

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

DATED THIS THE 01st DAY OF DECEMBER, 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) 18/2021

BETWEEN:

Sri.Kaustubha S Gudi
S/o Sudnyanendra S.Gudi
Aged about 36 years,
R/O F8, 1st Floor, Narayana Residency,
6th Cross, Malmaddi, Dharwad-580007.

...APPELLANT

(By Sri.Mali Patil , Advocate)

AND

1. Karnataka Real Estate Regulatory Authority, Bengaluru,
No.1/14, Basement, Silver Jubilee Block,
Unity Building, CSI compound, 3rd Cross,
Mission Road, Bengaluru-27.
2. M/S Vanishree Builders,
M/S Vanishree Builders Managing Partners,
Sri. Chandrakant Meghraj S/O Vasudev Meghraj,
Office Address: Vinayaka Complex, 1st Main,
2nd Cross Jayanagar, Dharwad-580001,
Present Office Address: F4, Madhav Arcade,
4th Cross, Malmaddi, Dharwad-580007.

3. The Authorized Officer, HDFC Limited
(Under SARFAESI Act, 2002)
HDFC House No.51, Kasturba Road,
Bengaluru-560001

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RESPONDENTS

- (R.1-RERA- Unrepresented
Smt. Sujatha H.H, Advocate for R-2
Ms. Fahim Unnisa, Advocate for R.3)

This Appeal is filed under Section 44 (1) of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal praying to direct the respondent No.2 to pay the balance amount of Rs.6,10,966/- along with the interest to R.3 and obtain no due certificate/loan closure letter from R.3 and modify the order dated 04.11.2020, passed by respondent No.1-Adjudicating Officer, RERA, Bengaluru in CMP/UR/190707/0003495 passed.

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

J U D G M E N T

The present appeal is by an allottee of a flat bearing No.FF-101 in a real estate project developed by the 2nd respondent-promoter challenging the order dated 4th November, 2020, passed by the learned Adjudicating Officer in CMP/UR/190707/0003495, seeking the following reliefs:

- i) The appellant respectfully prays that this Hon'ble Authority may be pleased to call for records in CMP/UR/190707/0003495 on the file of the Karnataka Real Estate Regulatory Authority, Bengaluru and modify the judgment dtd. 4-11-2020 and direct the Respondent No.2 to pay the balance amount of Rs.6,10,966/- along with interest to Respondent No.3 and obtain no due certificate/loan closure letter from the Respondent No.3 and give it to the Appellant.

- ii) Issue any other appropriate order or direction as this Hon'ble Appellate Tribunal deems fit to grant in the above facts and circumstances of the case along with costs of this proceedings in the interest of justice and equity.

2. The 2nd respondent promoter, after entering appearance through counsel filed statement of objections mainly contending that that they have already cleared the home loan raised by the appellant and remitted in their favour towards part of sale consideration and after discharge of the loan, the 3rd respondent-bank has issued 'No objection certificate' stating that loan raised by the appellant and released in favour of 2nd respondent is closed as settled and prayed for dismissal of the appeal as closed.

3. When the matter is called today, learned counsel appearing for the 3rd respondent-bank has filed a memo dated 01.12.2021 along with "No Objection Certificate" dated 30th November, 2021, after serving a copy of the same on the learned counsel for the appellant. The memo along with the letter addressed by the Bank to the appellant are taken on record.

4. In the letter dated 30th November, 2021, addressed by the 3rd respondent bank to the appellant it is stated that the loan stands closed as settled as on date and there is no outstanding liability whatsoever as against the said loan account No.620172306.

5. After receipt of a copy of the memo and "No Objection Certificate" issued by the HDFC bank, the appellant-allottee has filed a memo dated 01.12.2021 praying to dispose of the appeal as closed. The memo filed by the appellant is placed on record.

6. In view of the memo filed by the appellant praying to dispose of the appeal as closed, the appeal is liable to be dismissed as closed, inasmuch as, the prayers sought for in the appeal do not survive for consideration.

7. Accordingly, we pass the following:

ORDER

- I) The appeal is disposed of as closed;
- II) In view of disposal of the appeal, the pending interlocutory applications, if any, do not survive for consideration and the same shall stand disposed of;
- III) The 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.

**Sd/-
HON'BLE CHAIRMAN**

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

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