

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

**DATED THIS THE 17<sup>TH</sup> DAY OF APRIL, 2023**

**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) 29/2023**

**BETWEEN:**

1. Shriram Properties Limited,  
(earlier, Shriram Properties Pvt.Limited)  
Present Address:  
No.31, 2<sup>nd</sup> Main Road, T Chowdaiah Road,  
Near Bashyam Circle,  
Sadashivnagar, Bengaluru-560 080  
A Company incorporated under the  
Provisions of Companies Act 1956 and rep. by its  
Authorised Signatory-Mr. Bharat Jumrani.

2. Shriprop Dwellers Private Limited  
Present Address:  
No.31, 2<sup>nd</sup> Main Road, T Chowdaiah Road,  
Near Bashyam Circle,  
Sadashivnagar, Bengaluru-560 080  
A Company incorporated under the  
Provisions of Companies Act 1956 and rep. by its  
Authorised Signatory-Mr. Bharat Jumrani.

Old Address

No.40/43,8<sup>th</sup> main,  
4<sup>th</sup> cross, Sadashivanagar,  
Bengaluru-560 080

**...APPELLANTS**

(By Sri Joseph Anthony for JSM Law Partners, Advocate)

**AND**

1. The Karnataka Real Estate Regulatory Authority,  
No. 1/14, Ground Floor,  
Silver Jubilee Block, Unity Building,  
C.S.I Compound, 3<sup>rd</sup> Cross,  
Mission Road,  
Bengaluru 560 027.  
By its Secretary.
2. Amit Kumar Singh  
& Mrs. Simmi,  
Flat No.F2, 1<sup>st</sup> Main,  
5<sup>th</sup> Cross, T.K. Reddy Layout,  
Banaswadi, Bangalore-560 043.

**...RESPONDENTS**

(Sri Rajashekar.K Advocate for R1-RERA-Absent  
R.2 Represented by Sri Varun Kumar POA-Holder)

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 28<sup>th</sup> October 2022 in CMP/220401/0009304 by RERA Authority, 1<sup>st</sup> Respondent.

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

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

The appellant- promoter is engaged in the business of developing real estate projects and one such project is "SHRIRAM SUMMIT" developed by the promoter in property bearing Survey No. 80/1, 2, 3, 4, 84/6 & 7, 85/2, 87/2, 89/1 & 89/1 & 2, 121/1, 2, 3, situated at Veerasandra Village & Hebbagodi Village, Attibele, Anekal Taluk, Bengaluru Urban-562 107, Karnataka.

2. The 2<sup>nd</sup> respondent and his wife, hereinafter referred as allottees being desirous of purchasing a flat bearing No. SMT No. 19.08.03 in the said project, entered into an Agreement for Sale dated 09<sup>th</sup> January, 2018 with the promoter. As there was delay in completion of the project and handing over possession of the flat to the allottees within the stipulated period as agreed between the parties in the agreement of sale, the allottees filed a complaint before RERA seeking compensation by way of interest for the delayed period.

3. The RERA Authority, 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:

“In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. CMP/220401/0009304 is hereby allowed. Respondent is directed to pay a sum of Rs.7,07,429/- (Rupees Seven Lakh Seven Thousand Four Hundred and Twenty Nine Only) towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 30/06/2020 till 07/05/2022. The interest due from 08/05/2022 till 16/07/2022 will be calculated likewise and paid to the complainants. The complainants are at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.”

4. The Promoter being aggrieved by the said order, has preferred this appeal challenging the impugned order dated 28<sup>th</sup> October 2022 in CMP/220401/0009304 by RERA Authority, 1<sup>st</sup> Respondent.

5. Sri Joseph Anthony, learned counsel appeared for the appellant-promoter. There is no representation for Respondent No.1-RERA. Sri Varun Kumar, POA holder, appeared for Respondent No.2 and his wife-allottees.

6. That subsequent to filing of the appeal, appellant/promoter and Respondent No.2-allottees, after due deliberation and discussion of their dispute pertaining to the complaint in CMP/220401/0009304 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 Memo of Settlement. The Joint Memo of Settlement signed by the authorized signatory of the appellant company, learned counsel for the appellant and Sri Varun Kumar, POA holder for 2<sup>nd</sup> respondent and his wife-allottees, is taken on record.

7. The terms of Joint Memo were read over to the parties in the language known to them and they have submitted that the settlement entered into between them is on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and that they have no claim of whatsoever nature against each other, except the

claim made in the complaint and this appeal and they submit that the appeal may be disposed of in terms of Joint Memo.

8. In addition to this, learned counsel for the appellant submits that parties have signed the Joint Memo in his presence. The learned counsel further submits that as per the Joint Memo, the parties have agreed that out of statutory amount of Rs.7,99,865/- (Seven Lakh Ninety Nine Thousand Eight Hundred and Sixty five only) deposited by the appellant at the time of filing the appeal, a sum of Rs.4,50,000/- (Rupees Four Lakh Fifty Thousand only) be released in favour of the Respondent No.2 and his wife-allottees and the balance amount along with interest, if any, accrued thereon shall be released in favour of the Appellant.

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

**ORDER**

- i) Appeal is disposed of in terms of the Joint Memo;
- ii) The Joint Memo filed by the parties and power of Attorney and Authorisation letter given by Mr. Amit Singh in favour of Mr Varun Kumar are ordered to be treated as part and parcel of this order.
- iii) In view of para 3(c) of the Joint memo, the Registry is hereby directed to release a sum of Rs.4,50,000/-(Rupees Four Lakh Fifty Thousand

only) in the joint names in favour of Respondent No.2 and his wife out of the amount deposited by the appellant with this Tribunal while preferring the Appeal in compliance of proviso to Section 43(5) of the Act, and shall hand over the Banker's cheque or DD to Sri Varun Kumar, POA Holder of 2<sup>nd</sup> Respondent-allottees and the balance amount along with interest accrued thereon, if any, shall be released in favour of the Appellant by issuing either a Banker's cheque or DD in the name of the appellant-company and shall hand over the Banker's cheque or DD to the Authorized signatory of the appellant-company who has signed the Vakalath and the appeal Memo, on furnishing necessary documents and by following due procedure;

- iv) Parties shall discharge their respective obligations enumerated in the Joint Memo in order to give effect to the terms of compromise and to avoid unnecessary litigation in future;
- v) In view of disposal of the appeal in terms of Joint Memo, 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 Joint Memo, letter of Authorisation and power of Attorney;

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**

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