

Ekam Highrise V/s Baba Banda Singh Bahadur Enterprise

Complaint No. AdCNo 1471/2019

Present None

This order shall decide application filed by the complainant under Section 39 of the Real Estate Regulation and Development Act (hereinafter referred as the Act) for rectification /amendment of the order dated 28.01.2020 passed by this bench in the complaint no. AdC/1471/2019 titled 'Ekam Highrise V/s Baba Banda Singh Bahadur Enterprise'.

On the basis of the application the record of the original file of the complaint was requested and the matter has been considered. As per order dated 28.01.2020 passed by this bench after holding that the main complaint of the present application was maintainable before the Authority in Form-M, the complaint was accordingly ordered to be returned for presenting the same before the competent authority in proper form and the relevant extract of the order runs as under;

"Apart from this the complainant of the case in hand does not want to opt out of the project, but he intends to seek issuance of the directions to the respondent which squarely fall under the jurisdiction of the Authority and the consequent relief of interest etc. because of the delay in non-performance of the provisions of the Act and of the terms and conditions of the written agreement between the parties would also bring the present complaint within the domain of the Authority and the entire matter has to be put before the Authority in the shape of complaint in Form-M. Resultantly the present complaint cannot be enquired into by this bench. Thus the present complaint filed by the complainant in Form-N is not maintainable before this bench and is ordered to be returned to the complainant along with its annexures, after obtaining receipt in this behalf and retaining photocopy of the entire record, for enabling the complainant to file fresh complaint before the Authority in Form 'M' for the same cause of action".

However, the scope of Section 39 of the Act is very limited and the section runs as under;


39 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 bare reading of the grounds taken in the present application for rectification makes it clear that the applicant has taken the grounds, which can only be taken up before the appellate or revisional Authority. The order dated 28.01.2020 passed by this bench is complete and final so as far as this bench is concerned and no rectification/amendment of the same is required in the facts and circumstances of the case in hand. Thus, the application filed by the applicant for seeking rectification/amendment of the order is without any substance and is accordingly declined. The paper of the present application is also tagged with the main file and is consigned to the record room.

11.02.2020


(Balbir Singh)
Adjudicating Officer
RERA