

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

DATED THIS THE 23RD 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.380/2020

BETWEEN:

R J Rishikaran Projects Pvt Ltd.,
Penthouse, RJ Manor Apartment,
#11/A, 80 Feet Road, Koramangala,
Bengaluru – 560 034.
Represented by its Managing Director,
Mr. Rathnakar Shetty.

:APPELLANT

(By Sri Ashok B Patil, Advocate)

AND

1. Real Estate Regulatory Authority,
Ground Floor, Silver Jubilee Block,
Unity Building, CSI Compound,
3rd Cross, Mission Road,
Bengaluru-560 027
Represented by its Secretary
2. Lylesh Vijay Menezes,
Flat No. 205, Silicon Towers,

4th Cross, Byrasandra Main Road,
C V Raman Nagar,
Bengaluru – 560 093.

:RESPONDENT

(By Sri V Vinayak Pai, Advocate for R2)

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 11th February, 2020 in CMP/190813/0003875 passed by the Adjudicating Officer, RERA Respondent.

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

JUDGMENT

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

"a. The complaint filed by the complainant bearing No. CMP/190813/0003875 is hereby allowed in part.

b. The developer is hereby directed to return an amount of Rs. 1,17,14,100/- together with interest @ 9% on the respective amount paid on the respective dates till 30/04/2017 and @ 2% above MCLR of SBI commencing from 01/05/2017 till realization of the entire amount.

c. The developer shall also pay Rs.5000/- as cost of the petition.

d. The complaint shall execute the cancellation of agreement of sale after realization of entire amount."

2. Subsequent to filing of this appeal, the appellant, who is a developer of a real estate project and contesting Respondent No.2, who is an allottee of a flat in the real estate project constructed by the appellant, after due discussion and deliberation, with the assistance of the learned counsel appearing for them, have got their dispute settled amicably by reducing the terms and conditions of settlement into writing by way of filing a Joint Memorandum of compromise.

3. The Joint Memorandum of compromise signed by the appellant and contesting Respondent No.2 and the learned counsel appearing for the respective parties is taken on record.

4. The terms of the Joint Memorandum of compromise were read over to the appellant and contesting Respondent No.2 who were present in the court in the language known to them. They have declared before us that they have entered into this Joint Memorandum of compromise on their free will and volition and it is free from force, misrepresentation, coercion and undue influence and pray for disposal of the appeal in terms of the Joint Memorandum of compromise.

5. We appreciate the co-operation extended by the parties and the learned counsel appearing for them in arriving at an amicable settlement and place the same on record.

6. In view of the submission made by the appellant and contesting respondent and the learned counsel appearing for them for disposal of the appeal in terms of the Joint Memo, we pass the following:

ORDER

- (i) The appeal stands disposed of in terms of the Joint Memorandum of compromise.
- (ii) The Joint Memorandum of compromise is ordered to be treated as part and parcel of this Order;
- (iii) The appellant and contesting Respondent No.2 shall perform and discharge their part of the obligations as incorporated in the Joint Memorandum of compromise in order to give effect to the settlement and to avoid unnecessary litigation in future.
- (iv) In the event of the appellant or contesting Respondent No.2 failing to comply with any of the terms and conditions of Joint Memorandum of compromise, it is always open for the opposite party to take steps as indicated in the Joint Memorandum of compromise.
- (v) As per the terms of Joint Memorandum of compromise and a separate Memo filed today for refund of the amount, the Registry is directed to release the amount deposited by the appellant with the Tribunal while preferring the above appeal in compliance of proviso to Section 43(5) of the RERA Act, along with interest, if any accrued thereon, in favour of contesting Respondent No.2, within 15 days from the date of production of a copy of this order and necessary documents including the declaration with regard to TDS;
- (vi) In view of disposal of main appeal, all pending IA's, if any, stand disposed of.

7. In the event of parties applying for certified copy of today's order, it shall be issued along with a copy of Joint Memorandum of compromise

There is no order as to costs.

Sd/-
HON'BLE CHAIRMAN

Sd/-
HON'BLE JUDICIAL MEMBER

Sd/-
HON'BLE ADMINISTRATIVE MEMBER

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