



**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>9</b>
Day and Date	Wednesday and 12.03.2025	
Complaint No.	MA NO. 722/2024 in CR/1533/2022 Case titled as Anil Kumar Rathi VS Identity Buildtech Private Limited & Ms Agro Gold Chemicals Pvt Ltd	
Complainant	Anil Kumar Rathi	
Represented through	Ms. Simran proxy counsel	
Respondent	Identity Buildtech Private Limited & M/s Agro Gold Chemicals Pvt Ltd	
Respondent Represented	Shri Kali Ram Clerk of Shri Amandeep Kadiyan Advocate for R1 Shri Sudhanshu Tomar and Ayush Tomar Advocates for R2	
Last date of hearing	29.01.2025/appl. u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<b>Proceedings-cum-order</b>		
<p>On the last date of hearing, the counsel for respondent no.1 i.e., M/s Identity Buildtech Private Limited <del>has</del> appeared and stated that the copy of the application under Section-39 of the Act, 2016 for the rectification of order dated 20.09.2023 has not been received by it. The Authority observed that notice has been issued to only M/s. Ansal Housing and Construction Ltd. and not to all the parties and the registry was directed to issue proper notice to all the concerned parties and the same has been sent to the concerned respondent parties.</p> <p>The above-mentioned matter was heard and disposed of vide order dated 20.09.2023 wherein, the Authority had directed the respondent no.2 to pay interest at the prescribed rate of 10.75% p.a. for every month of delay from the due date of possession i.e., 17.10.2017 till the expiry of two months from the date of offer of possession after issuance of occupation certificate.</p>		

The respondent has filed an application for rectification of order dated 20.09.2023 stating that the Authority while passing the order had inadvertently missed directions for delivery of possession of the unit to the complainant and the complaint was filed against three respondents i.e.,

- i. **M/s Ansal Housing and Construction Ltd.**
- ii. **M/s. Identity Buildtech Pvt. Ltd.**
- iii. **M/s Agro Gold Chemical Pvt. Ltd.**

However, in the order dated 20.09.2023, the names of M/s. Identity Buildtech Pvt Ltd and M/s Agro Gold Chemical Pvt. Ltd. have been mentioned and M/s. Ansal Housing and Construction Ltd. has not been mentioned.

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."***

In view of the above aforesaid provisions, the Authority observes that the complainant has filed the complaint on 13.04.2022 against the respondents namely, M/s. Ansal Housing and Construction Ltd. M/s. Identity Buildtech Pvt. Ltd. and M/s Agro Gold Chemicals Pvt. Ltd.

While passing the order, the Authority inadvertently mentioned two respondents, namely, M/s. Identity Buildtech Pvt. Ltd. and M/s Agro Gold Chemicals Pvt. Ltd. without mentioning respondent namely M/s. Ansal Housing and Construction Ltd. The said application with regard to rectification of order dated 20.09.2023 is hereby allowed and the respondent namely M/s.



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Ansal Housing and Construction Ltd. is added in the array of parties in the order dated 20.09.2023.

Further, the Authority is of the view that though no specific directions with respect to the possession were given in the order dated 20.09.2023, the word "delayed possession charges" itself has the word "possession" incorporated in it. It implies that possession has to be handed over to the allottee at some point of time. In the Act, 2016 it is clearly mentioned under Section-17(1) that possession has to be given to the allottee and also conveyance deed has to be executed. Section 17(1) is reproduced below for reference:

***17 (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws: Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupation certificate"***

.....[Emphasis supplied]

In view of the above, it is the statutory right of the allottee to obtain possession and get the Conveyance deed executed in his favor.

Application stands disposed of. File be consigned to registry.

Ashok Sangwan  
Member  
12.03.2025