

IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU

DATED THIS THE 23rd DAY OF AUGUST, 2021

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) 391/2020

BETWEEN:

M/s Shrivision Towers Private Limited
No.192, 2nd Main, T.Chowdaiah Road
Sadashivanagar
Bengaluru-560 080.

Represented by its Authorized Signatory,
Mr. Naveen Kumar J.

...APPELLANT

(Rep. by M/s JSM Law Partners, Advocates)

AND

1. The Karnataka Real Estate Regulatory Authority,
2nd Floor, Silver Jubilee Block,
Unity Building, CSI compound,
Bengaluru-560 027.
Represented by its Secretary.

2. Sarvesh Tiwari,
Flat No. 4247,
Opposite to shell petrol pump, Seegahalli,
Bangalore- 560 037.

...RESPONDENTS

(R1 – RERA served, unrepresented)

(M/s Amrit Lal Saha & Associates- Caveator, Advocates for R2)

* R3 is deleted V.C.O dated 01.09.2021



RERA 2626

03.9.2021
US

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 03rd August, 2020 passed in CMP/191010/0004308 by respondent No.1-Adjudicating Officer, RERA.

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

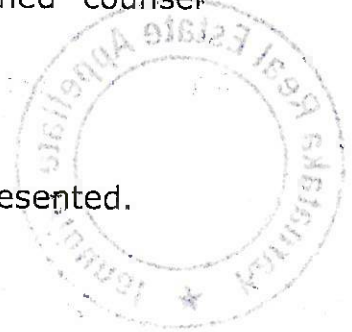
J U D G M E N T

The appellant, who is promoter of a real estate project known as "SRIRAM GREEN FIELDS-PHASE 1" has preferred this appeal challenging the impugned order passed by the learned Adjudicating Officer directing the promoter to pay delay compensation awarded to 2nd Respondent/allottee.

2. Learned counsel appearing for the promoter and allottee submit that subsequent to the filing of this appeal the promoter and allottee, after due deliberation and discussion of their dispute pertaining to Compliant No. CMP/191010/0004308 and this appeal, in their presence have got settled their dispute by reducing the terms of settlement into writing by the way of filing a Joint Memo.

3. The Joint Memo signed by the authorized signatory of the appellant-promoter, 2nd Respondent/allottee and the learned counsel appearing for them is taken on record.

4. Respondent No.1 though served, remained unrepresented.

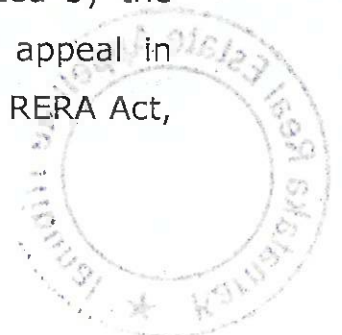


5. The terms of compromise petition were read over to the Appellant and Respondent No.2, who are present in the court, in the language known to them and they have submitted that the compromise/settlement is entered into between them on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and pray the Tribunal that the appeal may be disposed of in terms of the Joint Compromise Petition.

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

ORDER

- 1) Appeal is disposed of in terms of the Joint Memo filed in the court today;
- 2) Joint Memo filed by the appellant and Respondent No.2 today is ordered to be treated as part and parcel of this order;
- 3) Appellant and Respondent No.2 shall discharge their respective obligations mentioned in the Joint Memo in order to give effect to the compromise and to avoid unnecessary litigation in future;
- 4) In view of dismissal of the Appeal in terms of compromise petition, pending I.As., if any, stand disposed of as they do not survive for consideration;
- 5) Registry is directed to refund the amount deposited by the appellant with this Tribunal while preferring the appeal in part compliance of proviso to Section 43(5) of the RERA Act,



along with interest if any accrued thereon, by issuing a cheque/DD in the name of the appellant and hand over the same to the authorized signatory of the appellant-company, who has signed the appeal memo and the Vakalath, after following the procedure required for the same.

- 6) Office while issuing certified copy of today's order, at the instance of any of the parties, shall issue the same along with a copy of the Joint Memo.
- 7) Registry is hereby directed to comply with the provision of Section 44(4) of the Act and to return the record to RERA, if received.

No order as to costs.

Sd/-

HON'BLE CHAIRMAN


Sd/-

HON'BLE JUDICIAL MEMBER

Sd/-

HON'BLE ADMINISTRATIVE MEMBER

"TRUE COPY"


SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU - 560 077



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

APPEAL No. 391 / 2020

BETWEEN:

M/s. Shrivision Towers Private Limited Appellant

AND:

1. Karnataka Real Estate Regulatory Authority
2. Sri. Sarvesh Tiwari Respondents

JOINT MEMO FILED BY THE APPELLANT AND RESPONDENT NO. 2

The Appellant and Respondent No. 2 most respectfully submit as follows:

1. The Appellant has filed present appeal challenging the impugned order passed by the 1st Respondent dated 03.08.2020, in CMP/191010/0004308, wherein the learned Adjudication officer has directed the Appellant to pay delay compensation and cost of the case.
2. That during the pendency of the Appeal and after due discussions between the Appellant and Respondent No. 2 along with their counsels have amicably resolved to settle the matter amongst themselves and thereby resolved to solve the dispute. The signing parties have agreed as under and have decided to file the present joint settlement memo and settle the case in accordance with the same.

For Shrivision Towers Private Limited

Naveen Tiwari
Authorised Signatory



Sarvesh



3. The Appellant and Respondent No. 2 agreed to settle the appeal as under:

- a. That as per calculation made by the parties, and set off done, the following further amount is pending from the Appellant to the Respondent No. 2:

<u>REF. NO.</u>	<u>NO. OF DAYS</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
A	578 (from 1 st July 2018 to 30 th Jan., 2020)	Delay compensation builder is supposed to pay to the Complainant Mr. Sarvesh Tiwari @10.75% and calculated on Rs. 47,12,327/-	8,02,193/-
B	NA	Cost as directed by the Court (RERA)	5000/-
C	NA	Balance from complainant Mr. Sarvesh Tiwari to builder towards Sale consideration	4,99,161/-
(A + B) - C = D	NA	Balance due from builder to complainant Mr. Sarvesh Tiwari	3,08,032/-
E	NA	Balance due	2,61,827/-



Sarvesh

For Shrivision Towers Private Limited

Sarvesh
Authorised Signatory




		from builder to complainant Mr. Sarvesh Tiwari after allowing 15% discount i.e. an amount of Rs. 46,205/-	
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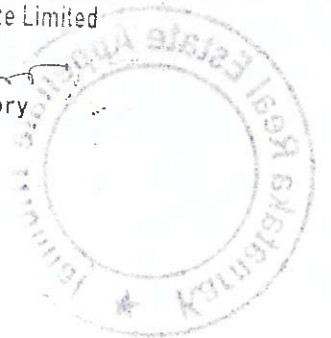
b. That as per the above tabular calculation enumerated above, an amount of Rs. (8,02,193 + 5,000) = **Rs. 8,07,193/-** is pending from the Appellant to the Respondent No. 2 as delay compensation and cost. Further an amount of **Rs. 4,99,161/-** is pending from the Respondent no 2 to the Appellant towards balance sale consideration. After adjusting the same, the Appellant has to pay an amount of Rs. **3,08,032/-** in which the Respondent No. 2 agreed to offer 15% Discount to the Appellant. Thus, after adjusting the same, the remaining amount which is due from Appellant to Respondent No.2 is **Rs. 2,61,827/-** and the Appellant has paid the said amount *vide* Cheque dated 20.08.2021 bearing No. "001377" drawn on RBL BANK, Residency Road, Bangalore.

c. The parties shall go for registration of the apartment on **31st August 2021** or within a period of 21 working days from such date. The actual registration cost towards stamp duty and other government fees shall be borne by the Respondent No. 2;

For Shrivision Towers Private Limited


Authorised Signatory





- d. That the Respondent No. 2 has no objections to release the Appeal money deposited by the Appellant before this Tribunal while preferring this Appeal and thus the Amount may be released in favour of the Appellant.
- e. That there shall be no further payment by any party to the other apart from the one mentioned above, in relation to this proceedings;
- f. The appellant shall complete the Club House, play areas and landscaping before **November 30th, 2021**.
- g. That this settlement has been arrived between the Parties with respect to the Delay compensation only and the Complainant/Respondent no. 2 shall have liberty to pursue other claims against the Appellant, if any.
- h. That in case the Appellant fails to comply the provision of this Joint settlement Memo, the respondent No. 2 shall have right to invoke all legal remedies in accordance with law and for the same purpose the order passed by the Hon'ble Appellate Tribunal in pursuant to this Joint Settlement Memo shall be considered as Final Order and can be executed in accordance with law;

WHEREFORE, the Appellant and Respondent No. 2 prays that this Hon'ble Tribunal may be pleased to accept this joint memo, and record the

For Shrivision Towers Private Limited

Naveen Kumar
Authorised Signatory



B. Ganesh



settlement and dispose the above appeal in terms of this Memo, in the interest of Justice and Equity.

<p>For Shrivision Towers Private Limited</p> <p><i>[Signature]</i> Authorised Signatory</p> <p>Appellant</p>	<p><i>[Signature]</i></p> <p>Respondent no. 2</p>
<p><i>[Signature]</i></p> <p>Advocate for Appellant</p>	<p><i>[Signature]</i> [THAHAKALEEL.KA]</p> <p>Advocate for Respondent no. 2</p>

Place: Bengaluru

Date: 23.08.2021

"TRUE COPY"

[Signature]
SECTION OFFICER 2/9/21
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU - 560 027
[Signature]



