

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

DATED THIS THE 10th DAY OF AUGUST, 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) 338/2020

BETWEEN:

1. M/S Nandi Developers,
office at No.18(2 and 3) 'Nandi Vishwas"
Uttarahalli Main Road,
Bengaluru-560061
Pan No.AAKFN8632P,
A company Registered under the Companies Act 1956
and Represented by it's
Managing partner/Authorized Signatory
Sri.A.D.Narayana Reddy,
aged about 56 years,
S/O Late Subramanya Reddy
2. Sri. A.D.Narayana Reddy
S/O Late Subramanya Reddy,
Aged about 56 years,
Managing partner M/S Nandi Developers,
Residing at No.23, 60/1,
Sri. Srinivasam, 4th Main,
K.S.R.T.C Layout, Chikkallasandra,
Bengaluru-560061
3. Sri. Balakrishna.G
S/O Late K.Govindaswamy Naidu,
Aged about 28 years,
Managing partner M/S Nandi Developers,
Residing at No.23/A, 7th Cross, 2nd Main, Kathriguppe,
Bengalure-560085

...APPELLANTS

(Rep. by Sri T N Vishwantha & Sri. T N Ramesh, Advocates)

AND

1. The Karnataka Real Estate Regulatory Authority,
No.1/14, 2nd Floor,
Silver Jubilee Block,
Unity Building backside.
CSI compound,
3rd cross, Mission Road,
Bengaluru 560027.
Represented by its Secretary.
2. Mr Guruprasad Padubidri Srinivas,
S/O Srinivas P.V.,
aged about 42 years,
3. Mrs. Smitha G,
W/O Mr Guruprasad Padubidri Srinivas,
Aged about 34 years,
Respondent No.2 and 3 residing
at Apartment No.513,
Nandi Forest View Apartments,
Dwarakanagar, B.D.A Link Road,
B.S.K, 5th Stage, Channasandra,
Bangalore-560098
4. Mrs. Harsitha Kumar
D/O Sri. K.Kumar,
Aged about 28 years,
Residing at No.10, Ramachandrappa Layout,
1st Main, R.K.Layout,
Padmanabhanagar, ,
Bangalore-560070
5. Mrs.Twinkle Gowda
D/O Sri.K.Kumar,
Aged about 24 years,
Residing at No.10, Ramachandrappa Layout,
1st Main, R.K.Layout,
Padmanabhanagar, ,
Bangalore-560070

...RESPONDENTS

(R1 served, unrepresented)

(Ms. Anitha for M/S Trail Base, Adv for R2 and R3)

(R4 and R5 - Notice served, unrepresented)

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 19th February, 2020 passed in CMP/190426/0002789 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 promoters of a real estate project known as "NANDI FOREST VIEW" have preferred this appeal challenging the impugned order passed by the learned Adjudicating Officer directing the developer to pay delay compensation awarded to Respondents 2 and 3-allottees.

2. The learned counsel appearing for the developers and allottees submit that the developers and allottees, after due deliberation and discussion of their dispute pertaining to the complaint No. CMP/190426/0002789/2019 and this appeal, have got settled their dispute amicably out of court.

3. Sri A.D.Narayana Reddy, 2nd appellant who is one of the Managing partners of the first appellant-company is present. Respondents 2 and 3 who are husband and wife and allottees of a flat are present.

4. A memo signed by the 2nd appellant on his behalf, on behalf of appellant No.1 as its Managing partner and also on behalf of Appellant

No.3, who is also a Managing partner of the appellant-company and the learned counsel for the appellants and also respondents 2 and 3 - allottees of a flat in the project constructed by the appellants and learned counsel appearing for Respondent No.2 and 3 is taken on record.

5. In the Memo, Respondents 2 and 3- allottees have stated that they have received a sum of Rs. 1,75,000/- (Rupees One lakh Seventy five thousand) by way of Account Payee cheque bearing No. 349615 dated 10.8.2021 drawn on IDBI Bank, Banashankari III stage Branch, Bengaluru, in the name of Respondent No.2 from the appellants-promoters towards full and final settlement of delay compensation amount awarded to them by the learned Adjudicating Officer in Complaint No. CMP/190426/0002789/2019 and also have undertaken to withdraw the pending cases, if any.

6. In the Memo appellants have further stated that they assure to co-operate with the process of transfer of khatha at the cost and scope of purchasers, rectification of intercom line and transfer of BESCO account in the name of the purchasers.

7. In view of the above, appellants and Respondent Nos.2 & 3, pray the Tribunal to dispose of the appeal in terms of the memo filed by them as settled out of court and direct the office to refund the amount deposited in the above appeal to the appellants.

8. Respondent No.1- RERA and Respondents 4 and 5, who are land owners, though served, remained unrepresented.

9. In view of the above submission and for the reasons stated in the Memos, we pass the following:

ORDER

- i) Appeal stands disposed of in terms of the Memo and as settled out of court;
- ii) Memo filed by the parties today are ordered to be treated as part and parcel of this order;
- iii) Registry is directed to return the portion of the amount deposited by the appellant with this Tribunal while preferring the appeal towards part compliance of proviso to Section 43(5) of the RERA Act, in favour of the appellant-company along with interest, if any accrued thereon, by issuing a DD/Cheque and hand over the DD/cheque to Sri A.D.Narayana Reddy, Managing Partner of the appellant-company, 2nd appellant who has signed the appeal memo and the Vakalath, after following the procedure required for the same;

- iv) In view of disposal of the appeal in terms of Memos, pending I.As, if any, stand disposed of as they do not survive for consideration;
- v) In the event of parties applying for certified copy of today's order, the same shall be issued along with copy of Memo filed today;
- vi) Registry is directed to comply with the provision of Section 44(4) of the Act and to return the records to RERA, if any received.

No order as to costs.

Sd/-

HON'BLE CHAIRMAN

Sd/-

HON'BLE JUDICIAL MEMBER

Sd/-

HON'BLE ADMINISTRATIVE MEMBER