PROCEEDINGS OF THE DAY	63
Day and Date	Wednesday and 28.05.2025
Complaint No.	MA NO. 371/2025 in CR/4540/2022 Case titled as Raman Bhatia VS BPTP LIMITED
Complainant	Raman Bhatia
Represented through	Ms. Partistha proxy counsel
Respondent	BPTP LIMITED
Respondent Represented	Shri Harshit Batra Advocate
Last date of hearing	Application u/s 39 of the Act
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings-cum-order

The present complaint was disposed off vide order dated 29.05.2024. An application dated 01.05.2025, has been filed by the respondent for rectification of order dated 29.05.2024 under section 39 of the Act, 2016 passed by the authority wherein it is stated that the Authority directed the respondent to refund the paid up amount of Rs.99,46,672/- after deducting 10% of sale consideration of Rs.1,04,89,500/- being earnest money along with interest @ 11.10% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of cancellation i.e., 08.02.2022 till its actual realization.

The respondent has stated that the complainant had opted for a subvention payment plan for remittance of the sale consideration and a Tri-partite Agreement was executed between the complainant, respondent and HDFC Bank. An amount of Rs.9,24,539/- has been debited by the Bank from the respondent as upfront interest against the loan taken by the complainant and the said amount must be duly considered and adjusted, from the amount to be refunded to the complainant.

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."***

The Authority observes that the above said objection was neither pleaded by the respondent in its reply nor the same was raised during pendency of the complaint. Therefore, the same cannot be entertained at this belated stage. Moreover, this Authority cannot re-write its own orders and lacks the jurisdiction to review its own order as the matter in issue has already been heard and decided by this Authority. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016.

Application is dismissed. File be consigned to the registry.

Ashok Sangwan
Member
28.05.2025