

PROCEEDINGS OF THE DAY		16
Day and Date	Wednesday and 05.03.2025	
Complaint No.	MA NO. 59/2025 in CR/6050/2023 Case titled as Kulbhushan Gupta VS Munglam Multiplex Private Limited	
Complainant	Kulbhushan Gupta	
Represented through	Shri Riju Mani Talukdar Advocate	
Respondent	Munglam Multiplex Private Limited	
Respondent Represented through	Ms. Shriya Takkar and Ms. Smriti Srivastava Advocates	
Last date of hearing	Appl. u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings-cum-order		
<p>The above-mentioned matter was heard and disposed of vide order dated 13.11.2024 wherein, the cancellation was held valid and the Authority has directed the respondent to refund the deposited amount of Rs.1,37,20,000/- after deducting 10% of the sale consideration i.e. Rs.2,01,84,928/- being earnest money alongwith interest @ 11.10%. It was further directed that the interest shall be paid on the amount adjusted i.e. Rs.1,02,86,415/- from the date of date of cancellation i.e. 10.12.2021 till its adjustment on retained unit i.e. 13.05.2022 and on the remaining balance i.e. Rs.14,15,093/- the interest shall be paid from the date of cancellation till its realization.</p> <p>The counsel for the respondent has filed an application bearing no. 59/2025 u/s 39 of the Act, 2016 seeking rectification of order dated 13.11.2024 stating that the respondent had already transferred the amount to the complainant as per the terms settled between the parties vide indemnity bond and agreement for substitution of units. Therefore, by no stretch of imagination the respondent is liable to refund any amount to the complainant, much less with interest.</p>		



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

The counsel for the complainant – allottee states that the complainant has already preferred an appeal bearing No.937/2024 before the Appellate Tribunal.

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.”

Since the complainant allottee has already preferred an appeal before the Appellate Tribunal, the present application for rectification of order dated 13.11.2024 is not maintainable being covered under proviso to section 39 of the Act, 2016.

In view of the above, the application for rectification is hereby dismissed being not maintainable. File be consigned to the registry.

Ashok Sangwan
Member
05.03.2025