

IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU

DATED THIS THE 09th DAY OF APRIL, 2021

PRESENT

HON'BLE SRI JUSTICE B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL (K-REAT) NO.300/2020

BETWEEN:

Brigade Enterprises Limited
Represented by its Authorized signatory
Viswa Prathap Desu and Sonali SK
Having its registered office at
29th & 30th Floors, 26,
Dr Rajkumar Road,
Trade Center Brigade Gateway
Malleshwaram, Rajajinagar World,
Bengaluru, Karnataka 560 055

:APPELLANT

(Sri Narasimhan S for M/s NSK Attorneys, Advocate for Appellant)

AND

1. Real Estate Regulatory Authority (RERA), Karnataka,
1/14, 2nd Floor, Silver Jubilee Block,
CSI Compound, 3rd Cross, Mission Road,
Unity Building, Sampangi Rama Nagar,
Bengaluru, Karnataka 560 027
Represented by its Secretary,
2. Harsha Kashyap
S/o Sathyanarayana
Aged about 34 years,
R/o Flat No. G-0051,
Brigade Panorama, Mysore Road,
Kambipura, Bangalore - 560 060
Email Id: harshakshyp@gmail.com
Phone: 9590041888

:RESPONDENTS

(R1- RERA served, unrepresented)

(Sri Harsha Kashyap, party-in-person for R2)



RERA-1479



He
03/06/21

D.S]



This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal to set aside the order dated 27th January, 2020 in CMP/190920/0004245 passed by the Adjudicating Officer, RERA Respondent.

This appeal coming on for hearing this day, the Chairman, passed the following:

J U D G M E N T

The appellant, who is a promoter of a Real Estate Project, has preferred this Appeal challenging the order passed by learned Adjudicating Officer wherein the appellant was directed to pay delay compensation to the 2nd respondent/allottee, by way of interest, after deducting Rs.48,148/- already paid by the promoter to the allottee towards delay compensation as agreed in the agreement entered between the promoter and the allottee.

2. Subsequent to filing of the Appeal, the appellant/promoter and the 2nd respondent/allottee, after due discussion and deliberation of their dispute pertaining to the Complaint and this Appeal, got the same settled amicably by reducing the terms and conditions of settlement into writing by way of filing a Joint Memo.

3. The Joint Memo signed by the authorized signatory of the appellant company and 2nd respondent and learned Counsel appearing for the appellant is taken on record.



4. The terms of Joint Memo were read over to the authorized signatory of the appellant and to the 2nd respondent, who appears as party-in-person and they have declared that they have entered into this settlement/compromise out of their free will and volition and it is free from force, mis-representation, fraud, undue influence and coercion. As such, there is no impediment to record this compromise and dispose of this Appeal.

5. Hence, the following

ORDER

- 1) Appeal stands disposed of in terms of the Joint Memo.
- 2) The Joint Memo is ordered to be treated as part and parcel of this order.
- 3) In the event of parties applying for a copy of this order, the same shall be furnished along with a copy of the Joint Memo.
- 4) Out of the amount deposited by the appellant in compliance of proviso to Section 43(5) of the RERA Act, the Registry shall refund 25% amounting to Rs. 1,84,269/- (Rupees one lakhs eight four thousand two hundred and sixty nine) of the amount and proportionate interest, if any, accrued on 25% of the deposit, but by deducting TDS, if any, in favour of the appellant by issuing a cheque/Demand Draft in the name of the Company and shall hand over the cheque/Demand Draft to the authorized signatory, who has signed the vakalath and Appeal memo and



out of the remaining amount, the Registry is directed to release 75% of the amount amounting Rs.3,60,216/- and proportionate interest, if any, accrued on 75% by deducting TDS by issuing a cheque/Demand Draft in the name of the 2nd respondent within two weeks from the date of appellant and 2nd respondent furnishing necessary documents.

- 5) In view of disposal of the Appeal, pending I.As., if any, stand rejected, as they do not survive for consideration.
- 6) The Registry is directed to comply proviso to Section 44(4) of the RERA Act and return the records of RERA, if received.
- 7) No order as to costs.

Sd/-
HON'BLE CHAIRMAN

Sd/-
HON'BLE ADMINISTRATIVE MEMBER

TRUE COPY

L. G. Suman 2/6/24
SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU-560 027

B. S. S. S. 2/6/24



BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, AT BANGALORE,
KARNATAKA
APPEAL NO. 300 of 2020

Between:

Brigade Enterprises Limited ... Appellant

And

Real Estate Regulatory Authority
And Another ... Respondents

JOINT MEMO

It is submitted that the Appellant has filed the present Appeal seeking to set aside the Order dated 21.12.2020 ("Impugned Order") passed by the Adjudicating Officer, RERA, Bangalore, whereby the Hon'ble Authority had directed the Appellant to pay delay compensation on the total amount paid by the Respondent No.2 by paying interest at the rate of 2% above the MCLR of SBI commencing from July 2018 to 18.01.2019 after deducting the compensation paid by the Appellant as per the Construction Agreement dated 08.02.2017.

It is submitted that in terms of Clause 6.4 of the Construction Agreement dated 08.02.2017 the Appellant had already paid a sum of Rs.48,148/- to the Respondent No.2 herein towards delay compensation the receipt of which has been duly acknowledged by the Respondent No. 2. However, the delay compensation payable as per the Impugned Order is Rs.5,44,485/-.

It is submitted that at the time of filing the present Appeal, the Appellant had duly deposited the entire amount of Rs.5,44,485/- before this Hon'ble Tribunal.

It is submitted that upon mutual negotiations, the Appellant and the Respondent No.2 have agreed to settle their differences inter-se and accordingly, the Appellant and the Respondent No.2 have agreed as follows:

The Appellant has agreed to pay 75% of the amount deposited before this Hon'ble Tribunal at the time of filing the Appeal to the Respondent No.2 after adjusting a sum of Rs.48,148/- which has already been paid to the Respondent No.2 for delay compensation as computed in terms of the Construction Agreement.
For BRIGADE ENTERPRISES LTD.



[Signature]
Authorised Signatory



S. Harsha Kashyap

FILED IN THE COURT
ON: 09.04.2021

Recd on 4/6/21

D.S.

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4.6.21

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2. The Respondent No.2 has agreed to the proposal of the Appellant and has agreed to receive a sum of Rs.3,60,216/- (i.e., 75% of Rs.5,44,485/- which is equivalent to Rs.4,08,364 - Rs. 48,148) towards full and final settlement of all claims.
3. The Appellant and Respondent No.2 hereby agree that they shall have no further claims whatsoever against each other in relation to the dispute at hand and that the Respondent No.2 has accepted the sum of Rs.3,60,216/- towards full and final settlement of all his claims.
4. Neither the Appellant nor the Respondent No.2 shall at no point of time raise any dispute before any Competent Authority or Court of Law by way of challenging or further disputing the terms agreed in this Joint Memo. Both the Appellant and Respondent No.2 hereby agree that the terms of the present Joint Memo have been agreed upon mutually and out of their own free will and that the same is not induced by any sort of coercion or undue influence.
5. The Respondent No.2 hereby agrees not to take undue advantage of the payments received by him in terms of this Joint Memo and that he shall not induce any other apartment owner to make unjust claims for delay compensation as against the Appellant.
6. It is hereby agreed that the terms of settlement made hereinabove shall not be used as a precedent in any other dispute of a similar nature raised by any other third parties in any proceeding pending either before the Adjudicating Officer, RERA, Bangalore or before this Hon'ble Tribunal as against the Appellant.
7. Both the Appellant and Respondent No.2 hereby submit that this Hon'ble Tribunal be pleased to pass an Order directing the Registry of this Hon'ble Tribunal to refund a sum of Rs.3,60,216/- directly to the account of Respondent No.2 and to refund the remaining amount of Rs.1,84,269/- to the Appellant from out of the total amount of Rs.5,44,485/- as deposited by the Appellant with the Registry of this Hon'ble Tribunal at the time of filing of the present Appeal.

WHEREFORE, this Hon'ble Tribunal may be pleased to dispose of the present Appeal in accordance with the aforementioned terms of settlement arrived at between the Appellant and Respondent No.2 herein.



PLACE: *Dodballur*

DATE: *9/12*

S. Harsha kushyap

For BRIGADE ENTERPRISES LTD

[Signature]
Authorised Signatory

APPELLANT

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N. S. S.
ADVOCATE FOR APPELLANT
NARASIMHAN

S. Harsha Kashy
RESPONDENT

~~ADVOCATE FOR RESPONDENT~~

TRUE COPY

L. H. S. S.
SECTION OFFICER 3/6/2021
KARNATAKA REAL ESTATE
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03/06/2021



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