

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000078972

Nikunja Bihari Pradhan ... Complainant

Versus

Lucina Land Development Limited ... Respondent
MahaRERA Regn.No. P52000000835

Corum: Shri. Ajoy Mehta, Chairperson, MahaRERA
Complainant was represented by Mr. Satish Dedhia, Adv
Respondent was represented by Mr. Abir Patel, Advocate, (Wadia Gandhi & Co.) a/w Mr. Soham Hatkar, Adv

Order on Rectification Application filed by the Complainant

June 1, 2021

1. The Complainant has filed a rectification application under section 39 of the Real Estate (Regulation and Development) Act, 2016 of the Order dated February 20, 2020.
2. Application was listed for hearing through video conference as per MahaRERA Circular no: 27/2020.
3. Heard both parties.
4. Learned counsel for the Complainant states that certain errors have taken place in the judgment which has led to erroneous conclusions. He points out that certain judgments stating that such erroneous conclusions can be corrected by taking recourse to rectification of Orders as per section 39 of the Real Estate (Regulation and Development) Act, 2016.
5. Learned counsel for the Respondent pleaded that section 39 is available only to correct and rectify mistakes apparent as e.g. a typographical or clerical error. He also quotes judgment in his support that one cannot take recourse to section 39 for making substantial changes in the Orders passed.

6. Section 39 of the said Act reads as under:


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.

7. By the said application, the Complainant is seeking substantial changes in the Order passed by the erstwhile chairperson. The said changes cannot be permitted under the provisions of section 39 of the Act.

8. In view of the above, the application is hereby disposed of.


(Ajoy Mehta)
Chairperson, MahaRERA

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Corum: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented by Mr. Sanjay Chaturvedi, Adv. a/w Adv. Pooja Gaikwad (i/b. Sanjay Chaturvedi Associates).

Respondent was represented by Mr. Abir Patel, Advocate (i/b. Wadia Gandhi & Co.) a/w Mr. Soham Hatkar, Authorised representative.


Order

February 20, 2020

1. The Complainant has stated that she had booked an apartment bearing no: ROSE 5C-1803 and 1804 in the Respondent's project 'Indiabulls Park 2' situated at Panvel, Raigad via registered agreement for sale dated May 3, 2016. The Complainant stated that at the time of booking the Respondent had promised to handover possession within 3 years, however, the Respondent has failed to do so. Therefore, the Complainant interalia prayed that the Respondent be directed to handover possession of the apartment at the earliest and pay her interest and compensation for the delay.
2. The authorised representative/learned counsel for the Respondent contesting and denying the allegation made by the Complainant, submitted that the Complaint as on date is premature, as the date of handing over possession of the said apartment as stipulated by the said agreement is November 2020, with an additional grace period of nine months and therefore the present complaint is not maintainable.



3. On the date of the hearing, the learned counsel for the Complainant has filed written submissions and the Respondent has filed a reply for the same. Both the submissions are taken on record.
4. In view of the above facts, it is clear that the complaint is premature and hence the prayers cannot be allowed, at this stage. The parties are advised to adhere to the terms and conditions set out in their agreement for sale
5. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA