



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

(Reopened for deciding application u/s 39 of RERA Act, 2016)

COMPLAINT NO. 1450 OF 2023

Monika Kukreti & Rakesh Tripathi

....COMPLAINANTS

VERSUS

BPTP Ltd.

.....RESPONDENT

CORAM:

Parneet S Sachdev

Chairman

Nadim Akhtar

Member

Dr. Geeta Rathee Singh

Member

Chander Shekhar

Member

Date of Hearing: 03.04.2025

Hearing: 1st (Reopen)

Present: - Mr. Harshit Goyal counsel for the complainants through VC.
Mr. Himanshu Moga, proxy counsel for Adv. Hemant Saini,
counsel for the respondent in person.

ORDER (PARNEET S SACHDEV - CHAIRMAN)

1. An application dated 06.03.2025 has been filed by the complainants, Monika Kukreti & Rakesh Tripathi, through their counsel, Advocate Harshit Goyal, under Section 39 of the Real Estate (Regulation and

Development) Act, 2016, seeking rectification of the order dated 18.11.2024. The complainants seek modification of the 'Delayed Possession Charges amount' mentioned in paragraph 23 of the final order, stating that the amount should be rectified as ₹28,66,003/-, calculated on the total paid amount of ₹35,71,534/-.

2. Upon perusal of the rectification application, it is observed that the complainants are not seeking rectification of any clerical or typographical error but, in fact, seek modification of a substantive determination i.e **'Delayed Possession Charges Amount'** made in paragraph 23 of the final order dated 18.11.2024. The said order was passed on merits based on the documents available on record at the time of adjudication.
3. At this stage, it is pertinent to reproduce Section 39 of the Real Estate (Regulation and Development) Act, 2016, which states as follows:

"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."




4. Section 39 empowers the Authority to rectify only those mistakes that are apparent from the record. The word "record" referred to in Section 39 does not refer solely to the order of the Authority, but also includes all proceedings on which the order is based. 'Record' encompasses all the documents present in the file as on the date of passing of the order. However, once the order is passed by the Authority and the file is closed, there is no scope for making additions to the 'record'.
5. In the present case, the complainants seek rectification based on receipts that were not part of the record at the time of the final order dated 18.11.2024. During the course of proceedings, the complainants were previously directed to submit all receipts along with the statement of accounts. Adequate opportunity was provided to them. At the time of passing of the order, all the receipts submitted by the respondent were duly taken into consideration.
6. In the present case, the complainants have sought to place on record certain additional receipts along with an application for rectification, thereby seeking a modification of the Delayed Possession Charges awarded. In essence, they seek a change in the substantive part of the order based on documents that do not constitute 'record' within the meaning of Section 39.



7. In view of the foregoing, the present rectification application does not meet the requirements of Section 39 of the Act and is therefore devoid of merit.
8. Accordingly, the application seeking rectification of the final order dated 18.11.2024 is hereby **disposed of as rejected**. File be consigned to the record room after uploading this order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET S SACHDEV
[CHAIRMAN]