

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

**DATED THIS THE 20<sup>th</sup> DAY OF JANUARY, 2022**

**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) 42 /2021**

**BETWEEN:**

Janapriya Engineers Syndicate Pvt., Ltd.,  
8-2-120/86, Road No.2  
Banjara Hills,  
Hyderabad-500 034.  
Represented by its Managing Director  
Kranthi Kumar Reddy

**...APPELLANTS**

(Sri K Bhanu Prasad & Smt Indumathi S.R, Advocates)

1. Sri Sumit Raj Anand,  
No. 2550, Ground Floor,  
14<sup>th</sup> Cross, HSR Layout Sector-1,  
Bangalore.
2. Karnataka Real Estate Regulatory Authority,  
No. 1/12, Ground Floor, Silver Jubilee Block,  
Unity Building, Mission Road,  
Bengaluru 560 027.  
Represented by its Adjudicating Officer

**...RESPONDENTS**

(Respondent No.1-party-in-person)  
(R.2 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 30<sup>th</sup> March 2021 passed in CMP/200820/0006395 by respondent No.2-Adjudicating Officer, RERA.

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

### **J U D G M E N T**

The Promoter of a real estate project has preferred this appeal challenging the impugned order passed by the learned Adjudicating Officer dated 30<sup>th</sup> March 2021 in CMP/200820/0006395.

2. The appellant- promoter is engaged in the business of developing real estate projects and one such project "PINE GROVE" developed by the promoter is situated at Doddanagamangala Village, Begur Hobli, Bangalore South Taluk, Bangalore. The 1<sup>st</sup> respondent-allottee being interested to purchase a flat bearing No.C-608, in the 6<sup>th</sup> floor, Canary Island, in the said project, entered into an Agreement of Sale and Construction Agreement both dated 10.12.2015 with the promoter for a sale consideration of Rs.80,86,746/-. However, as there was delay in completion of the project and handing over possession of the flat to the allottee within the stipulated period as agreed between the parties in the agreement of sale, the allottee

filed a complaint before RERA seeking refund of the amount, by exiting from the project.

3. The learned Adjudicating officer, after hearing the complainant and the learned counsel for the promoter, perusing the records and documents furnished in the case, passed the impugned order. The operative portion of the said order reads as under:

i) "The complaint filed by the complainant bearing No. CMP/200820/0006395 is partly allowed.

ii) The respondent is hereby directed to pay delay compensation to the complainant by way of interest @ 9% per annum on respective amounts, from the dates of receipt of respective amounts till 30.04.2017 and from 01.05.2017 @ 2% above the MCLR of SBI till the handing over of the possession of the apartment with occupancy certificate.

iii) The respondent is directed to pay Rs.5,000/- as cost of this petition to the complainant.

iv) The complainant may file memo of calculation as per this order after 60 days in case respondent failed to comply with this order to enforce the order."

4. Sri K. Bhanu Prasad, learned counsel appeared for the appellant-promoter. Respondent No.1-allottee appeared as party-in-person. The 2<sup>nd</sup> respondent -RERA though served remain unrepresented.

5. Subsequent to filing of the appeal, appellant/promoter and Respondent No.1-allottee, after due deliberation and discussion of their dispute pertaining to the complaint in CMP/200820/0006395 and this appeal, have got the same settled amicably by reducing the terms and conditions of settlement into writing by way of filing a Joint Compromise Petition under Order XXIII Rule 3 of CPC. The compromise petition signed by the authorized signatory of the appellant company Sri Venugopal Reddy, learned counsel for the appellant and 1<sup>st</sup> respondent-allottee, is taken on record.

6. The terms of compromise were read over to the parties in the language known to them and they have submitted that the compromise petition entered into between them is on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and they submit that the appeal may be disposed of in terms of compromise petition.

7. In addition to this, learned counsel for the appellant submitted that parties have signed the compromise petition in their presence and that the appeal may be disposed of in terms of the compromise petition.

8. The learned counsel for the appellant has also filed a Memo praying to permit the appellant to withdraw 30% pre-deposit made by the appellant with this Tribunal at the time of preferring the appeal in

compliance of proviso to Section 43(5) of the RERA Act and the 1<sup>st</sup> respondent-allottee has no objection whatsoever for the appellant to withdraw the said amount. The Memo is taken on record.

9. In view of the above submissions, the following:

**ORDER**

- i) Appeal is disposed of in terms of the Joint compromise petition;
- ii) The Joint Compromise petition filed by the parties is ordered to be treated as part and parcel of this order;
- iii) The Registry is hereby directed to release the amount deposited by the appellant with this Tribunal while preferring the Appeal in compliance of proviso to Section 43(5) of the Act, along with interest, if any, accrued thereon, by issuing either a cheque or DD in the name of the appellant-company and shall hand over the cheque or DD to the Authorised representative (DGM, Accounts & Finance) of the appellant-company who has signed the Joint Compromise petition and the Memo for withdrawal of the pre-deposit, on furnishing necessary documents and by following due procedure;
- iv) Parties shall discharge their respective obligations enumerated in the Joint compromise petition in order to

give effect to compromise and to avoid unnecessary litigation in future;

- v) In view of disposal of the appeal in terms of Joint compromise petition, pending I.As, if any, stand disposed of as they do not survive for consideration;
- vi) Office while issuing certified copy of the order, at the instance of any of the parties, shall issue the same along with copy of the compromise petition;
- vii) Registry is directed to comply with provision of Section 44(4) of the Act and to return the records to RERA, if received.

No order as to costs.

**Sd/-  
HON'BLE CHAIRMAN**

**Sd/  
HON'BLE JUDICIAL MEMBER**

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