

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

DATED THIS THE 19th DAY OF JULY, 2021

PRESENT

HON'BLE SRI B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL NO. (K-REAT) 294 /2020

BETWEEN:

1. Mr. Venugopal Gella,
s/o Mr Jagannadham,
aged about 39 years;
2. Mrs. Lavanya Gella,
w/o Mr Venugopal Gella,
aged about 38 years,

Both presently residing at No.28/58,
3rd floor, Smiron Arcade,2nd Main,
Banashankari, 1st Stage,
Bengaluru 560 050

...APPELLANTS

(Rep. by Sri Suhail Ahmed for M/s Trial Base, Advocates)

1. The Real Estate Regulatory Authority,
Karnataka, Having it office at
2nd Floor, Silver Jubilee Block,
Unity Building,CSI compound,
3rd cross, Mission Road,
Bengaluru 560027.
Represented by its Secretary.

2. M/s ETA Star Infopark,
A partnership firm having its registered office at:
501 & 502, 5th floor, Front Wing, North Block,
Manipal Centre, 120, Dickenson Road,
Bangalore 560 042
3. M/s ETA Karnataka Estates Limited,
A company incorporated under the Companies Act, 2013
and having its office at:
Fourth floor, "Chennai Citi Centre,"
10 & 11, Dr. Radhakrishnan Salai,
Mylapore, Chennai 600 004, also at
501 & 502, 5th floor, Front Wing, North Block,
Manipal Centre, 120, Dickenson Road,
Bangalore 560 042
4. M/s ETA Constructions (India) Limited,
A company incorporated under the Companies Act, 2013
And having its office at:
Fourth floor, "Chennai Citi Centre,"
10 & 11, Dr. Radhakrishnan Salai,
Mylapore, Chennai 600 004,

and having its corporate office at:
501 & 502, 5th floor, Front Wing, North Block,
Manipal Centre, 120, Dickenson Road,
Bangalore 560 042
5. M/s Relationship Properties Private Limited,
A company incorporated under the Companies Act, 2013
and having its office at:
No.70, Nagindas Master Road, Fort,
Mumbai 400 023

Respondent Nos. 2 to 5 represented by
Authorised signatories:
Mr Suresh Kumar and Mr. S. S.Vasan

...RESPONDENTS

(R.1 served, unrepresented)
(Sri Veeresh Budihal, Advocate, for M/s Anup S Shah Law firm
for R.2-5)

This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal praying to call for the records and set aside the order dated 1st August 2019 passed in CMP/181218/0001774 by respondent No.1-Adjudicating Officer, RERA.

This appeal, coming on for Orders this day, Hon'ble Chairman delivered the following:

J U D G M E N T

The appellants, who are husband and wife and allottees of a flat in their joint names, in a real estate project known as "PARKWEST-EMERALD TOWER 2", constructed by Respondents 2 to 5- developers, have preferred this appeal challenging the impugned order passed by the learned Adjudicating Officer dated 1st August 2019 in CMP/181218/0001774.

2. The operative portion of the impugned order reads as under:

"The complaint filed by the complainant bearing No. CMP/181218/0001774 is allowed.

1) The complainant is hereby directed to take physical possession of the unit bearing No.T2-0-02 within a month from today by tendering the amount payable to the developer.

2) The developer is directed to deliver the same by giving delay compensation @ 10.75 p.a on the amount received from the complainant for purchase of the flat commencing from 18/12/2017 till 23/04/2018.

- 3) The complainant and developer may adjust the amount payable to each other.
- 4) Further the developer shall also pay Rs.5000/- as cost of the petition.
- 5) The complainant is at liberty to take action against the developer for providing poor quality of amenities or non-providing amenities as agreed by him.”

3. The appellants-allottees and Respondents 2 to 5 –developers, after due deliberation and discussion of their dispute pending between them, with the intervention and advise of the learned counsel appearing for them, have got the dispute settled by reducing the terms and conditions into writing by way of filing a detailed compromise petition. The compromise petition filed today, is taken on record.

4. The 1st appellant, on his behalf and on behalf of the 2nd appellant and Sri Suresh Kumar, one of the authorized signatories of Respondent No. 5-developer are present in the court. Respondent No.5 is the GPA holder of Respondents 2 to 4. The terms of compromise were read over to the 1st appellant and Sri Suresh Kumar, one of the authorized signatories of the developers-Company. Both have submitted that the compromise petition is entered into between them on their free will and volition and there is no

force, misrepresentation, fraud, undue influence or coercion and they submit that the appeal may be disposed of in terms of compromise.

5. In addition to this, learned counsel for the appellants and respondents 2 to 5 have submitted that parties have signed the compromise petition in their presence and appeal may be disposed of in terms of the compromise petition.

6. In view of the above submission, we pass the following:

ORDER

- i) Appeal is disposed of in terms of the compromise petition;
- ii) Compromise petition filed by the parties today shall be treated as part and parcel of this order;
- iii) Parties shall discharge their respective obligations enunciated in the compromise petition in order to give effect to compromise and to avoid unnecessary litigation in future;
- iv) In view of disposal of the appeal in terms of compromise petition, pending I.As, if any, stand disposed of as they do not survive for consideration;

- v) Office while issuing certified copy of the order, at the instance of any of the parties, shall issue the same along with copy of the compromise petition;
- vi) Registry is directed to comply with provision of Section 44(4) of the Act.

No order as to costs.

Sd/-

HON'BLE CHAIRMAN

Sd/-

HON'BLE JUDICIAL MEMBER

Sd/-

HON'BLE ADMINISTRATIVE MEMBER