

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

DATED THIS THE 23rd DAY OF AUGUST, 2021

PRESENT

HON'BLE B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE K P DINESH, JUDICIAL MEMBER

AND

HON'BLE P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL No.(K-REAT) F.R.40/2021

BETWEEN:

M/s Shrivision Homes Pvt. Ltd.
No. 31, 2nd Main Road, T. Chowdaiah Road,
Near Bashyam Circle, Sadashivnagar,
Bengaluru-560 080.

.. APPELLANT

(By Sri Sameer Sharma for M/s JSM Law Partners, Advocate)

AND

1. The Karnataka Real Estate Regulatory Authority,
2nd Floor, Silver Jubilee Block,
Unity Building, CSI Compound,
Bengaluru- 560 027.
Represented by its Secretary,
2. Mr. Nitin Singh
Residing at No. F1105,
Springfields Apartments,
Sarjapura Road,
Bengaluru – 560 102.

..RESPONDENTS

This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, before the Karnataka Real Estate Appellate Tribunal, Bengaluru, to set aside the impugned order dated 15.12.2020, in CMP/200220/0005481 passed by the Adjudicating officer, RERA- Respondent No.1.

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

J U D G M E N T

The appellant who is a promoter of a Real Estate project known as "SHRIRAM CHIRPING WOODS" has preferred this Appeal on 05.07.2020 challenging the order dated 15th December, 2020 passed in Complaint No. CMP/200220/0005481 by the learned Adjudicating Officer- 1st respondent. The operative portion of the impugned order reads as under:

1. "The complaint filed by the complainant bearing No. CMP/200220/0005481 is hereby allowed.
2. The developer is hereby directed to return Rs. 20,67,590/-.
3. The developer is hereby directed to pay simple interest @ 9% per annum on the respective amount paid by the complainant on the respective date till April 2017 and @ 2% above the MCLR of SBI on the said some commencing from May 2017 till the realization of entire amount.
4. The developer is also hereby directed to pay Rs. 5,000/- as cost of the petition."

2. A plain reading of the operative portion of the impugned order would show that it is a simple case of return of amount of the allottee with interest by the promoter on account of promoter having failed to complete the project and deliver possession of the flat to the allottee. Therefore, appellant was mandated to deposit atleast 30% of the amount ordered to

be returned to the allottee so that the Tribunal could entertain his appeal and thereafter appellant will have to deposit the total amount ordered to be returned to the allottee before the appeal is heard.

3. On 12.08.2021 when the matter was listed for orders regarding non-compliance of office objections including non-deposit of 30% as per proviso to Section 43(5) of the Act, the Appellant was granted time finally up to 19.08.2021 to comply office objections.

4. In spite of granting sufficient opportunity, appellant has not complied any of the office objections including pre-deposit of 30% of the amount ordered to be returned to the allottee under the impugned order in compliance of proviso to Section 43(5) of the Act.

5. In view of non-compliance of office objections including non-deposit of 30% of the amount in compliance of proviso to Section 43(5) of the Act, we pass the following:

ORDER

- 1) Appeal stands dismissed for non-compliance of office objections including non-deposit of 30% of the amount in compliance of proviso to Section 43(5) of the Act;
- 2) In view of dismissal of appeal, 1.As, if any, stand rejected as they do not survive for consideration.
- 3) The Registry is directed to comply with the provision of Section 44(4) of the RERA Act 2016, and return the records to RERA, if any, received.

There is no order as to costs.

**Sd/-
HON'BLE CHAIRMAN**

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

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

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