



HARERA
GURUGRAM

Complaint No. MA No.
595/2024 in CR/6484/2022
and ors.

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Date of Decided **08.10.2024**

S. No.	Case No.	Case title	APPEARANCE
1.	MA No. 595/2024 in CR/6484/2022	Kusum Lata Narula V/s Vatika Ltd. & Vatika One on One Pvt. Ltd	Mr. Gaurav Rawat (Advocate) Mr. Venkat Rao (Advocate)
2.	MA No. 597/2024 in CR/6486/2022	Kamal Narula V/s Vatika Ltd. & Vatika One on One Pvt. Ltd	Mr. Gaurav Rawat (Advocate) Mr. Venkat Rao (Advocate)
3.	MA No. 596/2024 in CR/6488/2022	Deepali Narula V/s Vatika Ltd. & Vatika One on One Pvt. Ltd	Mr. Gaurav Rawat (Advocate) Mr. Venkat Rao (Advocate)
4.	MA No. 598/2024 in CR/6489/2022	Vikas Narula & Nitika Narula V/s Vatika Ltd. & Vatika One on One Pvt. Ltd	Mr. Gaurav Rawat (Advocate) Mr. Venkat Rao (Advocate)
5.	MA No. 590/2024 in CR/6490/2022	Suman Narula V/s Vatika Ltd. & Vatika One on One Pvt. Ltd	Mr. Gaurav Rawat (Advocate) Mr. Venkat Rao (Advocate)

CORAM:

Shri Arun Kumar

Chairman

Shri Ashok Sangwan

Member

ORDER

1. The above-mentioned 5 complaints were heard and disposed of vide joint order dated 05.04.2024 wherein, the Authority has passed the following directions:

- a. *The respondent is directed to pay interest for every month of delay from the due date of possession i.e., 10.06.2023 till valid offer of possession plus two months or handing over of possession whichever is earlier at prescribed rate i.e., 10.85% p.a. as per proviso to section 18(1) of the Act read with rule 15 of the Rules.*
- b. *The authority establishes the violation of section 13 of the Act, 2016 on part of the respondent and hereby imposes a token penalty under section 61 of ₹1,00,000/- in each complaint and further directs the respondent to execute the registered buyer's agreement as per the model agreement provided in Real Estate Regulation and Development Rules, 2017 within 30 days from this order failing which the authority shall be bound to invoke penal action u/sec 63 of the Act, 2016.*
- c. *The authority imposes a token penalty of ₹25,000/- in each complaint under section 63 of the Act, 2016 for non-complying by the directions of the authority to be paid within 30 days from the date of this order*
- d. *The respondent is directed to handover the possession of the subject apartment complete in all aspects within 60 days after receiving occupation certificate by the competent authority and thereafter, execute a conveyance deed in their favour within 90 days from the date of handover*

A. Brief facts of rectification applications filed by the applicant/respondent:

2. The applicant/respondent has filed applications for rectification of the joint order dated 05.04.2024 under section 39 of the Act, 2016 in table annexed with para 3 regarding the replacement of word "unit no." to Priority no. as only priority no. was allotted to complainants vide application form.
3. The respondent further states that the authority while pronouncing the order dated 05.04.2024 specifically recorded that since the respondents has not given any reply to the show cause notice issued for violation of section 13 of the Act, 2016 therefore, the authority presumes that they have nothing to say and hence, proceeding accordingly. Whereas vide para 40(b) of detailed order dated 05.04.2024 the authority levied penalty of ₹ 1,00,000/- upon the respondents in each case, which was inadvertently mentioned as during the pronouncement of the said order

no such direction were passed by the authority. Furthermore, in para 40(c) a penalty of ₹ 25,000/- under section 63 for non-complying by the directions of the Authority was also imposed upon the respondent in each case which again was a new element and was never pronounced in the open court.

B. Rectifications sought by the respondent vide the said rectification application dated 08.12.2023:

4. The respondent vide its rectification applications dated 30.08.2024 has sought the following rectifications in final joint order dated 05.04.2024: -

(i) *To rectify inadvertent error under para 3 of the detailed order for captioned matter wherein the unit number of the complainants has been mentioned as P-911, however the same is a Priority No. 911 instead of unit number.*

(ii) *To rectify the detailed order by removing the direction 40(b) & 40(c) as these directions were never pronounced vide pronouncement of the order dated 05.04.2024 and neither recorded in the proceedings.*

C. Arguments advanced by the counsel for the complainant to rectification applications filed by the complainants dated 30.08.2024:

5. All the averments made by the respondent in the said rectification application dated 30.08.2024 are denied in toto by the counsel for the complainant during the proceedings dated 08.10.2024.

(i) The objection as to replacement of word "unit no." to "priority no." was denied and the reliance was placed on the application form wherein the nomenclature mentioned is "unit no." and not "priority no.".

D. Findings of the Authority:

6. In view of the facts stated above and arguments advanced by the parties during the course of hearing dated 08.10.2024, 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 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:

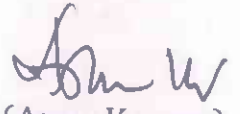
Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act."

7. Since the present application involves amendment of substantive part of the order by seeking specific direction for removal of the said directions passed by the authority in para 40(b) & (c) of the order dated 05.04.2024. The authority further disallows the rectification application as to the change of unit no. to priority no. in table annexed with para 3 and in the table annexed with para 6 of the order since the in the application it is mentioned as unit no. only. Accordingly, the said application is disallowed being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016.
8. A reference in this regard may be made to the ratio of law laid down by the Haryana Real Estate Appellate Tribunal in case of **Municipal**

Corporation of Faridabad vs. Rise Projects vide appeal no. 47 of 2022;
decided on 22.04.2022 and wherein it was held that the authority is not
empowered to review its orders.

9. In light of the afore said circumstances, the rectification application
stands disposed of accordingly. File be consigned to registry.


(Ashok Sangwan)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 08.10.2024



HARERA
GURUGRAM

