

New PWD Rest House, Civil Lines, Gurugram, Haryana

PROCEEDINGS OF THE DAY		22
Day and Date	Wednesday and 21.05.2025	
Complaint No.	MA NO. 190/2025 in CR/7434/2022 Case titled as Kawal Jain and Anshu Jain VS Wonder City Buildcon Private Limited	
Complainant	Kawal Jain and Anshu Jain	
Represented through	Mohd. Irshad Advocate	
Respondent	Wonder City Buildcon Private Limited	
Respondent Represented	None	
Last date of hearing	Application u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<p style="text-align: center;"><b>Proceedings-cum-order</b></p> <p>1. The above-mentioned matter was heard and disposed of vide order dated 27.03.2024, wherein the Authority has directed the respondent to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession, i.e., 24.02.2020 till the date of offer of possession(07.03.2020) plus two months i.e., upto 07.05.2020.</p> <p>2. Subsequently, the applicant-respondent has filed an application dated 06.03.2025, for rectification of the said order dated 27.03.2024 under Section 39 of the Act, seeking rectification of amount paid by the complainant to be Rs.1,08,37,560/- instead of Rs.1,13,34,662/-. Further, the respondent seeks clarification qua the quantum of outstanding dues on part of the complainant as para 24 of the said order dated 27.03.2024 mentioned that <i>"Since the offer of possession is held to be valid, the complainants are directed to take the possession of the allotted unit after making payment of outstanding dues, if any."</i></p>		

Real Estate (Regulation and Development) Act, 2016





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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

MANO 190/2025 INC/1434/2022

3. A reply to the said application has been filed by the respondent on 15.05.2025 wherein it is stated that the applicant-respondent had disobeyed the order dated 27.03.2024 and directions given by this Authority thereunder. Accordingly, the complainants filed an execution application bearing no. 2962 of 2024 before the Hon'ble AO and in compliance of the directions of the AO, the respondent had made part payment of the delay possession charges, however, not handed over the possession till date. The revised statement containing the dues payable by the complainants after adjustment of delay possession charges due and payable by the respondent has not been filed by the respondent till date. The respondent's sole purpose is to evade its liabilities towards the complainants and to cause delay in compliance of orders dated 27.03.2024 against which the Execution application no.2962 of 2024 is already pending before the AO.

4. Before proceeding with the matter, it would be appropriate to refer to the provisions of Section 39 of the Act, 2016 under which the present application has been preferred.

**"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."***

5. The Authority is of the view that amount paid by the complainant had been inadvertently recorded to be Rs.1,13,34,662/- instead of Rs.1,08,37,560/- and same is evident from customer ledger dated 30.11.2022 placed on record by the respondent at page 48 of its reply. Same is a mistake apparent on record and does not constitute amendment of substantive part of this order under Section 39 of the Real Estate (Regulation and Development) Act, 2016.





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6. However, as far as clarification qua the quantum of outstanding dues on part of the complainant is concerned, this Authority is of the considered view that the powers vested under Section 39 of the Act are confined to rectifying clerical or arithmetical errors apparent on the face of the record. These powers do not extend to providing substantive clarifications or interpretations of the orders already passed under the Act. A detailed order had been passed by this Authority on 27.03.2024. The executing court, while executing the said order, shall take into account the directions passed by the authority in paragraph 33 of the order and shall determine the outstanding dues accordingly. Paragraph 32 of the said order dated 24.07.2024 is reiterated as under:

***"33.Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the authority under Section 34(f) of the act of 2016:***

- i. *The respondent is directed to pay interest to the complainants against the paid-up amount at the prescribed rate i.e., 10.85% per annum for every month of delay from due date of possession i.e., 24.02.2020 till offer of possession (07.03.2020) + 2 months i.e., up to 07.05.2020 after obtaining the occupation certificate. The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order as per Rule 16(2) of the Rules.*
- ii. *The respondent is directed to **issue a revised statement of account after adjustment of delayed possession charges, and other reliefs** as per above within a period of 15 days from the date of this order. The complainants are directed to pay outstanding dues if any remains, after adjustment of delay possession charges within a period of next 15 days.*
- iii. *The rate of interest chargeable from the complainants by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.*
- iv. *The respondent is directed to rectify such minor defects pointed out by the complainants within a period of one month from date of this order, failing which the complainants may approach the adjudicating officer for seeking the relief of compensation under Section 14(3) of the Act.*
- v. *The respondent is directed to handover the physical possession of the allotted unit to the complainants complete in all aspects as per specifications of buyer's agreement and get the conveyance deed executed within a period of 60 days from the date of this order.*





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vi. *The respondent shall not charge any holding charges from the complainants and anything which is not the part of the buyer's agreement.*

7. Therefore, the said application dated 06.03.2025 filed by the respondent for rectification of the said order dated 27.03.2024 is held to be partially maintainable being covered under the ambit of Section 39 of the Act, 2016, ibid. Hence, amount paid by the complainant written at para 2(14) of the said order shall now be read as Rs.1,08,37,560/-.

The application is partially allowed. This order shall be read as part and parcel of final order dated 27.03.2024. File be consigned to registry

Ashok Sangwan  
Member  
21.05.2025