



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

PROCEEDINGS OF THE DAY		61-64
Day and Date	Tuesday and 08.04.2025	
Complaint No.	MA no. 1019/2024 in CR/2767/2023 Case titled as Mamta Chauhan V/s Sunrays Heights Private Limited MA no. 1018/2024 in CR/2768/2023 Case titled as Vanita Joshi V/s Sunrays Heights Private Limited MA no. 1020/2024 in CR/2770/2023 Case titled as Puneet & Prabha Dwivedi Dwivedi V/s Sunrays Heights Private Limited MA no. 1021/2024 in CR/2772/2023 Case titled as Priya Dwivedi V/s Sunrays Heights Private Limited.	
Complainants	Priya Dwivedi	
	Puneet & Prabha Dwivedi	
	Mamta Chauhan	
	Vanita Joshi	
Represented through	Shri Sanjeev Sharma Advocate	
Respondent	Sunrays Heights Private Limited	
Represented through	Shri Tushar Bahmani, Advocate	
Last date of hearing	Rectification application u/s 39 of the Act.	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
The aforesaid complaint was disposed of vide order dated 08.10.2024 of the Authority wherein the Authority directed the following directions:		
1. The cancellation letter issued by the respondent to the complainant(s) is hereby ordered to be set-aside with a direction for reinstate of the subject unit and issue fresh statement of account as per builder buyer's agreement		



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- with prescribed rate of interest i.e., 11.10% p.a. on the outstanding amount towards complainant/allottee as prescribed under rule 15 of the rules.*
2. *The respondent is directed to pay interest to each of the complainant(s) against the paid-up amount at the prescribed rate of interest i.e. 11.10% p.a. for every month of delay from the due date of possession 16.03.2021 till valid offer of possession plus two months after obtaining occupation certificate from the competent Authority or actual handing over of possession, whichever is earlier as per proviso to section 18(1) of the Act read with rule 15 of the rules.*
 3. *The respondent is directed to handover the possession of the allotted unit within 60 days after obtaining occupation certificate from competent Authority. The complainant w.r.t. obligation conferred upon them under section 19(10) of the Act, 2016, shall take the physical possession of the subject unit, within a period of two months of the occupancy certificate.*
 4. *The arrears of such interest accrued from due date of possession of each case till the date of this order by the authority shall be paid by the promoter to the allottees within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.*
 5. *The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.*
 6. *The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(z) of the Act. Further no interest shall be charged from complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.*
 7. *The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.*

The respondent has filed an application to review the judgment dated 08.10.2024 and further to modify it to the extent of setting aside the judgment, thereby allowing the present application and ordering the complaint withdrawn as settled on following grounds:-

- a. The present complainant has written an email dated 22.04.2024, to the Haryana Real Estate Regulatory Authority, Gurugram, wherein the complainant specifically mentioned and admitted that the issue in the w.r.t. the allotted unit in the present case was duly resolved and the complainant was satisfied with the quality of the project and no dispute stands unresolved and the complainant wishes to withdraw the ongoing present complaint before the Authority and that the complainant will not pursue the case further.



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- b. The fact, that the complainant has emailed the Authority on 22.04.2024 and wishes to withdraw the complaint was duly communicated by the counsel of the respondent during the proceedings on 29.05.2024. Despite the same, the counsel of the complainant pleaded that he would confirm from the allottee whether the request for withdrawal had been made voluntarily or not. Further, the respondent stated that the complainant may be present in person to confirm the withdrawal application.
- c. That the complaint was against listed for the hearing on 17.09.2024 before the Authority. On 16.09.2024 the complainant once again emailed her counsel, wherein, the complainant specifically wrote that despite her instruction to withdraw the complaint, the complaint was not withdrawn by the counsel for the complainant and once again the complainant instructed her counsel to uprise the Authority about the settlement with the respondent and instructed her counsel Advocate Sanjeev Sharma to withdraw the complaint. However, the counsel lied and mislead the Authority that no instruction had been given to him regarding the withdrawal of the complaint

Heard.

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 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."



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Since the present application involves the review of the main order, and the Authority has no jurisdiction to decide the same. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016. Thus, in view of the legal position discussed above, the application u/s 39 of the Act, 2016 is hereby declined.

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

Ashok Sangwan
Member

Arun Kumar
Chairman
08.04.2025

V.I. 3
Vijay Kumar Goyal
Member