Vs. Vatika Limited	Received	2203, building D (page 4 of complaint)	NA	20.10.2015 [page no.13 of complaint] 20.10.2019	TC-Rs.1,88,62,700 /- AP- Rs. 87,77,506/-	Refund.

The application for rectification of order is allowed subject to the condition that the cheque dated 17.04.2017 in question was never encashed. The above-mentioned para no. 3 as amended shall form part of the main order dated 15.03.2023.

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

Ashok Sangwan
Member
21.08.2024