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GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

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New PWD Rest House, Civil Lines, Gurugram, Haryana

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

PROCEEDINGS OF THE DAY		22
Day and Date	Tuesday and 21.01.2025	
Complaint No.	MA NO. 917/2024 in CR/182/2023 Case titled as Sunita Godara VS Ansal Housing Limited & Samayak Project Private Limited	
Complainant	Sunita Godara	
Represented through	Shri Romit Jangra Advocate	
Respondent	Ansal Housing Limited & Samayak Project Private Limited	
Respondent Represented through	None for R1 Shri Shanker Wig and Ms. Sanya Arora Advocates for R2	
Last date of hearing	Application u/s 39 of the Act/24.12.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The above-mentioned matter was heard and disposed of vide order dated 04.01.2024 wherein the Authority passed the following direction:

- The respondents/promoters are directed to refund the amount of ₹56,62,076/- paid by the complainants along with prescribed rate of interest @10.85% p.a. as prescribed under rule 15 of the rules from the date of each payment till the date of refund of the deposited amount.*

The respondent no. 2 has filed an application for rectification of order dated 04.01.2024 under section 39 of the Act, 2016 regarding the directions made by the Authority against both the respondents to refund the paid-up amount by the complainants.

The respondent no. 2 prayed to hold only respondent no. 1 accountable to refund the amount and to stay the execution proceedings against respondent no. 2.

The complainant submitted the reply to the said application on 18.11.2024 wherein it is stated that the said order has been passed by the Authority after



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MANO 917/2024 in CR/182/2023

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giving ample opportunities to the respondent no. 2 to appear before the Authority. Moreover, the agreement was signed by all the three parties and accordingly both the respondents are jointly and severally liable. Also, R2 falls within the definition of promoter under the Act, 2016.

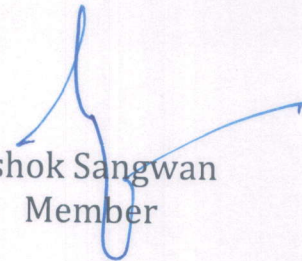
The counsel for the respondent no.2 states that there is a clerical error in the main order passed by the Authority on 12.04.2023 directions were also given to the respondent No.2 i.e. Samyak Projects Pvt. Ltd as there was only a corroboration agreement between R1 and R2 and the name of respondent No.2 should be deleted.

The counsel for the complainant states that the complainant has made party to R1 and R2 and they are promoter as per definition of the "promoter" in the Act, 2016, hence the R2 is also responsible to comply with the orders passed by the Authority. However, the respondent Nos. 2 to 4 have already been proceeded against ex-parte and respondent No.2 cannot file application for rectification of orders, hence the application be dismissed.


Findings of the authority:

It is observed that the applicant i.e., respondent no. 2 was proceeded ex-parte by the Authority in the present matter as recorded in para 7 of the said order. In view of the above, at the present stage the respondent no. 2 does not have a locus to file an application under section 39 of the Act, 2016. Moreover, the said section pertains to rectification of an error apparent from record and does not provide for any 'clarification' as such.

Ordered accordingly. The file be consigned to registry.


Ashok Sangwan
Member


Arun Kumar
Chairman
21.01.2025


Vijay Kumar Goyal
Member