



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		100
Day and Date	Tuesday and 22.07.2025	
Complaint No.	MA NO. 110/2025 in CR/4559/2020 Case titled as	
Complainant	Praveen Garg	
Represented through	None	
Respondent	BPTP Limited	
Respondent Represented through	Ms. Tanya Advocate	
Last date of hearing	Application u/s 39 of the Act/27.05.2025	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Rectification Order

The above-mentioned matter was heard and disposed of vide order dated 08.04.2021 wherein the complainant was entitled for delay possession charge along with prescribed rate of interest.

The complainant had filed a rectification application on 05.02.2024 seeking rectification of the said order with respect to the directions of the Authority for handing over of the possession and executing the conveyance deed. The authority vide proceeding cum order dated 02.04.2024 disposed of the said application. Which reproduced below as:

This application is filed as the respondent is refusing to handover the possession before the Ld. Adjudicating Officer stating that there are no such directions given to them in order dated 08 04 2021.

The Authority is of the view that on payment of consideration amount, the respondent is obligated under section 17 of the Act to hand over possession and execution of conveyance deed alongwith handing over of common areas

to the association of the allottees The counsel for the respondent assures to look into the matter and shall take up with the CRM for handing over of possession in terms of the order already passed by the Authority.

Now the respondent has filed an application on 05.02.2025 under section 39 of the Act, 2016 for rectification of said orders dated 08.04.2021 and 02.04.2024. The applicant/respondent herein states that the complainant had taken loan from the bank and opted for subvention scheme. The respondent has paid a total amount of Rs. 10,74,525/- as Pre-EMI in terms of the tripartite agreement executed between the parties. Therefore, the respondent is not liable to pay any delay possession charges since the payment made as Pre-EMI was in form of compensation and therefore shall be adjusted against the delay possession charges allowed by the authority vide order dated 08.04.2021.

Moreover, the obligation of handing over of the possession of the subject unit to the complainants vide impugned order dated 02.04.2024 arises once the outstanding dues on part of the complainants are cleared.

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:

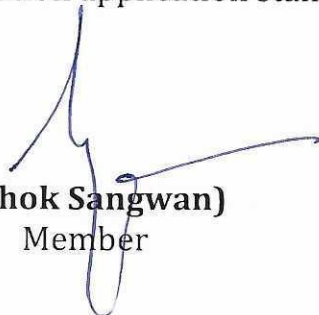
Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act."

Since the present application involves amendment of substantive parts of the order by seeking specific direction of adjustment of Pre-EMI against the delay possession charge, this would amount to review of the order. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to Section 39 of the Act, 2016.

The Authority observes that the order dated 02.04.2024 was in the nature of an observation regarding the statutory rights of the allottee as provided under the Act, 2016 and the respondent had voluntarily assured to look into the matter. No specific direction for rectification of the order dated 08.04.2021 was issued.

The order which is proposed to be rectified in the present complaint was passed on 08.04.2021 which is far beyond the limitation prescribed under the provisions of Section 39 of the Act, 2016. Moreover, the allowing the prayer of the complainant would result in change in substantive part of the order. Thus, in view of the legal position discussed above, there is no merit in the application dated 05.02.2024 filed by the respondent for rectification of order dated 08.04.2021 passed by the authority and the same is hereby declined.

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


(Ashok Sangwan)
Member
(Arun Kumar)
Chairman
22.07.2025