



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

(Reopened for deciding rectification application u/s 39 of RERA Act, 2016)

COMPLAINT NO. 827 of 2024

Arvind Rana

....COMPLAINANT

VERSUS

Parsvnath Developers Ltd.

.....RESPONDENT

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Date of Hearing: 16.12.2024

Hearing: 2nd (Reopen)

Present: - None for the complainant.

None for the respondent.

ORDER (NADIM AKHTAR –MEMBER)

1. Learned counsel for the complainant, i.e., Sh. Arvind Rana filed an application on 19.06.2024 praying for the rectification of the disposal order dated 22.03.2023 passed in complaint no. 2304 of 2022 titled as "*Arvind Kumar Rana Vs. Parsvnath Developers Ltd. and others*", under section 39

of Real Estate (Regulation and Development) Act, 2016. Vide order dated 22.03.2023, respondent was directed to refund total amount of ₹10,92,054/-(principal amount + interest) and amount of EMIs paid by the complainant worked out ₹17,14,167/- along with interest to the complainant. Complainant in the present application has raised the following grounds:

A. That Hon'ble Authority vide order dated 22.03.2023, directed to pay the principal amount paid by the complainant to refund the complainant amount of EMIs paid by him to bank from his own pocket and were not reimbursed by the respondent along with interest and further directed that "complainant will make demand for payment of these amounts duly supported by bank statements in respect of amounts EMIs paid by him to bank which were not reimbursed".

B. The complainant booked the flat under the EMI subvention Scheme, the complainant did not mention the prepayment amounting to ₹11,00,000/- to the bank by the complainant as the complaint claiming the reimbursement amount of ₹17,14,167/- payable under the EMI subvention Scheme vide agreement for reimbursement of EMI by the builder till July 2022.

C. That vide order dated 17.01.2023, the complainant filed the bank loan sanction letter, statement of bank loan account and NOC of the bank which clearly reflect that the complainant also made the part pre-payment amounting to ₹11,00,000/- since 27.10.2009 to 21.05.2012 which was not considered by this Hon'ble Forum while passing the order dated 22.03.2023.

D. That the complainant is also enclosing the calculation ordered by this Hon'ble Forum vide order dated 22.03.2023 including the calculation of pre-payment of loan amount with interest. The same as annexed as annexure-B.

E. That the complainant claimed refund of full EMI reimbursement, however, complainant did not specifically mentioned about refund of the prepayment of loan amount in his pleading in complaint no. 2304 of 2022. This Hon'ble Forum vide order dated 22.03.2023 gave directions to the respondent to reimburse only balance EMI which were paid by the complainant to the respondent and was not reimbursed by the respondent to the bank. Hence, the complainant is requesting to rectify the orders dated 22.03.2022 passed by the Authority to the extent of refund of pre-payment of loan amount.




2. Today is the 2nd hearing, none appeared on behalf of both the parties. As per section 39 of the Act, this Authority has power of rectification of the orders only when mistake is apparent on the face of record and not otherwise. It is pertinent to mention here that the relief sought by the complainant in complaint no. 2304 of 2022 was for reimbursement of EMI w.e.f. July 2014. Now, the complainant has prayed to consider the part pre-payment of loan amount of ₹11,00,000/- paid between 27.10.2009 to 21.05.2012, which was not part of the relief sought by him in its complaint no. 2304 of 2022. The adjudication of the cases by the Authority is summary in nature based on the documents available on record and the relief sought by the complainants in its complaints. If during the pendency of the case before the Authority, complainant wants to add any relief sought then he has to file an application for amendment of relief. However, the same has not been done by the complainant in this particular complaint. It is pertinent to mention here that the part pre-payment amount which complainant wants to be considered has already been considered by the Authority while passing the order dated 22.03.2023 and the complainant was directed to demand the same from respondent. Therefore, no contention has left to be considered by this Authority. The final order was passed on the record which was available to the Authority at the time of passing of the said order.



3. Authority is further of the view that order dated 22.03.2023, was passed by the Authority after duly taking into consideration the facts and documents placed on record by both the parties. Authority observes that the issue raised by the applicant respondent has been dealt by the Authority in detail. There is no issue left undisputed. Authority passed a very detailed order which enumerates reasoning for all the issues raised by the complainant. Authority has decided the matter on the basis of records adduced. There is no scope left to be covered for the clarification.
4. Therefore, it is concluded that the Authority's decision was made in accordance with the "principle of equity". This ensures that the decision of the Authority vide order dated 22.03.2023 was fair and just, considering the circumstances, maintaining fairness in the matter. The RERA Act, 2016 does not entrust the power of review of the order on the Authority.
5. In fact the proviso 2 to section 39, categorically provides that the Authority "shall not" while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of the Act. Authority has limited power in section 39 of RERA Act, 2016.
6. For the above stated reasons, the present application for rectification of the final order dated 22.03.2023 deserves to be rejected and the same is **hereby dismissed.**



File be consigned to record room after uploading of this order on the website of the Authority.


.....
CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]

