

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

DATED THIS THE 15TH DAY OF DECEMBER, 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) 90/2020
(RERA Appeal (old No.)94/2019)

C/w

APPEAL NO. (K-REAT) 91/2020
(RERA Appeal (old No.)95/2019)

BETWEEN:

In APPEAL NO. (K-REAT) 90/2020
(RERA Appeal (old No.) 94/2019)

M/s G.M. Infinite Dwelling (India) Pvt Ltd.,
(A Company incorporated
under the Provisions of Companies Act 1956)
Having its registered address at
No.6, GM Pearl, 1st Stage, 1st Phase,
BTM Layout, Bengaluru-560 068.

M/s GM Infinite E-City Town Phase-2
Situating at Thirupalya Village,
Electronic City Phase-1, Bengaluru.
Represented by its
Chairman – Managing Director,
Sri. Gulam Mustafa
S/o Sri. Gulam Rasool
Aged about 47 years.

...APPELLANT

(By Sri.Yeshu Mishra, for M/s Haranahalli Law Partners,
Advocate)

AND

1. Adithya B V
Major, father name not known
R/at No.571, 15th Main, 10th cross,
Bengaluru Urban – 560 070.
2. The Karnataka Real Estate Regulatory Authority,
#1/14, 2nd Floor, Silver Jubilee Block,
Unity Building Backside, CSI compound,
3rd Cross, Mission Road, Bengaluru-560 027.
Represented by its Secretary

...RESPONDENTS

(Smt Sujatha HH Advocate for R-1
(R2-RERA served, unrepresented)

In APPEAL NO. (K-REAT) 91/2020
(RERA Appeal (old No.) 95/2019)

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(A Company incorporated
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 (R2-RERA served, unrepresented)

These appeals have been filed under Section 44 (1) of the Real Estate (Regulation and Development) Act, 2016, before the Interim Tribunal (KAT) praying to set aside the, impugned order dated 21st June, 2019 passed by the 2nd respondent-RERA, Bengaluru in complaint Nos CMP/171124/0000261 and CMP/171124/0000774. On transfer of these appeals to this Tribunal on 2.1.2020, they are renumbered as Appeal No. (K-REAT) 90/2020 and 91/2020.

These appeals, having been heard and reserved for judgment coming on this day, for pronouncement of judgment, the Hon'ble Chairman delivered the following:

J U D G M E N T

These appeals are filed by the promoter of a real estate project known as "E-City Town Phase-2", being aggrieved by the impugned order dated 21st June, 2019, passed by the Karnataka Real Estate Regulatory Authority, Bengaluru (for short, 'the RERA') in complaint Nos.CMP/171124/0000261 and CMP/171124/0000774.

Initially, the appeals were filed before the interim Tribunal and after establishment of this Tribunal they have been transmitted to this Tribunal for adjudication.

2. Since, the challenge in the above two appeals is against the common impugned order and common questions are involved, both the appeals are clubbed together, heard and disposed of by this common judgment.

3. For the purpose of convenience and to avoid confusion, the appellant in both the appeals are hereinafter referred to as 'the promoter' and the 1st respondent in both the appeals is one and the same person and he is hereinafter referred to as the 'allottee' and the K-RERA hereinafter referred to as the 'Authority'.

4. By the impugned order, the Authority directed the promoter-appellant herein to get its project "E-City Town Phase-2" registered under Section-4 of the Real Estate (Regulation and Development) Act, 2016 (for short 'the RERA Act') and further directed the promoter to refund the amount to the allottees with interest/pay delay compensation by way of interest for every month's delay at the rate of 10.75% per annum commencing from 08.07.2017 on the total amount paid by the allottee till possession of the flat is delivered to the allottees.

Facts of the case:

5. As averred in the memorandum of appeal, the allottee booked a flat bearing **No.A2111**, 2nd floor, block No.10 (K) in the project known as "E-City Town Phase-2" for total sale consideration of Rs.51,00,000/- (Rupees fifty one lakhs only) and entered into an agreement for sale as well as construction agreement with the promoter on 13.08.2014 and till this date, the allottee has paid a sum of Rs.48,45,000/-. As per the terms of agreement, the promoter has agreed to complete the construction and hand over possession of the flat on or before 07.07.2017, including grace period of six months. As, the promoter has failed to hand over possession of the flat within

the time stipulated in the agreements and thereby violated the terms of the agreements of sale and construction, the allottee has filed two complaints before the Authority on 24.11.2017 and 24.04.2018 respectively.

6. Since, the reliefs sought for by the allottee in the two complaints consists of two components (Registration and Compensation), the Authority assigned two complaint numbers.

The common reliefs sought for by the allottee in both the complaints are extracted hereunder:

- (1) Registration of the project as per the guidelines of the Karnataka RERA in the best interest of all the buyers in the project;
- (2) Assist in resolving the issue with the builder for completion of the project with fixed time schedule thereby avoiding further delay/lapse of time;
- (3) Penalty for the delay (from the date of default) in handing over the possession of the flat as per the agreement of sale and construction agreement/Karnataka RERA rules;
- (4) Direct the builder to arrange for occupancy certificate as per existing guidelines;
- (5) Direct the builder to complete the project duly adhering to the specifications and provide assured amenities as listed in their brochures;
- (6) Registration of flat to be done only after full completion in all respects and fit to be in livable condition with all amenities in place;
- (7) Direct the builder to adhere to the provisions of K-RERA.

7. After receipt of notice from the Authority, the promoter entered appearance through an advocate and contested the case by filing

statement of objections on 30.07.2017, *inter alia* contending that the project consists of over 1330 apartments and the project was completed on 01.07.2017; the promoter, after obtaining the completion certificate from a registered Architect on 01.07.2017, applied to the competent authority for occupancy certificate on 03.07.2017. The occupancy certificate was issued by the Bengaluru Development Authority on 11.06.2018; since, all the development works of the project have been completed much prior to coming into force of the Karnataka Real Estate (Regulation and Development) Rules, 2017, (for short 'the K-RERA Rules') which came into force with effect from 10.07.2017, the project of the appellant-promoter is exempted from registration as per explanation (iii) and (iv) of sub-Rule-(1) of Rule-4 of the K-RERA Rules, inasmuch as, the project was not an ongoing project; the promoter paid the requisite fee to BESCO to secure permanent electricity connection on 27.05.2017; since the project of the appellant-promoter is not an ongoing project and compulsorily registrable under the RERA Act, the Authority has no jurisdiction to entertain the complaint filed by the allottee; though there are 1330 apartments in the project, only 10 owners of the flats have filed complaints for their personal reasons like lack of funds to pay the balance sale consideration amount; the delay in delivering possession of the flats was only on account of delay in granting the occupancy certificate from the competent authority; the statutory authorities like Pollution Control Board had inspected the project on 26.02.2018 and confirmed that

there was sewerage treatment plant installed in June/July 2018; since the RERA Act and Rules are not applicable to the project of the appellant, the Authority, while passing the impugned order, committed an error in directing the appellant to register its project under Section-4(1) of the RERA Act.

8. The Authority, after hearing the parties and considering the material on record, passed the impugned order directing the appellant to get its project registered as per the RERA Act and to pay delay compensation by way of interest to the allottees and granting other reliefs. The operative portion of the order reads as under:

ORDER

1. The complaints are maintainable and this Authority has jurisdiction to entertain the same. The complaints are hereby allowed.
2. The claim of the respondent seeking exemption from registration of the project is hereby rejected as not tenable.

The respondent is hereby directed to get the project registered by filing an application under Section 4 of the Real Estate (Regulation and Development) Act. Further the respondent is given as opportunity to offer its explanation as to why penalty u/s 59(1) of the Act should not be levied for violation of section 3(1) of the Act. Hearing proceedings are scheduled at 11.30AM on 23rd July 2019 and in case of non compliance, decision will be taken based on the materials available on record.

3. The respondent ought to have delivered the possession of the apartments in habitable condition on 07.07.2017, which has not been done. Hence there is delay.
4. a) In respect of complaints shown at serial No.9 and 10 above i.e., in respect of Manoj Shanbagh and Sai Krishna Sundar, who have expressed desire to continue in the said project,

"The respondent promoter is hereby directed to pay interest at the rate of 10.75% per annum commencing from 08.07.2017 on the total amount paid by the complainant till the possession is delivered.

- b) In respect of complainants shown at serial No.1 to 8, i.e., those complainants who have expressed desire to exit from the project.

"The respondent promoter is hereby directed to

- a) Return the amount paid by the purchaser to the developer (excluding home loan) along with interest at the rate of 9% per annum on the respective payment made on respective date upto 30.04.2017 and at the rate of 10.75% per annum commencing from 01.05.2017 till the entire amount is realized.

- b) To get the bank loan discharged along with the interest and other incidental charges.

5. The developer is directed to pay the cost of Rs.5,000/- each to the complainants.

6. The complainants in serial No. 1 to 8 shall execute cancellation of sale agreement in favour of the developer after the realization of entire amounts.

7. The developer shall produce the copy of the discharge certificate issued by the banker and also to produce the cancellation of sale agreement. (except in case of Manoj Shanbagh, CMP. No. 2128 and Sai Krishna Sundar CMP. No. 0287)

8. The respondent is hereby directed to furnish copies of the documents to the complainants as required under the Real Estate (Regulation and Development) Act, 2016.

9. We have heard Sri Yeshu Mishra for M/s Haranahalli Law Partners, LLP, learned counsel appearing for the appellant-promoter, Smt. Sujatha. H.H, learned counsel appearing for 1st respondent-allottee. The 2nd respondent-RERA, though served, remained unrepresented.

10. Sri. Yeshu Mishra, learned counsel appearing for the promoter, while reiterating the grounds urged in the memorandum of appeal submits that the Authority has failed to consider the fact that all the development works have been completed prior to coming into force of the RERA Act and hence, the project of the appellant clearly falls within the ambit of explanation (iii) and (iv) of sub-rule (1) of Rule-4 of the K-RERA Rules, which provide for exemption of project from registration. As such, the Authority has no jurisdiction to entertain and adjudicate the complaints filed by the 1st respondent-allottee. Therefore, the Authority has committed an illegality/error in directing the appellant to get its project "E-City Town Phase-2" registered with the K-RERA.

11. Learned counsel for the promoter further submits that an Architect had inspected the project and issued the completion certificate dated 01.07.2017 to the effect that all the development both internal and external works are completed as per the sanctioned plan and thereafter, the promoter had applied for occupancy certificate on 03.07.2017 which came to be issued on 11.06.2018.

12. The learned counsel for the appellant drew the attention of the Tribunal to IA-II, under which, certain documents are sought to be produced as additional evidence and contended that the project has indeed completed as on the date of commencement of the RERA Rules, and hence, the project of the appellant exclusively falls under explanation (iii) and (iv) to Rule-4 (1) of the K-RERA Rules.

On the above grounds he prays this Tribunal to allow the appeal and set aside the impugned order passed by the Authority.

13. On the other hand Smt. Sujatha H.H, learned counsel appearing for the allottee vehemently opposed the submissions made by the learned counsel for the appellant. She contended that in view of the compromise entered into between the parties, the dispute relating to payment of interest/compensation, as ordered by the Authority in paragraph-4 of the impugned order has already been amicably settled between the parties vide order dated 22.02.2021 passed by this Tribunal and only the issue that remains for adjudication before this Tribunal is directing the promoter to register their project with the K-RERA.

14. Learned counsel submits that documents produced by the appellant to show that all the development works were completed prior to coming into force of the K-RERA Rules, are in respect of Block G-1 whereas the subject matter of the project is in respect of Block G-2.

15. The learned counsel further submits that since the project in question was an 'ongoing project' as on the date of commencement of the Act and K-RERA Rules, the project of the appellant is compulsorily required to be registered. If the promoter fails to register its project, the home buyers will be put to great hardship and injustice. In support of her contentions, she has produced some citations along with a memo

dated 20.07.2022 and placed reliance mainly on the following two judgments of the High Courts:

- (i) ***Subashini Thulasiram -vs- SPR & RG Constructions Pvt. Ltd & others (CMSA No.22 of 2019) (In the High Court of Judicature at Madras);***
- (ii) ***Alfa Ventures (P) Ltd -vs- State of Kerala and others in WP(C): 14890 of 2022 (High Court of Kerala.***

On the above grounds, she prays the Tribunal to dismiss the above appeals filed by the promoter insofar as the direction issued for registration of the project and insofar as direction issued to the promoter to pay compensation, the appeals may be closed as they do not survive for consideration.

16. It is relevant to note that during the pendency of the above appeals and connected matters, both the parties have filed a joint compromise petition on 22.02.2021 and resolved/settled their dispute amicably insofar as it relates to refund of amount paid by the allottees with interest/payment of interest for delay in delivering possession. Consequent upon the said compromise petition, this Tribunal, by order dated 22.02.2021 ordered that the claim of the allottee, insofar it relates to refund of amount/payment of delay compensation by way of interest for delay in delivering possession, has already been settled in terms of the joint compromise petition and the only issue remains to be decided by this Tribunal in these appeals is whether the project of the promoter is exempted from registration.

17. After hearing the learned counsel for the parties and on perusal of the records, the following point arises for our consideration:

- i) Whether the appellant-promoter is entitled for exemption of registration of its real estate project "E-City Town Phase-2" as per explanation (iv) to sub-rule (1) of Rule-4 of the K-RERA Rules?.
- ii) What order?

Point No. (i) –

18. The undisputed facts of the case are as under:

- a) The appellant-promoter is engaged in the business of development of real estate projects and one such project is "E-City Town Phase-2". There are about 8 blocks consisting of 1330 apartments in the said project and they have been sold to different persons and registered sale deeds have been executed in their favour.
- b) That out of 1330 flat owners, only about 10 allottees had approached the Authority by filing complaints under Section 31 of the Act. The subject matter and reliefs sought in all the complaints are more or less similar to each other.
- c) After issuance of notice by the Authority, the promoter entered appearance through their advocate and contested the complaints by filing objections mainly contending that the project has been completed much prior to the Act coming into force, inasmuch as 60% of the flats were sold and registered sale deeds were executed in favour of the allottees and all the internal and external development works have been completed

and certified by the registered Architect. By enclosing the said certificate, the promoter made an application to the Planning Department of BBMP on 03.07.2017 for obtaining occupancy certificate i.e., much prior to the date of coming into force of the K-RERA Rules 2017 and urged that the project is exempted from registration. It is the contention of the promoter that though the project was an ongoing project as on the date of coming into force of the Act, but its registration is exempted as per explanations (iii) and (iv) of sub-rule (1) of Rule-4 of the K-RERA Rules.

d) The Authority after hearing the learned counsel for the parties, passed an order as stated in paragraph 8 herein above. Aggrieved by the said order promoter has preferred as many as 11 appeals.

e) The allottees in all the appeals, after entering appearance through their counsel, got their claim relating to payment of compensation by way of interest for delay in delivering possession of the flat, settled amicably by entering into compromise and accordingly, an order was passed by this Tribunal on 22.02.2021 disposing of nine appeals and these two appeals were retained only for the purpose of consideration of the issue as to whether the project is liable to be registered as ordered by the Authority or is exempted from registration.

f) It is relevant to observe that the main grievance of the allottees that there was delay in completing the project and delivering possession and now the claim relating to payment of delay compensation was settled through compromise. Thus the only issue remains for consideration is the order of the Authority directing the promoter to register the project, which is not defended by the Authority. Unfortunately the Authority, as usual, do not choose to appear before the Tribunal and defend their order that too in respect of cases where it is supposed to defend their action.

19. With this background it is apt to refer to the provisions of Section-3 of Chapter-II of the RERA Act, which contemplates registration of a real estate project as well as exemption from such registration which reads as under:

“Chapter-II, Registration of Real Estate Project and Registration of Real Estate Agents.

3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority

for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from the stage of registration.

(2) Notwithstanding anything contained in subsection (1), no registration of the real estate project shall be required –

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) Where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation - For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a standalone real estate project, and the promoter shall obtain registration under this Act for each phase separately”.

{Emphasis supplied}

20. Apart from the above provisions of the RERA Act, the sub-rule (1) of Rule-4 of the K-RERA Rules which provides for exemption is also relevant to decide the point formulated by us for consideration which reads as under:

“(4) **Additional disclosure by promoters of ongoing projects.-** (1) **Upon the notification for commencement of sub-section (1) of section 3,** promoters of all ongoing projects which have not received completion certificate shall, within the time specified in the said sub-section, make an application to the Regulatory Authority in the form and manner as specified in Rule 3.

Explanation: For the purpose of this rule “Ongoing Project” means a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill any of the following criteria on the date of notification of these rules, namely:-

(i) In respect of layouts where the streets and civic amenities sites and other services have been handed over to the Local Authority and Planning Authority for maintenance;

(ii) In respect of apartments where common areas and facilities have been handed over to the registered Association consisting of majority of allottees;

(iii) **Where all development works have been completed as per the Act and certified by the competent agency and sale/ lease deeds of sixty percent of the apartments/houses/plots have been registered and executed;**

(iv) **Where all development works have been completed as per the Act and certified by the competent agency and application has been filed with the competent authority for issue of completion certificate/ occupation certificate;** and

(v) *Where Partial occupancy certificate is obtained to the extent of the portion for which the partial Occupancy Certificate is obtained".*

Thus, the exemption of registration of a real estate project is provided only under Section-3 (2) (b) of the RERA Act and explanation (i) to (v) of sub-rule (1) of Rule-4 of the K-RERA Rules.

21. The appellant, in the memorandum of appeal, though urged that the project in question is to be exempted from registration as per proviso to Section-3 of the RERA Act as well as explanations (iii) and (iv) of sub-rule (1) of Rule-4, but during the course of his arguments he fairly submitted that the appellant would claim exemption of registration of the project only under explanation (iv) of sub-rule (1) of Rule-4 of the K-RERA Rules and further has not produced any documents for considering their claim for exemption of registration of the project under

proviso to Section 3 of the RERA Act and under explanation III of Rule 4 of the K-RERA Rules. Therefore, it is necessary for this Tribunal to examine as to whether the promoter has fulfilled all the criteria as contemplated under explanation (iv) to sub-rule (1) of Rule-4 of the K-RERA Rules, so as to claim exemption from registration of a real estate project and this Tribunal need not go into the other aspects of the matter.

22. On a bare reading of the criteria contemplated in explanation (iv) to sub-rule (1) of Rule-4 which is extracted above it is very clear that to claim exemption of registration under the above provision, the promoter has to fulfill/satisfy three conditions contained therein simultaneously. The said provisions consists of three parts i.e (i) **“where all development works have been completed as per the Act” and (ii) “certified by the competent agency” and (iii) “application has been filed with the competent authority for issue of completion certificate/occupation certificate”.**

23. Before advertng to the materials produced by the appellant-promoter to substantiate that the promoter would fulfill the criteria contained in explanation (iv) to sub-rule (1) of Rule-4 of the K-RERA Rules, it is just and necessary for this Tribunal to note that the provisions of Section-3 of the RERA Act came into force with effect from 01.05.2017 and the K-RERA Rules came into force with effect from 10.07.2017. In the case on hand, undisputedly, the appellant-promoter obtained ‘completion certificate’ from a registered architect on

01.07.2017, applied for 'occupancy certificate' on 03.07.2017 and obtained 'occupancy certificate' on 11.06.2018 i.e., one year after commencement of the provisions of the RERA Act. As such, as on the date of commencement of the RERA Act, neither the completion certificate nor occupancy certificate has been obtained in respect of the project of the appellant-promoter. Thus, the provisions of Section-3 (2) (b) of the Act is not applicable to the case on hand. Realising this aspect of the matter, the learned counsel for the appellant/promoter fairly has not pressed the ground seeking exemption under proviso to Section 3(2)(b) of the Act.

24. Explanation to Rule 4(1) of the K-RERA Rules states that for the purpose of this rule "Ongoing Project" means a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill any of the criteria on the date of notification of these rules. Further, to claim exemption from registration of its project as contemplated under clause (iv) of sub-rule (1) of Rule-4 of the K-RERA Rules, the promoter is required to fulfill three criteria's viz., (i) **"where all development works have been completed as per the Act" and (ii) "certified by the competent agency" and (iii) "application has been filed with the competent authority for issue of completion certificate/occupation certificate"**. Undisputedly, the Rules came into effect from 10.07.2017.

25. As could be seen from the pleadings referred to above and the completion certificate, the Registered Architect in the Form of completion certificate issued by him as per Schedule VIII (Bye-law 5.6.1) has certified as under:

“The work has been completed to my best satisfaction. The workmanship and all the materials (Types and grade) have been used strictly in accordance with the general and detailed specifications. No provisions of the building Bye-law, sanctioned plan and conditions prescribed or orders issued thereunder have been transgressed in the course of the work. The building is fit for use for which it has been erected, re-erected, or altered with or without additions.”

Further, the genuineness of certificate is neither disputed nor challenged either by the allottees or by the Authority. The promoter after obtaining the said completion certificate from a Registered Architect on 01.07.2017, applied to the competent authority for occupancy certificate on 03.07.2017 much prior to coming into force of the K-RERA Rules i.e., 10.07.2017. Therefore, as per clause (iv) of sub-rule(1) of Rule 4 of the K-RERA Rules, this Tribunal is of the view that the project cannot be said to be an ongoing project and the project of the appellant-promoter is to be treated as exempted from registration. As discussed above Section 3 and Rule 4 are quite different and distinct and not overlapping with each other. Hence, the Authority was not justified in passing the impugned order.

Accordingly, we answer point No (i) in the affirmative holding that appellant-promoter is entitled for exemption of registration of its real estate project "E-City Town Phase-2" as per explanation-(iv) to sub-rule (1) of Rule-4 of the K-RERA Rules.

26. The promoter has made an application numbered as IA No.III seeking permission of the Tribunal to produce eight documents mentioned thereunder of which, three documents are pertaining to completion certificate issued by a Registered Architect, an application submitted to the BBMP for obtaining occupancy certificate and the occupancy certificate. It is pertinent to state here that these documents were produced by the promoter before the Authority itself and reliance has been made by this Tribunal on these documents only for considering the case of appellant. Further, no reliance has been made on the remaining five documents sought to be produced as additional evidence. In view of the same, it is unnecessary to consider IA No.III. Accordingly, it is liable to be rejected as it does not survive for consideration.

27. At this juncture, we wish to place on record our displeasure towards the attitude of the Authority that in these cases where the Authority is one of the respondents and ought to have defended its action in the matter of registration of a project, arrangement is not made to represent the case on its behalf before this Tribunal to substantiate the orders passed by them and that too in matters where State exchequer is involved. In the event of K-RERA repeating such

mistakes in future, we will have no option but to direct the Registry to forward a copy of this order to the Principal Secretary to Government of Karnataka, Department of Housing, Vikasa Soudha, Bengaluru and the Secretary to Government of India, Ministry of Housing & Urban Affairs, New Delhi.

28. Before parting with the case we state that as per Section 44(5) of the Act, the appeals shall be disposed of within sixty days from the date of receipt of appeal. The appeals were originally filed before the interim Tribunal and same were transferred to this Tribunal in January, 2020. Thereafter whenever the parties filed interlocutory applications seeking permission of the Tribunal to produce documents etc., notice was ordered to secure the appearance of the parties and in the process sufficient time was taken. Further, on account of lockdown due to Covid-19 pandemic during 2020 and 2021, for want of presence of the parties and their counsel the matter was adjourned from time to time and the appeal could not be disposed of within time prescribed under Section 44(5) of the Act.

29. For the foregoing reasons, we proceed to pass the following:

ORDER

- i) Appeals are allowed in part;
- ii) The impugned order dated 21st June, 2019 passed by the Karnataka Real Estate Regulatory Authority, Bengaluru (for short, 'the RERA') in complaint Nos.CMP/171124/0000261 and CMP/171124/0000774 insofar as it relates to directing the

appellant-promoter to get its project registered as per the RERA Act, is hereby set aside as the project is exempted as per explanation-(iv) to sub-rule (1) of Rule-4 of the RERA Rules;

- iii) By virtue of the order dated **22.02.2021** passed by this Tribunal, the claim of the 1st respondent-allottee insofar as it relates to claim of compensation in both the appeals has already been amicably settled by both the parties by filing joint compromise petition;
- iv) IA No.III is rejected and in view of the disposal of the appeals, the other pending interlocutory applications, if any, shall stand disposed off;
- v) Registry is hereby directed to comply with the provision of Section 44(4) of the Act and to return the records to RERA;

No order as to costs.

Sd/-
HON'BLE CHAIRMAN

Sd/-
HON'BLE JUDICIAL MEMBER

Sd/-
HON'BLE ADMINISTRATIVE MEMBER