



**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

<b>PROCEEDINGS OF THE DAY</b>		<b>14</b>
Day and Date	Wednesday and 30.10.2024	
Complaint No.	MA NO. 540/2024 in CR/2148/2022 Case titled as Kumkum Gautam And Gyanendra Gautam VS Raheja Developers Limited	
Complainant	Kumkum Gautam And Gyanendra Gautam	
Represented through	None	
Respondent	Raheja Developers Limited	
Respondent Represented	Shri Garvit Gupta Advocate	
Last date of hearing	25.09.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

#### **Proceedings-cum-order**

The above-mentioned matter was heard and disposed of vide order dated 27.09.2023 wherein, the Authority had directed the respondent to refund the paid-up amount of Rs.71,24,734/- received by it from the complainants alongwith interest at prescribed rate from the date of each payment till actual refund of the deposited amount.

The counsel for the respondent has filed an misc. application bearing no. MA/540/2024 u/s 39 of the Act, 2016 for rectification of order dated 27.09.2023 stating that: -

- (a) The Authority has failed to take into consideration the fact that in adherence to the terms of the MoU dated 13.09.2017, the respondent has credited an amount of Rs.26,81,914/- to the complainants and the same is evident from the ledger attached by the complainants in the present complaint. Therefore, the said amount should have been adjusted with the total amount refundable by the respondent to the complainants.
- (b) Furthermore, the interest payable by the respondent on the remaining balance amount should be calculated from the date of last payment towards the assured return amount was paid by the respondent to the complainants.



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Vide proceedings dated 25.09.2024, last opportunity was granted to the complainants to file a reply to the said application. However, no reply has been filed by them till date.

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. 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."*

As the rectification filed by the counsel of respondent mentioned in para (a) of this order is mistake apparent from record, the same is being allowed.

Accordingly, the amount credited by the respondent-applicant to the complainant-allottees in terms of MoU dated 13.09.2017 shall be adjusted from the refundable amount.

Since the rectification mentioned in para (b) of this order involves amendment in substantive part of the order dated 27.09.2023, the same is declined being covered under 2<sup>nd</sup> proviso to Section 39 of the Act, 2016.

This order shall be read as part and parcel of the final order dated 27.09.2023. Application stands disposed of. File be consigned to registry.

Ashok Sangwan  
Member  
30.10.2024