

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

DATED THIS THE 09th DAY OF APRIL, 2021

PRESENT

HON'BLE SRI JUSTICE B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL (K-REAT) NO.300/2020

BETWEEN:

Brigade Enterprises Limited
Represented by its Authorized signatory
Viswa Prathap Desu and Sonali SK
Having its registered office at
29th & 30th Floors, 26,
Dr Rajkumar Road,
Trade Center Brigade Gateway
Malleswaram, Rajajinagar World,
Bengaluru, Karnataka 560 055

:APPELLANT

(Sri Narasimhan S for M/s NSK Attorneys, Advocate for Appellant)

AND

1. Real Estate Regulatory Authority (RERA), Karnataka,
1/14, 2nd Floor, Silver Jubilee Block,
CSI Compound, 3rd Cross, Mission Road,
Unity Building, Sampangi Rama Nagar,
Bengaluru, Karnataka 560 027
Represented by its Secretary,
2. Harsha Kashyap
S/o Sathyanarayana
Aged about 34 years,
R/o Flat No. G-0051,
Brigade Panorama, Mysore Road,
Kambipura, Bangalore – 560 060
Email Id: harshakshyp@gmail.com
Phone: 9590041888

:RESPONDENTS

(R1- RERA served, unrepresented)
(Sri Harsha Kashyap, party-in-person 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 27th January, 2020 in CMP/190920/0004245 passed by the Adjudicating Officer, RERA Respondent.

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

J U D G M E N T

The appellant, who is a promoter of a Real Estate Project, has preferred this Appeal challenging the order passed by learned Adjudicating Officer wherein the appellant was directed to pay delay compensation to the 2nd respondent/allottee, by way of interest, after deducting Rs.48,148/- already paid by the promoter to the allottee towards delay compensation as agreed in the agreement entered between the promoter and the allottee.

2. Subsequent to filing of the Appeal, the appellant/promoter and the 2nd respondent/allottee, after due discussion and deliberation of their dispute pertaining to the Complaint and this Appeal, got the same settled amicably by reducing the terms and conditions of settlement into writing by way of filing a Joint Memo.

3. The Joint Memo signed by the authorized signatory of the appellant company and 2nd respondent and learned Counsel appearing for the appellant, is taken on record.

4. The terms of Joint Memo were read over to the authorized signatory of the appellant and to the 2nd respondent, who appears as party-in-person and they have declared that they have entered into this settlement/compromise out of their free will and volition and it is free from force, mis-representation, fraud, undue influence and coercion. As such, there is no impediment to record this compromise and dispose of this Appeal.

5. Hence, 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) In the event of parties applying for a copy of this order, the same shall be furnished along with a copy of the Joint Memo.
- 4) Out of the amount deposited by the appellant in compliance of proviso to Section 43(5) of the RERA Act, the Registry shall refund 25% amounting to Rs. 1,84,269/- (Rupees one lakhs eight four thousand two hundred and sixty nine) of the amount and proportionate interest, if any, accrued on 25% of the deposit, but by deducting TDS, if any, in favour of the appellant by issuing a cheque/Demand Draft in the name of the Company and shall hand over the cheque/Demand Draft to the authorized signatory, who has signed the vakalath and Appeal memo and

out of the remaining amount, the Registry is directed to release 75% of the amount amounting Rs.3,60,216/- and proportionate interest, if any, accrued on 75% by deducting TDS by issuing a cheque/Demand Draft in the name of the 2nd respondent within two weeks from the date of appellant and 2nd respondent furnishing necessary documents.

- 5) In view of disposal of the Appeal, pending I.As., if any, stand rejected, as they do not survive for consideration.
- 6) The Registry is directed to comply proviso to Section 44(4) of the RERA Act and return the records of RERA, if received.
- 7) No order as to costs.

**Sd/-
HON'BLE CHAIRMAN**

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