

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

**DATED THIS THE 08<sup>TH</sup> DAY OF DECEMBER, 2021**

**PRESENT**

**HON'BLE SRI B SREENIVASE GOWDA, CHAIRMAN**

**AND**

**HON'BLE SRI K P DINESH, JUDICIAL MEMBER**

**APPEAL NO. (K-REAT) 82/2020**

**(Old Appeal No.85/2019)**

**BETWEEN:**

Vivek Kumar,  
S/o Mr. R.P.Agarwal,  
Aged about 43 years,  
R/o no. 126, block C,  
Anisha Grange Apartment,  
6<sup>th</sup> G Cross, Kaggadasapura,  
C.V. Raman Nagar,  
Bengaluru – 560 093.

**...APPELLANT**

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

**AND**

1. The Secretary  
The Interim Real Estate Regulatory Authority,  
No.1/14, 2<sup>nd</sup> Floor, Silver Jubilee Block,  
Unity Building, CSI compound, 3<sup>rd</sup> Cross,  
Mission Road, Bengaluru-560 027.
2. Bharatiya City Developers Private Limited,  
Off. At. #100/1, Anchorage 1, Richmond road,  
Bengaluru-560 016.  
By its Authorized person/M D

**..RESPONDENTS**

(1<sup>st</sup> -Respondent RERA served unrepresented)

Sri. Sanjay Nair, Advocate for M/s Anup S Shah Law Firm for  
R.2)

This Appeal is filed under Section 44 (1) of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal praying to set aside the impugned order dated 16<sup>th</sup> August, 2018 passed by the Adjudicating officer, in CMP/180524/0000855.

This appeal, coming on for hearing, 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. 12104, 21<sup>st</sup> floor of a real estate project known as "Nikoo Homes-I- Bhartiya City" undertaken and developed by the 2<sup>nd</sup> Respondent Developer has preferred this appeal challenging the impugned order dated 16<sup>th</sup> August, 2018 passed by the Adjudicating officer, in CMP/180524/0000855.

**2.** By the impugned order, the learned Adjudicating Officer allowed the complaint filed by the allottee and directed the promoter to refund a sum of Rs. 68,09,996/- along with interest @ the rate of 10.25% per annum.

**3.** Subsequent to filing of this appeal, the appellant/allottee and the 2<sup>nd</sup> respondent/promoter, after due deliberation and discussion of their dispute pertaining to the subject matter of complaint No. CMP/180524/0000855 and this appeal got the same settled amicably by reducing the terms of settlement into writing by way of filing a joint memo dated 08.12.2021 for settlement, signed by the appellant, who appeared as party-in-person, Sri. Ramachandra A.K Senior Manager (Legal) on behalf of the authorized signatory of

the 2<sup>nd</sup> respondent-promoter and the learned counsel appearing for the 2<sup>nd</sup> Respondent-promoter.

**4.** The terms of Joint Memo are read over to the Appellant-allottee and Senior Manager legal of the 2<sup>nd</sup> respondent-promoter who are 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 2<sup>nd</sup> respondent/promoter 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 2<sup>nd</sup> 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. The joint memo is taken on record.

**5.** As per the terms and conditions of the joint memo the 2<sup>nd</sup> respondent is making payment of Rs.14,00,000/- (Rupees Fourteen lakhs only) to the appellant through Demand Draft bearing No.001856 dated 06.12.2021 drawn on Bank of Baroda towards full and final settlement of the claims of the appellant made in the complaint and in this appeal. The appellant-allottee acknowledges for having received the demand draft and affixed his signature in the order sheet.

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) 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;
- 4) 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;
- 5) 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**