

PROCEEDINGS OF THE DAY

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| Day and Date | Wednesday and 26.11.2025 |
| Complaint No. | MA NO. 552/2025 in CR/37/2024 Case titled as Rohit Kumar Gupta VS Wellworth Project Developers Private Limited |
| Complainant | Rohit Kumar Gupta |
| Represented through | Sh. Bhrigu Dhami, Advocate |
| Respondent | Wellworth Project Developers Private Limited |
| Respondent Represented through | Sh. Anshul Mittal, Advocate |
| Last date of hearing | 08.10.2025 |
| Proceeding Recorded by | H.R. Mehta & Kiran Chhabra |

Proceedings-cum-Order

The aforementioned complaint was **disposed of by this Authority vide order dated 23.07.2025**, wherein the Authority directed the respondent to refund the paid-up amount of Rs.49,87,360/- after deducting 10% of the sale consideration being earnest money along with an interest @11.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of surrender i.e., 22.06.2020 till its realization. The amount of assured return already paid by the respondent to the complainants shall be adjusted/deducted from the payable amount. The detailed order pertaining to this matter was duly uploaded on the official website of the Authority on 29.07.2025.

The proxy counsel for the applicant states that the arguing counsel is unable to appear due to the breakdown of his vehicle. This is the third opportunity granted to the applicant to argue the matter. In view of the above, the authority has no option but to proceed as per facts of the case.

1. The complainant has filed an application bearing **MA No. 552/2025 dated 29.07.2025 for rectification of the said order** stating that though the Authority opined that the complainant had requested for cancellation vide its e-mail dated 22.06.2020, however the complainant wishes to clarify that even after the said date of 22.06.2020 the AR was admittedly paid by the respondent, several rounds of communications were undertaken between the parties, the complainant had requested for sharing of proper BBA as per mutually agreed terms and conditions at the time of execution of application form. Thus, even after e-mail dated 22.06.2020, the complainant had indeed continued with the project with the hope that respondent shall mutually abide the agreed terms and share appropriate BBA. As per the application form, the due date of handover of possession was December 2022. However, due to arbitrary acts of the respondent intending to cheat the complainant, further delay in sharing of BBA as per mutually agreed terms the complainant filed the present complaint and registered the same only on 03.01.2024. Thus, as refund was sought after passing of due date of possession, the complainant is entitled to refund of complete amount along with interest apart from other reliefs sought in the complaint.
2. 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."

3. As far as contention of the complainant for rectification of final order dated 23.07.2025 is concerned to the extent that full refund of the amount paid by the complainant to the respondent be allowed, 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.

4. Since the present application involves amendment of substantive part of the order, it would amount to a review of the matter on merits, which is not permissible under Section 39 of the Act, 2016.
5. Thus, in view of the legal position discussed above, there is no merit in the application dated 29.07.2025 filed by the complainant for rectification in order dated 23.07.2025 passed by the Authority and the same is hereby declined.
6. Rectification application stands disposed of. File be consigned to registry.

Ashok Sangwan
Member
26.11.2025