

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

DATED THIS THE 24th DAY OF NOVEMBER, 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) 24/2020

BETWEEN:

1. Vivek Kumar
S/O Mr.R.P.Agarwal,
aged about 43 years,
2. Mrs. Madhu Agarwal
W/O Mr. R.P.Agarwal,
Aged about 63 years,
Both R/o No.126, Block C,
Anisha Grange Apartment,
6-G Cross, Kaggadasapura,
C.V.Raman Nagar,
Bengaluru-560093

...APPELLANT

(Rep by Sri. Vivek Kumar, party-in-person)

AND

1. The Secretary,
The Interim Real Estate
Regulatory Authority,
No.1/4, Ground Floor, Silver Jubilee Block,
Unity Building, CSI Compound,
3rd Cross, Mission Road
Bengaluru, Karnataka -560 027.

2. Bharatiya City Developers Private Limited,
Off.At: #100/1, Anchorage 1, Richmond Road,
Bengaluru-560025
by its Authorized person.

...RESPONDENTS

(R-1 RERA served unrepresented
M/S Anup & Shah Law Firm, Advocate)

This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, initially before the Interim Appellate Tribunal and thereafter transferred to this Tribunal praying to set aside the impugned order passed by the learned Adjudicating Officer praying to allow this appeal, set aside the order dated 04th October 2018 passed in CMP/180708/0001015.

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

J U D G M E N T

The appellant, who is an allottee of a flat bearing No. 11407 in a real estate project known as 'Nikoo Homes I (Towers 1 - 6 & 10)' which was developed and undertaken by the 2nd respondent promoter has filed a complaint before the RERA in CMP/180708/0001015 seeking delay compensation. By the impugned order dated 4th October, 2018, the learned Adjudicating Officer allowed the complaint and directed the promoter to pay a sum of Rs.10,000/- per month towards delay compensation to the complainant-allottee for the period from October-2017 to July-2018. Being not satisfied with the quantum of compensation

and not awarding interest for the delay period, the allottee has preferred the present appeal.

2. The 1st respondent RERA though served remain unrepresented and 2nd respondent-promoter appeared through counsel.

3. Subsequent to filing of this appeal, the appellant/allottee and the 2nd respondent/promoter, after due deliberation and discussion of their dispute pertaining to the subject matter of complaint No. CMP/180708/0001015 got the same settled amicably by reducing the terms of settlement into writing by way of filing a joint memo for settlement, signed by the appellant, who appeared as party-in-person, the 2nd respondent-promoter and their counsel.

4. The terms of Joint Memo are read over to the Appellant-allottee who is present in the court, in the language known to them and they have stated that the Joint Memo entered into between the appellant/allottee and 2nd respondent/developer is on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and pray the Tribunal that the appeal may be disposed of in terms of the Joint Memo. Further, the learned counsel appearing for the 2nd respondent-promoter submits that the promoter has agreed for disposal of the appeal in terms of the joint memo and, therefore, he has signed the joint memo.

5. As per the terms and conditions of the joint memo the 2nd respondent is making payment of Rs.6,00,000/- (Rupees six lakhs only) to appellant through Demand Draft bearing No.001817 dated 23.11.2021 drawn on Bank of Baroda towards full and final settlement of all claims of appellant towards delay compensation awarded to him under the impugned order. The appellant-allottee acknowledges for having received the demand draft.

6. In view of the above submissions and the terms of the Joint memo, we pass the following:

ORDER

- 1) Appeal stands disposed of in terms of the Joint Memo filed in the court today;
- 2) The Joint Memo filed is ordered to be treated as part and parcel of the order passed today;
- 3) Appellant and Respondent No.2 shall discharge their respective obligations incorporated in the Joint Memo in order to give effect to the compromise and to avoid unnecessary litigation in future;

- 4) In view of disposal of the Appeal in terms of Joint Memo, pending I.As, if any do not survive for consideration and shall stand disposed of;
- 5) Registry, while issuing certified copy of today's order, at the instance of the parties, shall issue the same along with the copy of the Joint Memo;
- 6) Registry is hereby directed to comply with the provision of Section 44(4) of the Act and to return the record to RERA, if received.

No order as to costs.

**Sd/-
HON'BLE CHAIRMAN**

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

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