

<b>PROCEEDINGS OF THE DAY</b>		<b>42</b>
Day and Date	Tuesday and 23.07.2024	
Complaint No.	MA NO. 310/2024 in CR/2628/2021 Case titled as LT COL GIRISH SINHA VS ANSAL PHALAK INFRASTRUCTURE PVT LTD	
Complainant	LT COL GIRISH SINHA	
Represented through	None	
Respondent	1. New Look Builders and Developers Pvt. Ltd. 2. Ansal Properties and Infrastructure Pvt Ltd 3. Ansal API Infrastructure Ltd.	
Respondent Represented	Shri Nitish Harsh Gupta Advocate	
Last date of hearing	Application u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<b>Proceedings</b>		
The aforesaid complaint was disposed of vide order dated 16.11.2022 by the authority wherein authority gave the following direction <i>“The respondent-promoter to refund the balance amount i.e., Rs.16,62,630/- deposited with him by the complainant along with interest at the rate of 10.25% as prescribed under rule 15 of the Haryana Real Estate (Regulation &amp; Development) Rules, 2017 from the date of payment as promised in the settlement agreement till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 (ibid).”</i>		
Now, an application is filed by respondent no.1 i.e., New Look Builders and Developers Pvt. Ltd. on 17.05.2024 for rectification of order dated 16.11.2022 and the respondent-applicant has sought following rectification-		

S. No.	Matter sought to be rectified	Direction of the Authority as per order dated 16.11.2022	Proposed rectification by the applicant-complainant with relevant page of paper book showing error
1.	Replacement of word "Promoter/ Respondent" to Respondent No.2	respondent-promoter to refund the balance amount i.e., Rs.16,62,630/- deposited with him by the complainant along with interest at the rate of 10.25%..."	Change of word respondent/promoter to Respondent No.2 in para 29 and para 32 (directions) (Para 29 and 32 at page no. 23 and 25 of order respectively)

Respondent no.1 i.e., New Look Builders and Developers Pvt. Ltd. in his reply/written submission dated 18.08.2022 has admitted the fact that the complainant has paid a sum of Rs.54,12,630/- to respondent no. 2 and 3, out of which Rs.37,50,000/- has been paid back to the complainant by the respondent no.1, after the funds were transferred from respondent no. 2 and 3 to respondent no.1. Hence the facts stated by the respondent no.1 in the rectification application are contrary to the written submissions by it.

Moreover, Section 39 of the Haryana Real Estate Regulatory Act, 2016 state that authority may rectify any mistake which is apparent from record, and in the present case there is document contrary to the claims made in rectification application. Hence, the authority is in view that the said application cannot be allowed.

The authority observes 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



HARERA  
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

MANO 31/07/24 CR 2628/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विकास गृह सिविल लाईंस मुख्यालय हरियाणा

against which appeal has been preferred, *secondly*, to amend substantive part of the order. The relevant portion of said section is reproduced below.

**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 present application for rectification is dismissed being devoid of merits that the rectification application is not maintainable as the changes proposed by the respondent no. 1 i.e., New Look Builders and Developers Pvt. Ltd. is not a mistake which is apparent from the record, and it is substantive part of the order, which cannot be amended as per the provision of section 39 of the Act, 2016.

Application stands disposed of. File be consigned to the registry.

Ashok Sangwan  
Member

V.1 - 3  
Vijay Kumar Goyal  
Member

Arun Kumar  
Chairman  
23.07.2024