

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

**DATED THIS THE 04<sup>th</sup> DAY OF JANUARY, 2021**

**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.366/2020**

**BETWEEN:**

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

**:APPELLANT**

(By M/s G S Venkat Subbarao, Advocate)

**AND**

1. The Adjudicating Officer,  
Real Estate Regulatory Authority,  
No. 1/14, Silver Jubilee Block,  
Unity Building, CSI Compound,  
3<sup>rd</sup> Cross, Mission Road,  
Bengaluru-560 027
2. S Rajeshwar Sharma,  
No. 32/42, 2<sup>nd</sup> Floor,  
17<sup>th</sup> Cross, Padmanabha Nagar,  
Bengaluru – 560 070

**:RESPONDENTS**

(Sri S Rajeshwar Sharma, 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/181016/0001459 passed by the Adjudicating Officer, RERA Respondent.

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

### **JUDGMENT**

The appellant has preferred this Appeal challenging the impugned order dated 31.01.2020 passed by the learned Adjudicating Officer, which reads as under:

- a. The Complaint filed by the complainant bearing No.CMP/181016/0001459 is hereby allowed in part.
- b. The developer is hereby directed to return amount of Rs.60,301/- to the complainant and interest @ 9% from the date of payment till 30/04/2017 and interest @ 2% above the MCLR of SBI commencing from 01/05/2017 till realization of the entire amount.
- c. The developer is hereby directed to refund Rs.5,82,549/- to the complainant which was paid towards tax and recover the same from the department or 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. The appellant, who is a Developer of a Real Estate Project and respondent No.2, who is an allottee of a Flat, in the Real Estate project viz., "ROSHAN GARDENIA APARTMENT", constructed by the appellant, after due discussion and deliberation of the dispute involved in the Appeal, got the same amicably settled, by reducing the terms and conditions of settlement in to writing by way of filing a detailed Joint Memo and Joint Affidavit verifying the contents of the Joint Memo.

3. The Joint Memo as well as the Joint Affidavit signed by the appellant, respondent No.2, as party in person and learned Counsel appearing for the appellant, are taken on record.

4. The terms of the Joint Memo 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 that they have entered into this settlement on their free will and volition and thus it is free from any force, mis-representation, undue influence or coercion.

5. The appellant, respondent No.2, as party in person and learned Counsel appearing for the appellant, pray the Court to dispose of the Appeal in terms of the Joint Memo.

Hence, the following

**ORDER**

- 1) The Appeal stands disposed of, in terms of the Joint Memo.
- 2) The Joint Memo and Joint Affidavit are ordered to be treated as part and parcel of this order.
- 3) The appellant and respondent No.2 shall comply their part of obligations incorporated in the Joint Memo in order to give effect to the settlement and to avoid unnecessary litigations in future.
- 4) As per the terms of the Joint Memo, the amount deposited by the appellant with this Tribunal, while preferring the above Appeal, in part compliance of proviso to Section 43(5) of the RERA Act, is ordered to be refunded to the appellant.
- 5) The Registry is hereby directed to refund the amount deposited by the appellant with this Tribunal while preferring this appeal in compliance of proviso to Section 43(5) of the RERA Act, along with interest, if any, accrued thereon in favour of the appellant viz., Roshan Gardenia Apartment, by issuing a Demand Draft, within 15 days from the date of production of a copy of this order, and other necessary documents including the declaration with regard to TDS;
- 6) The Office, while issuing certified copy of the order passed today, shall also issue copy of the Joint Memo

and Joint Affidavit, which are ordered to be treated as part and parcel of this order.

In view of disposal of the main Appeal, all pending I.As., stand closed.

No order as to costs.

**Sd/-**  
**HON'BLE CHAIRMAN**

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

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

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