

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

DATED THIS THE 20TH 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) 35/2023

BETWEEN:

Shrivation Towers Private Limited,
No.31, 2nd Main Road, T. Chowddiah Road,
Near Bashyam Circle,
Sadashivanagar, Bengaluru-560080

Old Address

No.40/43,8th main,
4th cross, Sadashiv Nagar,
Bengaluru-560080

A Company incorporated under the
Provisions of Act 1956 Act and rep. by its
Authorised Signatory-Mr. Bharat Jumrani.

...APPELLANT

(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, 3rd Cross,
Mission Road,
Bengaluru 560 027.
By its Secretary.

2. Mr. Leander Martin Andrade
and Mrs. Harol Harry Lobo
B 1013, Brigade Buena Vista
Near Budigere Cross
Bangalore -560 049

...RESPONDENTS

(Sri Rajashekhar K, Advocate for R1-RERA
R.2 party-in-person)

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 17th November 2022 in CMP/220401/0009306 by RERA Authority, 1st 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 GREENFIELD PHASE 2" developed by the promoter in property bearing Survey No. 73/1, 73/2A, 74(P) & 81 situated at Bommenahalli Village, Bidarahalli Hobli, Bangalore East Taluk, Hoskote, Bengaluru Rural District, Karnataka.

2. The 2nd respondent and his wife- allottees, being desirous of purchasing a flat bearing No.J-811, Tower J, Eighth Floor in the said project, entered into an Agreement for Sale dated 27th February 2018 with the promoter. 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

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/220401/0009306 is hereby allowed. Respondent is directed to pay a sum of Rs.4,06,456/- (Rupees Four Lakh Six Thousand Four Hundred and Fifty Six Only) towards delay period interest to the complainants within 60 days from the date of this order, calculated at MCLR + 2% from 30/09/2021 till 31/10/2022. The interest due from 01/11/2022 till date of final payment will be calculated likewise and paid to the complainant. Failing which, the complainant is 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 17th November, 2022 in CMP/220401/0009306 by RERA Authority, 1st Respondent.

5. Sri Joseph Anthony, learned counsel appeared for the appellant-promoter. Respondent No.2-allottee on his behalf and on

behalf of his wife, appeared as party-in-person. Sri. Rajashekhar learned counsel appeared for R1-RERA.

6. That subsequent to filing of the appeal, appellant/promoter and Respondent No.2-allottee, after due deliberation and discussion of their dispute pertaining to the complaint in CMP/220401/0009306 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 2nd respondent-allottee on his behalf and on behalf of his wife as her authorized person vide authorization letter dated 31.03.2023, are taken on record. .

7. The terms of Joint Memo of Settlement are 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 of Settlement.

8. In addition to this, learned counsel for the appellant submits that the parties have signed the Joint Memo of settlement in his presence. The learned counsel further submits that in the joint memo of settlement the parties have agreed that a sum of Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand only) will be in full and final settlement of the interest for delayed period as per the impugned order and the parties have further agreed that the said amount of Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand only) shall be adjusted towards the final demand note from the balance sale consideration payable by Respondent No.2 at the completion stage of the aforesaid project.

9. In the Joint Memo of Settlement, it is also agreed between the parties that in the event appellant fails to complete and provide the possession of the flat on or before 31.12.2023, Respondent No.2 shall be entitled to claim further delay period interest from 01.01.2024 till date of handing over possession of the flat to the allottee, as per the impugned order dated 17th November, 2022.

10. In para 4 of the Joint Memo of settlement, it is stated that Respondent No.2 has no objection to release the pre-deposit amount made by the appellant with this Tribunal while preferring the appeal in favour of the appellant.

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

ORDER

- i) Appeal is disposed of in terms of the Joint Memo of Settlement;
- ii) The Joint Memo of Settlement filed by the parties is ordered to be treated as part and parcel of this order;
- iii) In view of para 4 of the Joint memo of Settlement, 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, with interest, if any accrued thereon, 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;
- 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**