

PROCEEDINGS OF THE DAY		14
Day and Date	Friday and 11.04.2025	
Complaint No.	MA NO. 215/2025 in CR/7680/2022 Case titled as Prithvi Gupta and Rajni Sajal VS Vatika Limited	
Complainant	Prithvi Gupta and Rajni Sajal	
Represented through	Shri Abhitabh Narayan and Ms. Shreya Narayan Advocates	
Respondent	Vatika Limited	
Respondent Represented	Shri Nitish Assistant Manager	
Last date of hearing	Application u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings-cum-order

The complainants have filed an application dated 19.03.2025 for rectification of order dated 06.10.2023 whereby the Authority has granted refund of the amount paid by the complainants along with prescribed rate of interest i.e., 10.75% per annum after deduction of entire amount of assured return, if any, already paid to the complainant.

Vide the present application, the complainant states that the calculation of assured returns received by the complainant in the order dated 06.10.2023 is states to be Rs.28,76,250/-. However, on a correct calculation, the assured return received by the complainant comes to Rs.15,14,500/- from 17.02.2015 i.e., when the complainants become allottees. The complainants purchased the subject unit from Ms. Manju Sethi on 17.02.2015 and has received assured returns from February 2015 till 30.09.2018 amounting to Rs.15,14,500/-. Thus, it is prayed that the amount of assured return received by the complainant in the judgment be corrected to Rs.15,14,500/-.

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



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

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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 present application involves amendment of substantive part of the order by seeking specific direction that the amount of assured return paid to the complainant shall be calculated w.e.f. 17.02.2015 i.e., when the complainants became allottee, this would amount to review of the order. Moreover, the objection raised by the complainant via present application was never raised by him during the course of the proceedings. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016.

A reference in this regard may be made to the ratio of law laid down by the Haryana Real Estate Appellate Tribunal in case of ***Municipal Corporation of Faridabad vs. Rise Projects vide appeal no. 47 of 2022***; decided on 22.04.2022 and wherein it was held that the authority is not empowered to review its orders.

Thus, in view of the legal position discussed above, there is no merit in the application dated 19.03.2025 filed by the complainants for rectification of order dated 06.10.2023 passed by the authority and the same is hereby **declined**.

Rectification application stands disposed of. File be consigned to registry.

Arun Kumar
Chairman
11.04.2025