

**BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI**

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

COMPLAINT NO: CC006000000220985

LALU KOCHERY

...COMPLAINANT

VS

KARRAM INFRASTRUCTURE PRIVATE LIMITED

...RESPONDENT

MAHARERA PROJECT REGISTRATION NO. P51700008284

Order
(Review application)

December 27, 2022
(Date of hearing – 16.11.2022 – matter was reserved for order)

Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Advocate Vimay Taliwal for the Complainant
None present for Respondent

1. The Complainant has filed a rectification / review complaint on 28.04.2022 for seeking rectification / review of the order dated 14.03.2022 passed by the Erstwhile Member 1, MahaRERA (hereinafter referred to as “**said final order**”) in complaint No. CC006000000100504.
2. In this regard the above rectification / review complaint was heard by this Authority on 16.11.2022 wherein the following roznama was recorded:
*“The Complainant is present; the Respondent is absent.
Complainant brings to the notice of this Authority that this is only a rectification application with respect to order dated 14.03.2022 passed by the erstwhile Member 1. The Complainant seeks rectification in the consideration amounts paid by the housing loan company and seeks rectification of the same.
The Complainant also brings to the notice of this Authority that Respondent has remained absent earlier also and he is facing problems because of the EMI's to be paid by him to the housing finance company.*

Parties are at liberty to file written submission on or before the 05.12.2022 with service on each other. Parties are at liberty to file replies to that written submission on or before the 19.12.2022. Subsequent to which, the matter will be reserved for orders."

3. Before moving ahead, it is pertinent to note that the complaint No. CC006000000100504 was disposed of by the Erstwhile Member 1, MahaRERA wherein the following direction were passed:

"19. In view of the aforesaid facts, the following order is passed:

a) The respondent promoter is directed to approach MahaRERA for extension of the project period or take any other action to revive the project giving a definite time-line for its completion within a period of one month from the date of this order. The respondent is further directed to share the information of allottees with the complainants. The association of the allottees can contemplate action under section 7 & 8 of the RERA if it so desires.

b) The respondent is also directed to refund the entire amount paid by the complainants towards the consideration of the said flat along with interest at the rate of SBI's Highest Marginal Cost Lending Rate (MCLR) plus 2% as prescribed under the provisions of section-18 of the RERA and the Rules made there under from the date of payment till the actual realisation of the said amount to the complainants.

c) However, in view of the mitigating circumstances beyond the control of the respondent promoter and also to ensure that the said project is not jeopardised due to the outflow of finances and is completed keeping in mind the interest of the other buyers of the said project at large, it is directed that the amounts of refund along with interest shall be paid to the complainants by the respondent promoter within a period of 6 months from the date of this order.

d) With regard to the payment of interest to the complainants, the MahaRERA further directs that the respondent promoter is entitled to claim the benefit of "moratorium period" as mentioned in the Notifications /Orders nos. 13 and 14 dated 2nd April, 2020 and 18th May, 2020 issued by the MahaRERA and the Notification/Order which may be issued in this regard from time to time.

20. With the above directions, all 4 complaints stand disposed of."

4. The Complainant has filed the present complaint is seeking to rectify / review the said final order in terms of the amounts of refund allowed. The Complainant has filed written submissions which are perused and are taken on record. The Respondent has failed to remain present for the hearing nor have filed any submissions.
5. In order to examine the present, rectify / review complaint, the provision of section 39 of the Real Estate (Regulation and Development) Act, 2016

(hereinafter referred to as the “**said Act**”) reproduced hereinbelow is noteworthy.

“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.”

6. From the plain reading of section 39 it is clear that this Authority can only rectify any mistake apparent from the record or amend any order passed by it, if the mistake is brought to its notice by the Parties i.e. in the present case the Complainant herein. Hence the rectification / review can only be sought for mistakes that are apparent. The present rectify / review complaint does not showcase any error / mistake apparent in the said final order but rather seeks to amend / modify substantive part of the said final order. In view thereof, the rectification complaint is **dismissed** as not maintainable. No order as to costs.

AJOY
MEHTA
(Ajoy Mehta)
Chairperson, MahaRERA

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AJOY MEHTA
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