

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

DATED THIS THE 17th DAY OF DECEMBER 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.364/2020

BETWEEN:

M Ramu,
Aged 53 years, S/o Late N Muniswamy
Roshan Gardenia Apartment
No. 1373, 95-2/95-3, Uttarahalli Village,
And Hobli, Bangalore South Taluk.
Bangalore – 560 061

:APPELLANT

(By Sri G S Venkat Subbarao, Advocate)

AND

1. The Adjudicating Officer
Real Estate Regulatory Authority,
No.1/14, Silver Jubilee Block,
Unity Building, CSI Compound,
3rd Cross, Mission Road,
Bengaluru-560 027
Represented by its Secretary/
Adjudicating Officer

2. Rakesh Gopal K
S/o K Hari Gopal
Aged about 42 years
Flat No. 102, Sapphire Apartment,
Chikoti Gardens, Begumpet,
Telangana, Hyderabad – 500 016

:RESPONDENTS

(Sri Rakesh Gopal K, R2-Caveator-Party-in-person)

This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal to set aside the order dated 31st January, 2020 in CMP/181125/0001667 passed by the Adjudicating Officer, RERA Respondent.

This appeal coming on for hearing this day, the Chairman, made the following:

JUDGMENT

The appellant who is a developer has preferred this appeal challenging the impugned order passed by the learned Adjudicating Officer, RERA, which reads as under:

- a. "The complaint filed by the complainant bearing No. CMP/181125/0001667 is hereby allowed in part.
- b. The developer is hereby directed to return amount of Rs. 2,95,223/- to the complainant and interest @ 2% above the MCLR of SBI commencing from 01/04/2019 till realization of the entire amount.
- c. The developer is hereby directed to refund Rs.5,89,277/- to the complainant which was paid towards tax and recover the same form the department of from the new buyer.

- d. The complainant is hereby directed to execute cancellation agreement of sale after realization of the entire amount.
- e. The developer is hereby directed to discharge the bank loan along with its interest, EMI if due, EMI if paid by the complainant instead of developer and any other statutory charges.
- f. The developer is hereby directed to pay Rs. 5,000/- as cost of the petition”.

2) Appellant and Respondent No.2, after due deliberation and discussion of their dispute with the assistance of learned counsel appearing for them have got the dispute settled amicably by reducing the terms of settlement into writing by way filing a detailed joint memo.

3) Since, Respondent No.2, Sri Rakesh Gopal is a resident of Chikoti Gardens, Begumpet, Hyderabad in Telangana State, had executed a General Power of Attorney in favour of Sri Rajeshwar Sharma empowering him to attend the above case on his behalf. Now R2 himself had come to Bangalore and discussed with the appellant about amicable settlement and signed the joint memo, himself and therefore, GPA holder has filed a memo praying the Tribunal to permit him to retire from appearing for R2. At the same time, R2 who is present in the court submits

that he has no objection for GPA holder Sri Rajeshwar Sharma to retire from appearing for him and statement made by them is placed on record.

4) Accordingly, R2 is permitted to sign the joint memo by himself. The Joint memo signed by the appellant, learned counsel appearing for the appellant and Respondent No.2 is taken on record.

5) The terms and conditions mentioned in the joint memo were read out to the parties in the language known to them. Both the appellant and Respondent No.2 have declared that the settlement they have entered into by way of filing joint memo is on their own will and volition and it is free from force, misrepresentation, undue influence and coercion.

6) The appellant, Respondent No.2 and learned counsel appearing for the appellant prayed the Tribunal to dispose of this appeal in terms of the joint memo.

In view of the above, we pass the following:

ORDER

- 1) Appeal stands disposed of in terms of the joint memo.
- 2) The Joint memo is ordered to be treated as part and parcel of this order.

- 3) Parties shall perform their part of obligations in terms of joint memo in order to give effect to the settlement and to avoid unnecessary dispute in future.
- 4) The amount deposited by the appellant while preferring the above appeal in compliance of proviso to section 43(5) of the RERA Act is ordered to be refunded to the appellant with interest, if any, accrued thereon within 15 days from the date of appellant furnishing necessary documents and declaration regarding TDS.
- 5) Registry while issuing copy of the order shall also issue a copy of the joint memo which is ordered to be treated as part and parcel of this order.

There is no order as to costs.

**Sd/-
HON'BLE CHAIRMAN**

**Sd/-
HON'BLE JUDICIAL MEMBER**

**Sd/-
HON'BLE ADMINISTRATIVE MEMBER**