

**IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU**

DATED THIS THE 17th DAY OF AUGUST 2020

PRESENT

HON'BLE SRI JUSTICE B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL (K-REAT) NO. 32/2020

(OLD RERA. APL No. 22 of 2019)

BETWEEN:

Bollineni Silas,
Bollineni Developers Private Limited
No. 23, Sankey Square,
Lower Palace Orchards
Sankey Road, Sadashivnagar,
Bengaluru
(Represented by its Authorised Signatory
Mr. Vijayakumar b M
Aged about 30 years

:APPELLANT

(By Sri Bibhas V Kittur M/s Tatva Legal Bangalore, Adv.,)

AND

1. Adjudicating Officer
Real Estate Regulatory Authority
2nd Floor, Silver Jubilee Block,
Unity Building, CSI Compound,65

3rd Cross, Mission Road,
Bengaluru – 560 075

2. Prasanth Gopi Nair
Flat no. 212, Metro Eleganzsa
6th Cross, RHB Colony,
Mahadevapura,
Bengaluru – 560 048.

:RESPONDENTS

(Sri Basavaraj V Sabarad, Adv., for R1)

(Sri Sudhindra Bhat, Adv., for R2)

This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 before the Karnataka Appellate Tribunal, Bengaluru, to set aside the order dated 05th November, 2018 in CMP/180618/0000925 passed by the Adjudicating Officer, RERA Respondent No.1. This appeal was transferred to this Tribunal on 02.01.2020 and renumbered as Appeal No.(K-REAT) 32/2020.

This appeal coming on for orders this day, Chairman delivered the following:

JUDGMENT

The appellant has preferred this appeal before the Interim Tribunal (KAT) on 12.02.2019 challenging the order dated 05.11.2018 passed in Complaint No.CMP/180618/0000925 by the 1st Respondent-Real Estate Regulatory Authority (RERA), wherein it has directed the appellant herein to refund a sum of Rs. 18,36,258 with interest on the said amount at the rate of 10.25% from 1.5.2017 till realization of the entire amount, to the 2nd respondent-complainant. Later, this appeal came to be

transferred to this Tribunal on 2.1.2020 and renumbered as Appeal No.(KREAT) 32/2020.

2. On a memo moved at the instance of the parties, this appeal has been advanced to today from 1.9.2020.

3. Sri Bibhas V Kittur, learned counsel has filed a fresh vakalath to the effect that the appellant has no objection for him to appear for them, along with Sri Nanjappa and Sri N.K. Dilip (M/s Tatva Legal). Sri Basavaraj V.Sabarad, learned counsel, appears for R.1-RERA and Sri Sudhindra Bhat, learned counsel, appears for Respondent 2-complainant.

4. Today, the Appellant and Respondent No.2 have filed a compromise petition under Order 23 Rule 3 read with Section 151 of the Code of Civil Procedure, which they had entered into on 08.07.2020 and they have also filed a Joint Memo praying the Tribunal to dispose of the appeal in terms of the compromise petition and the Joint memo.

5. Both, the compromise petition and Joint memo signed by the appellant, respondent No.2 and learned counsel appearing for them are taken on record. The terms of the compromise were read over to the appellant and Respondent No.2 in the language known to them and they have stated that they got the matter settled in terms of the compromise

entered into between them on 08.07.2020 and filed before the court today.

6. The appellant and respondent No.2 have further stated that the said compromise is at their instance and there is no force, fraud, undue influence or coercion in entering into this compromise and they pray the Tribunal to dispose of the appeal in terms of the compromise.

7. The appellant has also filed a separate memo dated 17.8.2020 alongwith the compromise and Joint memo praying the Tribunal that the amount deposited by them in the name of the Chairman, RERA, while preferring the appeal before the Interim Tribunal (KAT) may be ordered to be released to the appellant. The details of payment made before the Interim Tribunal (KAT) are as follows:

(i) Rs.5,51,000/- (Rupees Five Lakhs Fifty one Thousand only) vide DD dated 13.2.2019 bearing No.005403 drawn on Axis Bank, Sadashivanagar Branch, Bangalore;

(ii) Rs. 3,29,380/- (Rupees Three Lakhs, Twenty nine thousand three hundred and eighty only) vide DD dated 20.2.2019 bearing No.078821 towards the interest drawn on Axis Bank, Sadashivanagar Branch, Bangalore.

8. Learned counsel for Respondent No.2 has signed the said Memo stating that he has no objection for directing the 1st respondent- RERA to release the above said amount in favour of the appellant. Hence, the following:

ORDER

1) Appeal stands disposed of in terms of the compromise memo and Joint memo both dated 17.8.2020 and they are directed to be treated as part and parcel of this Judgment;

2) The 1st Respondent –RERA is hereby directed to release the amounts which the appellant had deposited before RERA while preferring appeal No.22/2019 before the Interim Tribunal (KAT);

3) The office while issuing the copy of the Judgment shall also issue copies of the compromise and Joint Memo dated 17.8.2020 to the parties;

9. Registry is directed to communicate this Judgment to the Secretary-RERA so as to enable them to release the amounts deposited by the appellant while preferring the appeal before the Interim Tribunal (KAT).

There is no order as to costs.

Sd/-
HON'BLE CHAIRMAN

Sd/-
HON'BLE JUDICIAL MEMBER

Sd/-
HON'BLE ADMINISTRATIVE MEMBER