



REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Single Bench of Hon'ble Inquiry Commissioner, Mr. Sanjaya Kumar Singh, RERA, Bihar.

RERA/CC/368/2025

Kumod Kumar

... Complainant

Versus

M/s. Ezzion Constructions Pvt. Ltd.

... Respondent

Project: Ramagya Agency

Present: For Complainant: Adv. Amit Kumar
For Respondent: None

ORDER

31.08.2026

1. Hearing taken up. Adv. Amit Kumar was present on behalf of the Complainant. None was present on behalf of the respondent company.
2. The present matter was last heard on 09.07.2026 and the order was reserved and is being pronounced today.
3. The present application has been filed by the Complainant, Mr. Kumod Kumar, seeking rectification of the order dated 11.03.2022 passed by the Learned Real Estate Regulatory Authority, Bihar in Complaint Case No. CC/360/2019. The application has been described as having been filed under Rule 27 of the Bihar Real Estate Authority Regulations, 2024.
4. It is pertinent to note that the complainant, while filing the present rectification petition, has inadvertently referred to "Rule 27" instead of "Regulation 27" of the Bihar Real Estate (Regulation and Development) Regulations, 2024.

5. The power of rectification available to this Authority is traceable to Section 39 of the Real Estate (Regulation and Development) Act, 2016. Such power is confined to rectification of an error apparent from the record and cannot be equated with a power of review. Accordingly, even if the present application is considered on the basis of its substance rather than its nomenclature, it can only be examined within the limited parameters of Section 39 of the RERA Act, 2016.
6. The Complainant, in his rejoinder dated 15.04.2026, submitted that the delay in filing the present proceedings was bona fide and unintentional, arising from his earlier understanding that no further proceedings were required and from the subsequent legal advice regarding Clause 6 of the Agreement dated 01.01.2012. He contended that the said clause had not earlier been properly appreciated and that it provided for recovery of investment and profit from the Director(s) of Ezzion Trading Company Private Limited in the event of project failure.
7. On merits, the Complainant submitted that a Board Resolution dated 31.07.2013 authorised Mr. Ezaz Hussain to deal with matters relating to “Ramagya Residency”. Relying upon judgments of the Hon’ble Supreme Court, the Complainant contended that a Director cannot be held vicariously liable merely by virtue of being a Director, unless specific averments establish that he was in charge of and responsible for the conduct of the Company’s business. It was further submitted that Mr. Kumod Kumar had resigned as Director of Ezzion Constructions Private Limited with effect from 21.06.2018 and thereafter had no role in the affairs of the Company. The Complainant therefore sought condonation of the delay and contended that he had a meritorious case.
8. The original complainant, Md. Kashif Yunus of CC/360/2019, filed an objection application dated 10.08.2026 opposing the rectification application. He submitted that the present application was not

maintainable, as the rectification sought would amount to a substantive alteration of the order dated 11.03.2022, which is barred under Section 39 of the RERA Act, 2016.

9. It was further contended that the rectification applicant, Mr. Kumod Kumar, had concealed material facts regarding his active role as a Director of Ezzion Constructions Pvt. Ltd. during the relevant period. According to the objector, Mr. Kumod Kumar was a Director during 2011–2014, when the relevant agreements and payments were made, and continued to represent the Company in proceedings before the Authority during 2018–2022. Reliance was placed upon the order dated 28.07.2021 passed in RERA/CC/144/2019 and RERA/CC/173/2019, wherein he was stated to have represented the Company and submitted that he was actively involved in completion of the project.
10. The objector further pointed out that, in the original Complaint Case No. RERA/CC/360/2019, Mr. Kumod Kumar was separately represented through counsel, filed his own reply and, as recorded in the order dated 11.03.2022, stated that he was running and managing the project. It was also alleged that he had actively participated in the affairs of the Company, including execution of a sale deed in respect of Flat No. 102 of Ramagya Residency and receipt of consideration relating to Flat No. 402.
11. It was further submitted that the original complainant had not been impleaded as a party in the present rectification proceedings, despite being the complainant in the original case. The objector alleged that the rectification applicant had also suppressed the fact that he had challenged the order dated 11.03.2022 before the Real Estate Appellate Tribunal in REAT Appeal No. 40 of 2022 and thereafter before the Hon'ble Patna High Court in C.W.J.C. No. 13451 of 2025. It was contended that these proceedings establish that the applicant had knowledge of the order since 2022 and, therefore, the present

application was barred by limitation and suffered from delay and laches.

12. The objector also alleged that false and misleading submissions had been made regarding the applicant's knowledge of the order and previous legal proceedings and sought appropriate action in accordance with law. On the basis of the aforesaid submissions, it was contended that Mr. Kumod Kumar had actively participated in the management and affairs of the Company and the "Ramagya Residency" project during the relevant period, and that the present rectification application was liable to be dismissed.
13. The Complainant, in his rejoinder dated 09.07.2026, reiterated that the original complaint was filed by Md. Kashif Yunus against Mr. Ejaz Hussain, Director of Ezzion Constructions Pvt. Ltd., and that the transactions forming the basis of the complaint arose from the Agreement dated 01.01.2012 and subsequent MOU and agreement dated 27.06.2014. It was contended that Clause 6 of the Agreement dated 01.01.2012 contemplated liability upon the Director(s) of Ezzion Trading Company Pvt. Ltd. and that the Complainant, being an ex-Director of Ezzion Constructions Pvt. Ltd., had no connection with the said transaction or entity.
14. The Complainant submitted that the funds received from the original complainant were dealt with solely by Mr. Ejaz Hussain and that the subsequent MOU dated 27.06.2014, arrangement concerning Flat No. 402 of Ramagya Residency and issuance of cheques in favour of the complainant were undertaken by Mr. Ejaz Hussain without any Board resolution, approval or knowledge of the Complainant. It was further submitted that the cheques were issued from Ezzion Trading Company Pvt. Ltd. and that Mr. Ejaz Hussain, through his affidavit dated 15.11.2020, had acknowledged his obligation to repay the amount.

15. The Complainant further contended that although the original complaint was directed against Mr. Ejaz Hussain, the Authority subsequently directed issuance of notices to all Directors of Ezzion Constructions Pvt. Ltd. and, by order dated 11.03.2022, directed both the Complainant and Mr. Ejaz Hussain to refund the consideration amount along with interest. According to the Complainant, the Authority failed to appreciate the distinction between Ezzion Trading Company Pvt. Ltd. and Ezzion Constructions Pvt. Ltd. and erroneously attributed liabilities arising from transactions involving the former entity to the Complainant.
16. It is further submitted by the complainant that Mr. Kumod Kumar had resigned as Director of Ezzion Constructions Pvt. Ltd. with effect from 21.06.2018 and had no role in the affairs of the Company thereafter. On these grounds, the Complainant sought condonation of the delay and rectification of the order dated 11.03.2022 to the extent of deleting his name and liability.
17. Heard learned counsel appearing on behalf of the original Complainant and perused the rectification application, the rejoinders, objection filed by the original Complainant and the materials available on record.
18. The principal issue for consideration is whether the present application falls within the limited jurisdiction of rectification under Section 39 of the RERA Act, 2016.
19. Section 39 of the Real Estate (Regulation and Development) Act, 2016 empowers the Authority to rectify any error apparent from the record in an order passed by it, either on its own motion or on an application made by any of the parties. The power is limited in nature and does not confer upon the Authority a general power of review or appellate jurisdiction.
20. Rectification cannot be invoked for re-hearing the original matter, re-appreciating evidence, reconsidering disputed questions of fact, taking

a different view on materials already considered, or substituting a fresh decision in place of the decision already rendered. The substance of the relief sought, and not merely the nomenclature of the application, is determinative.

21. In the present case, the relief sought by the Complainant is not confined to correction of any clerical, arithmetical or patent error apparent from the record. Rather, the Complainant seeks reconsideration of the very basis on which liability was fastened upon him by the order dated 11.03.2022.

22. The Complainant has also relied upon judgments of the Hon'ble Supreme Court relating to the liability of Directors and has contended that a person cannot be held liable merely because he was a Director of a company. However, whether those principles are applicable to the facts of the present case and whether the Complainant was, in fact, involved in the management and affairs of the project are matters requiring adjudication on the factual record. Such an exercise falls beyond the limited jurisdiction of rectification under Section 39 of the Act.

23. It is further significant that the Complainant was aware of and participated in the original proceedings. The materials on record indicate that he was separately represented through counsel in Complaint Case No. CC/360/2019 and filed his own reply. The order dated 11.03.2022 also records the submissions made on his behalf, including his statement regarding his role in running and managing the project. Thus, the present case cannot be treated as one where an obvious error occurred in the absence of the Complainant or where a material fact was inadvertently omitted from consideration.

24. The objection filed by the original Complainant further discloses that the Complainant had challenged the order dated 11.03.2022 before the Real Estate Appellate Tribunal by filing REAT Appeal No. 40 of 2022

and thereafter approached the Hon'ble Patna High Court by filing C.W.J.C. No. 13451 of 2025. These proceedings demonstrate that the Complainant had knowledge of the order dated 11.03.2022 and had availed the statutory/legal remedies available against the said order.

25. Once the order dated 11.03.2022 had been subjected to the statutory appellate remedy, the Complainant cannot seek to circumvent the appellate mechanism by subsequently invoking the limited jurisdiction of rectification for obtaining a substantive alteration of the same order.

26. The present application, in substance, seeks a review of the findings recorded in the order dated 11.03.2022 and not rectification of an error apparent on the face of the record. The Complainant seeks a fresh determination as to whether he was involved in the transaction, whether the liability was that of Ezzion Trading Company Pvt. Ltd. or Ezzion Constructions Pvt. Ltd., whether Mr. Ejaz Hussain acted without authority of the Company, and whether the Complainant could legally be held liable as a Director. These are substantive questions which cannot be adjudicated afresh in the present rectification proceedings.

27. It is also relevant that the original Complainant has specifically disputed the Complainant's assertion regarding his alleged non-involvement in the affairs of the Company and the project. Reliance has been placed upon the order dated 28.07.2021 passed in RERA/CC/144/2019 and RERA/CC/173/2019, the order dated 11.03.2022 in the original complaint, the separate reply filed by the Complainant therein and other documents to contend that the Complainant had actively represented the Company and participated in the affairs of the "Ramagya Residency" project. Whether such materials establish the Complainant's involvement is itself a matter of appreciation of evidence and cannot be determined in a limited rectification proceeding.

28. The plea of the Complainant that he had resigned from the directorship of Ezzion Constructions Pvt. Ltd. with effect from 21.06.2018 also does not, by itself, establish the existence of an error apparent in the order dated 11.03.2022. The relevant question in the original proceedings was the Complainant's role and liability in relation to the transactions and events forming the subject matter of the complaint.
29. The plea regarding delay also assumes significance. The impugned order was passed on 11.03.2022, whereas the present rectification application has been filed after a considerable lapse of time. Although the Complainant has sought to explain the delay on the ground of bona fide belief and subsequent legal advice, the material on record indicates that he was aware of the order, participated in the original proceedings and thereafter pursued an appellate remedy against the same. The explanation offered does not justify permitting the Complainant to reopen the concluded adjudication through a rectification proceeding.
30. Further, the original Complainant, whose rights are directly affected by the order dated 11.03.2022, has opposed the present application. The relief sought, if granted, would not merely correct an apparent error but would materially alter the substantive determination of liability made in the original proceedings. Such a course would amount to reviewing and modifying the order on merits, which is beyond the permissible scope of Section 39 of the RERA Act, 2016.
31. Having considered the pleadings and materials on record, this Authority finds that the Complainant has failed to identify any specific error apparent from the record in the order dated 11.03.2022. No clerical, arithmetical or patent error has been demonstrated which can be corrected in exercise of the power of rectification. On the contrary, the grounds raised require reconsideration of the evidence, contractual documents, role of the parties and the findings recorded in the original proceedings.

32. It is further relevant to note that the present application is not the first rectification petition filed by the Complainant seeking reconsideration of the order dated 11.03.2022 passed in Complaint Case No. CC/360/2019. From the records, it is observed that the Complainant had earlier filed a rectification petition dated 13.02.2026 in the same Complaint Case No. CC/360/2019. The said petition was considered by the Bench, and vide order dated 11.05.2026, it was recorded that the concerned respondent/promoter, Shri Kumod Kumar, expressed his willingness to withdraw the said rectification petition. The rectification petition dated 13.02.2026 was accordingly permitted to be withdrawn, with a direction to comply, at the earliest, with the order passed by the Hon'ble Member, if the same had not already been complied with.
33. Despite the aforesaid order, the present proceedings have again been instituted seeking rectification of the very same order dated 11.03.2022 passed in Complaint Case No. CC/360/2019. The record further shows that, instead of invoking the limited power of rectification under Section 39 of the RERA Act, 2016, the present proceedings have been instituted by filing a fresh complaint under Section 31 of the Act, while seeking substantially the same relief of rectification/modification of the order dated 11.03.2022.
34. The manner in which the present proceedings have been instituted is a matter of serious concern. Once the earlier rectification petition dated 13.02.2026 had been withdrawn pursuant to the order dated 11.05.2026, the Complainant could not be permitted to circumvent the legal and procedural framework governing rectification by instituting a fresh complaint under Section 31 of the Act for obtaining substantive alteration of the same order. The nomenclature adopted for the present proceedings cannot confer a jurisdiction which is otherwise not available to the Authority.

35. The Authority is of the considered view that the present proceedings amount to an attempt to reopen and re-agitate issues which stood concluded by the order dated 11.03.2022 and which cannot be reconsidered in exercise of the limited power of rectification under Section 39 of the RERA Act, 2016. The filing of the earlier rectification petition dated 13.02.2026, its subsequent withdrawal pursuant to the order dated 11.05.2026, and the institution of the present proceedings thereafter seeking substantially the same relief are circumstances which cannot be ignored while considering the bona fides and maintainability of the present petition.
36. It is also pertinent to observe that the inadvertent reference to “Rule 27” instead of “Regulation 27” in the present rectification petition, by itself, is not being treated as a ground for rejection. However, the subsequent filing of the present proceedings under Section 31, instead of invoking the specific statutory provision governing rectification under Section 39, coupled with the earlier withdrawal of a rectification petition concerning the same order, demonstrates that the present proceedings cannot be sustained merely by giving them a different nomenclature.
37. The Authority accordingly cautions the Complainant, Shri Kumod Kumar, as well as his learned counsel, to exercise due care and diligence while instituting proceedings before the Authority in future and to disclose all material facts relating to any previous proceedings concerning the same subject matter. The filing of successive proceedings seeking substantially the same relief, particularly after withdrawal of an earlier proceeding, may result in unnecessary multiplicity of proceedings and may impede the proper administration of justice.
38. In view of the foregoing discussion, this Authority finds that the present petition is not maintainable either as a complaint under Section 31 or

as a rectification proceeding under Section 39 of the RERA Act, 2016. The Complainant has failed to demonstrate any error apparent from the record warranting exercise of the rectification jurisdiction of this Authority. The relief sought would necessarily require reconsideration of the findings and substantive determination made in the order dated 11.03.2022, which is beyond the permissible scope of Section 39 of the Act.

39. Accordingly, the present petition seeking rectification/modification of the order dated 11.03.2022 passed in Complaint Case No. CC/360/2019 is hereby rejected. The Complainant shall be at liberty to avail such remedy as may otherwise be available to him in accordance with law, subject to the applicable statutory provisions and limitations.

The present proceedings stand disposed of accordingly.

Sd/-
Sanjaya Kumar Singh
Inquiry Commissioner
RERA Bihar