



**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>22</b>
Day and Date	Wednesday and 09.10.2024	
Complaint No.	MA NO. 577/2024 in CR/473/2022 Case titled as Jitender Kumar VS VSR Infratech Pvt Ltd	
Complainant	Jitender Kumar	
Represented through	Shri Gaurav Rawat Advocate	
Respondent	VSR Infratech Pvt Ltd	
Respondent Represented	Ms. Shriya Takkar Advocate	
Last date of hearing	Application u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

#### **Proceedings-cum-orders**

The above-mentioned matter was heard and disposed of vide order dated 20.09.2023 wherein, the Authority has directed the respondent to pay delayed possession charges from the due date of possession, i.e., 10.10.2015 till actual handing over of possession or offer of possession plus two months, whichever is earlier. The relevant part of same is reiterated as under:

*"51. Hence, the authority hereby passes this order and issues the following directions under section 37 of the act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):*

- i. The respondent is directed to make a valid offer of possession along with an updated statement of accounts after adjusting DPC.*
- ii. The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of interest i.e., 10.75% p.a. for every month of delay from the due date of possession i.e., 10.10.2015 till actual handing over of possession or offer of possession plus two months, whichever is earlier as per Section 18(1) of the Act read with Rule 15 of the Rules.*
- iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period;*
- iv. The arrears of such interest accrued from 10.10.2015 till the date of order by the authority shall be paid by the promoter to the allottees within a period of 90 days*



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*from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10<sup>th</sup> of subsequent month as per rule 16(2) of the rules;*

- v. *The rate of interest chargeable from the allottee by the promoter, in case of default, shall be charged at the prescribed rate i.e., 10.75% by the respondent/promoter which is the same rate of interest which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default, i.e., the delayed possession charges as per section 2 (za) of the Act.*
- vi. *The respondent shall not charge anything from the complainant which is not part of the buyer's agreement."*

1. The respondent has filed an application dated 28.08.2024 for rectification of the said order on the ground that the respondent was directed to make a valid offer of possession along with an updated statement of accounts after adjusting the DPC, whereas the respondent had already offered the possession of the unit to the complainant vide letter dated 26.02.2021 and same was duly recorded in final order passed by the Authority. Further, the respondent had also raised demand of outstanding dues and majority of these demands raised by the respondent have been upheld with respect to electricity connection charges, power backup charges, air conditioning charges and advance maintenance charges. However, the Authority had due to an oversight and inadvertent error recorded that the demand raised along with the offer of possession is illegal and hence not valid and the respondent shall issue a fresh offer of possession to the complainants.

Further, the demands raised by the respondent along with the said offer of possession dated 26.02.2021 were in accordance with the terms of the buyer's agreement executed between the parties and rightly upheld by this Hon'ble Authority that the majority of the demands raised are valid and therefore, the offer of possession dated 26.02.2021 cannot be termed as invalid. Also, the said possession was offered after receipt of occupation certificate dated 17.02.2021. The act of declaring the entire offer of possession as illegal leads to unjust enrichment of the complainant allottee who in present case is a chronic defaulter.

2. Before proceeding with the matter, it would be appropriate to refer to the provisions of Section 39 of the Act, 2016 under which the present application has been preferred.

**"Section 39: Rectification of orders**



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*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."*

3. The Authority is of the view that the offer of possession dated 26.02.2021 had already declared to be invalid and cannot be deliberated upon again by the authority at this stage as this would amount to amendment in substantive part of order passed by the authority dated 20.09.2023. Further, the Authority cannot re-write its own order and lacks the jurisdiction to review its own order as the matter in issue has already been heard and decided by this Authority. Therefore, the said rectification application filed by the respondent is hereby dismissed.

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

Ashok Sangwan  
Member  
09.10.2024