



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1926 of 2024

Sachin Mor

....COMPLAINANT

VERSUS

Housing Board Haryana

.....RESPONDENT

CORAM: Dr. Geeta Rathee Singh
Chander Shekhar

**Member
Member**

Date of Hearing: 14.01.2025

Hearing: 1st

Present: - Adv. Dr. Uttam Singla, Counsel for the complainant.

Adv. Anil Kumar Garg, Counsel for the respondent.

ORDER

1. Complainant has filed present rectification application dated 06.12.2024 for rectification of final order dated 11.05.2022 in *complaint no 676 of 2021 titled as Dayanand Dahiya vs Housing Board Haryana*. Operative part of the said order is being reproduced below:

“In complaint no. 676 of 2021, complainant had deposited an amount of Rs. 5,68,000/- with the respondent. The amount of interest payable to the complainant has been calculated at the rate of 9.40% and the same works out to Rs. 3,99,477/-. Therefore, respondent is directed to pay an amount of Rs. 9,67,477/- as refund of deposited money along with interest to the complainant”

2. Complainant has submitted that respondent was required to comply with order dated 11.05.2022 within a period of 90 days from the date of pronouncement of judgement as provided under Section 16 of Haryana Real Estate(Regulation and Development) Rules, 2017.
3. However, applicant complainant is aggrieved by the fact that in absence of any timeframe of 90 days as per Rule 16 of Haryana Real Estate (Regulation and Development) Rules, 2017 expressly mentioned in the judgement dated 11.05.2022 for repaying the refund amount respondent took undue advantage and partly paid an amount of Rs. 6,95,560/- on 07.10.2022, after more than 4 and a half months of the date of final order. Aggrieved by the action of the respondent, applicant filed execution no. 2874 of 2022 wherein balance amount of Rs. 2,71,917/- was refunded on 23.08.2024 that too after execution of warrant of attachment of bank account of respondent.
4. Complainant has prayed that in view of the facts and statutory provisions, para no. 5 of the order dated 11.05.2022 in complaint no. 676 of 2021 be



modified as per Section 2(za) of the Real Estate (Regulation and Development) Act, 2016 and Section 16 of the HRERA Rules, 2017.

5. On perusal of the rectification application dated 06.12.2024 filed by the applicant complainant it is observed that the same has been filed after lapse of period of more than 2 years from the date of pronouncement of final order dated 11.05.2022. As per Section 39 of Real Estate(Regulation and Development)Act,2016, the Authority may at any time within a period of 2 years from the date of order made under this Act , with the view to rectify any mistake apparent from record amend any order passed by it. Section 39 is reproduced herein below for reference:

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. However, applicant has neither provided any reason for delay in filing the present rectification application nor requested for condonation of delay. Therefore, it cannot be decided on merits.

Therefore, present application for rectification is time barred.

6. Nevertheless, in the interest of justice and not to leave a scope for any ambiguity or confusion Authority clarifies that order dated 11.05.2022 in a



bunch of two cases comprising of 676 of 2021 and 747 of 2021 is self-speaking. At para-4 of the said order, it has been held that "*Authority deems it fit to issue directions to the Respondent Housing Board Haryana to refund delay interest in terms of Rule 15 of HRERA Rules 2017 i.e. @ SBI MCLR + 2%.*" Further, at para-5 of the said order, calculations of the amount on the date of pronouncement of the order in terms of above observations were made specifically with respect to Complaint No.676 of 2021 and the respondent was directed to pay an amount of Rs.9,67,477/- as refund of deposited amount "**along with interest**" to the Complainant.

7. Section 2 of the RERA Act, 2016 defines and give meanings to the terms and expressions used in the Act which are significant in understanding of the import of the provisions. Definition is a statement that sets forth and delimits the meaning of the word used in the Act. It serves to instruct the persons who are ignorant or unaware of the usage, to determine the consistency of the usage and the reasoning in the terms is used and to help systemised a body of knowledge. Section 2(za) of RERA Act, 2016 specifically defines the term "interest" which is reproduced herein below:

2(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.—For the purpose of this clause— (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default; (ii) the interest payable by the promoter to



the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest 6 thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

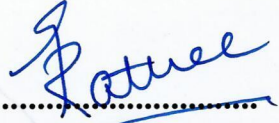
8. The Hon'ble Supreme Court in **"Prestige Engineering" (India) Ltd. vs Collector of Central Excise, 1994 (48) ECC 203, 1994 (73) ELT 947 SC, JT 1994 (5)** has held that once the expression has been defined in the Act, that expressions wherever it occurs in the Act, Rules, Orders, By-laws and Notifications issued thereunder, should be taken in the same sense.
9. Further, it has been held by Hon'ble Supreme Court in **S.Sundram Pillai vs V.R. Pattabiramn, AIR 1985 SC 582** that if a definition is provided to expression, then the Courts are not free to construe to expression otherwise, unless it is so unwarranted by the context.
10. The definition of 'interest' as provided under Section 2(z) uses the device "means". Where an expression defines a word to 'mean' the particular end, the definition is explanatory and prima facie restrictive. Restrictive definition confines the meaning of the word 'define' to what is stated in the interpretation clause.
11. Hence, definition of "interest" under Section 2 (za) is self- explanatory and explanation to the definition makes it clear that the promoter is liable



to pay the interest from the date the amount is received by him from the allottee till the date it is paid. The definition be interpreted/construed in the same way wherever it has been provided in the final order dated 11.05.2022.

12. With these observations case is **disposed off**. File be consigned to record room after uploading the order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]