

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY		11
Day and Date	Wednesday and 08.01.2025	
Complaint No.	MA NO. 966/2024 in CR/5958/2023 Case titled as Naresh Kumar and Sumenta VS Savyasachi Infrastructure Private Limited	
Complainant	Naresh Kumar and Sumenta	
Represented through	Shri Pankaj Kumar Yadav Advocate	
Respondent	Savyasachi Infrastructure Private Limited	
Respondent Represented through	None	
Last date of hearing	Application under Section 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings-cum-orders		
<p>1. The above-mentioned matter was heard and disposed of vide an ex-parte order dated 30.10.2024 wherein, the Authority observed that no case of delay possession charges is made out. However, in case the possession of the unit was not yet handed over to the complainants, the respondent was directed to handover the possession of the allotted unit to the complainants complete in all aspects as per specifications of buyer's agreement within one month from date of this order after payment of outstanding dues, if any, as the completion certificate in respect of the project has already been obtained by it from the competent authority.</p> <p>2. The complainant has filed an application dated 27.11.2024 for rectification of the said order stating that in para 3 of the order dated 30.10.2024, the basic sale price had been inadvertently recorded to be Rs.26,00,415/- instead of Rs.21,24,830/- and amount paid by the complainants had been inadvertently recorded to be Rs.19,00,189/- instead of Rs.21,61,497/-. The relevant part of same is reiterated as under:</p>		



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
MA No-966/2024 in CR/5958/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

Sr. No.	Complaint No., Case Title, and Date of filing of complaint	Unit no. and size	Date of execution of BBA/MoU	Due date of possession	Basic Sale Consideration / Total Amount paid by the complainants	Relief sought
2.	CR/5958/2023 Naresh Kumar and Sumenta Vs. M/s Savyasachi Infrastructure Pvt. Ltd. DOF: 05.01.2024 Reply: Not filed	Plot No. B-21	31.10.2018 (Page 24 of complaint)	31.04.2021 (Calculated to be 24 months from date of execution of agreement along with grace period of 6 months in lieu of Covid-19)	BSP- Rs.26,00,415/- AP- Rs.19,00,189/-	<ul style="list-style-type: none"> • Delay possession charges till offer of possession of unit along with prevailing interest. • Complete the development work and provide habitable possession of the said unit to the complainant. • Registration of conveyance deed. • Litigation expenses Rs. 50,000/-.

3. Perusal of case file reveals that the basic sale price of the unit in question is Rs.21,24,830/- as is evident from builder buyer agreement dated 31.10.2018 annexed at page no. 30 of the complaint. Therefore, it had been inadvertently mentioned in para no. 3 of the order dated 30.10.2024 that the basic sale price of the unit is Rs.26,00,415/- instead of Rs.21,24,830/-. Same is a mistake apparent on record and does not constitute amendment of substantive part of order dated 30.10.2024 under Section 39 of the Real Estate (Regulation and Development) Act, 2016. Section 39 of the Real Estate (Regulation and Development) Act, 2016 is reproduced below for ready reference:

“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:



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

MA No - 166/2024 in CR/5958/2023

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

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."

4. Further, as far as amount paid by the complainants is concerned, the complainants have themselves pleaded at page no. 5 of their complaint that an amount of Rs.19,00,189/-, the relevant part of same is reiterated as under:
".....**The complainants thereafter paid a full and final payment of Rs.19,00,189/- (Rupees Nineteen Lakhs One Hundred Eighty Nine Only) upto 14-11-2019 towards the booking in the project....."**

Moreover, the complainants have again specified the amount paid by the complainants to be Rs.19,00,189/- in Annexure-I to Form-CRA, the relevant part of same is reiterated as under:

17.	Payment Details		
i)	Basic Sale Consideration		Rs.26,00,415/-
ii)	Total Amount Paid by the Allottee/s till Date		Rs.19,00,189/-
Payments Made by the Allottee			
S.N.	Cheque/DD No.	Date	Amount
1.		01-10-2018	2,12,450/-
2.		Loan 21-11-2018	16,27,739/-
3.		15-11-2019	60,000/-
4.			
5.			
6.			
7.			
	Total		19,00,189/-

The complainants have not placed sufficient evidence on record to prove that an amount of Rs.21,61,497/- had been paid by them to the respondent, instead of Rs.19,00,189/-. Therefore, no rectification can be made as to the amount paid by the complainants in the said order dated 30.10.2024.

5. Accordingly, the said application dated 27.11.2024 filed by the respondent for rectification of order dated 30.10.2024 is held to be maintainable to the extent of basic sale price of the unit, being covered under the ambit of Section 39 of the Act, 2016, ibid. Para 3 of the final order dated 30.10.2024 shall now be substituted and read as under:



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
MA No- 966/2024 in CR/5958/2023

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

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6. Application partly allowed. The above-mentioned para no. 3 as amended to the extent of basic sale price of the subject unit in CR/5958/2023 shall form part of the main order dated 30.10.2024.

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

Ashok Sangwan
Member
08.01.2025