

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

DATED THIS THE 15TH DAY OF FEBRUARY, 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.262/2020

C/w

APPEAL (K-REAT) NO.379/2020

APPEAL (K-REAT) NO.262/2020

BETWEEN:

1. Mr M P Sajumon,
Aged about 43 years,
Son of Mr. M K Pankajakshan
2. Mrs Akshatha Sajumon,
Aged about 40 years,
Wife of Mr. Sajumon,

Both residing at Villa No.3,
Force Avenue Orchid Wood Layout,
Behind Brookfields, Kundalahalli,
Bangalore – 560 057.

:APPELLANTS

(By M/s Dhanajay Joshi Associates, Advocate)

AND

1. Ozone Urbana Infra Developers Private Limited,
A company incorporated under the companies Act,
1956, having its registered office at

No. 38, ulsoor road,
Bangalore – 560 042.
Represented by its Authorised Signatory

2. The Karnataka Real Estate Authority,
2nd floor, Silver Jubilee Block,
Unity Building, CSI Compound,
3rd Cross, Mission Road,
Bengaluru-560 027
Represented by its Secretary

:RESPONDENTS

(Sri Deepak Bhaskar for M/s Deepak Bhaskar Associates, Advocate for R1)

(R2 served, unrepresented)

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 28th May, 2020 in CMP/191123/0004700 passed by the Adjudicating Officer, RERA Respondent No. 2.

APPEAL (K-REAT) NO.379/2020

BETWEEN:

M/s Ozone Urbana Infra Developers Private Limited,
No. 38, ulsoor road,
Bangalore – 560 042.
Represented by its Authorised Signatory
Ms. Ameetha P A

:APPELLANT

(Sri Deepak Bhaskar for M/s Deepak Bhaskar Associates, Advocate)

AND

1. Mr M P Sajumon,
Villa No.3,
Force Avenue Orchid Wood Layout,
Behind Brookfields, Kundalahalli,
Bangalore – 560 057.
2. Mrs Akshatha Sajumon,
Villa No.3,
Force Avenue Orchid Wood Layout,

Behind Brookfileds, Kundalahalli,
Bangalore – 560 057.

3. The Karnataka Real Estate Authority,
2nd floor, Silver Jubilee Block,
Unity Building, CSI Compound,
3rd Cross, Mission Road,
Bengaluru-560 027

:RESPONDENTS

(By M/s Dhanajay Joshi Associates, Advocate for R1 & R2)

(R3 served, unrepresented)

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 28th May, 2020 in CMP/191123/0004700 passed by the Adjudicating Officer, RERA Respondent No. 3.

These appeals coming on for arguments this day, the Chairman, passed the following:

JUDGMENT

Complainants/Allottees, being partly aggrieved by the order dated 28.05.2020 passed by learned Adjudicating Officer in CMP No.191123/0004700, have filed Appeal No.262/2020.

2. Promoter also aggrieved by the same impugned order passed by learned Adjudicating Officer, directing to return amount of the allottee and to adjust the Bank loan with interest, has preferred Appeal No.379/2020.

3. Since the allottees as well as the promoter are challenging the same order passed by learned A.O., both the Appeals are clubbed and disposed of together by this common order.

4. Subsequent to filing of the above Appeals, the promoter and allottees, after due deliberation and discussion of their dispute with regard to the subject matter of the Complaint and the Appeals, got the same settled amicably by reducing the terms and conditions of their settlement into writing by way of filing a joint memo and a settlement agreement.

5. The joint memo and settlement agreement signed by the promoter and the allottees and learned Counsel appearing for them are taken on record.

6. Learned Counsel appearing for the promoter and the allottees jointly pray the Tribunal to dispose of the Appeals in terms of the joint memo and the settlement agreement.

7. Learned Counsel appearing for the allottees, has also filed a memo after serving a copy of the same on the learned Counsel appearing for the promoter furnishing Bank details for payment of the amount mentioned in the settlement agreement.

8. Learned Counsel for the promoter has received the said memo and has undertaken to instruct the promoter to make payment to the account details furnished therein.

9. Accordingly and for the reasons stated in the joint memo and the settlement memo, the following order:

- 1) Appeals stand disposed of in terms of the joint memo and the settlement agreement.
- 2) The joint memo, settlement agreement and memo given by respondents/allottees to the promoter furnishing details of Bank account of the allottees are ordered to be treated as part and parcel of this order.
- 3) In the event of promoter and allottees applying for copies of this order, Office shall issue copy of the order together with Joint memo, settlement agreement and the Memo.
- 4) Promoter and allottee shall comply with the terms of the Joint memo and the settlement agreement in order to give effect to the same and to avoid unnecessary litigation in future.
- 5) Registry is directed to release/refund the amount deposited by the promoter while preferring the Appeals in compliance of proviso to Section 43(5) of the RERA Act in favour of the allottees by issuing DD/cheque in their names within two weeks from the date of allottees furnishing necessary documents but by deducting TDS.

- 6) Registry is further directed to comply with the provisions of Section 44(4) of the Act and to return the records of RERA, if received.
- 7) All pending I.As., if any, stand disposed of as they do not survive for consideration.
- 8) Registry to return records of RERA, if any, received.

**Sd/-
HON'BLE CHAIRMAN**

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

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

NOT AN OFFICIAL COPY