

IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2021

PRESENT

HON'BLE SRI JUSTICE B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

APPEAL (K-REAT) NO. 302/2020

BETWEEN:

M/s Shivani Developers,
No.401, Palace view apartments,
9th cross Road, H A L 3rd Stage,
Kodihalli, Bengaluru – 560 008
A Registered partnership firm,
Represented by its Managing Partner
Sri Koteswara Rao Podapati
Aged about 53 years

:APPELLANT

(By Sri B N Suresh, Advocate)

AND

✓ 1. The Karnataka Real Estate Regulatory Authority,
No. 1/14, 2nd Floor, Silver Jubilee Block,
Unity Building Back side, CSI Compound,
3rd Cross Road, Mission Road,
Bengaluru-560 027
Represented by its Secretary

2. Smt Sasmita Biswal,
W/o Bichtra Mallik,
Aged Major,
Residing at No 41, Shivani Sunshine,
Chudasandra, Sarjapura,
Bengaluru – 560 099

:RESPONDENTS

(R1 served, unrepresented)

Sri Naman Saraswat for M/s Maths Law Associates, Adv for R2)



RERA-978

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 05th June, 2020 in CMP/180502/0000797 passed by the Authority, RERA Respondent No. 1.

This appeal coming on for admission this day, the Chairman, delivered 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 impugned order passed by RERA.

2. Subsequent to filing of the Appeal, appellant/promoter and 2nd respondent allottee, after due discussion and deliberation of their dispute pertaining to the subject matter of the Complaint and the Appeal, got the same settled amicably by reducing the terms and conditions of settlement into writing by way of filing a detailed Compromise Petition under Order XXIII Rule 3 of the Code of Civil Procedure.

3. The Compromise Petition, signed by the Managing Partner of the appellant/Company and the 2nd respondent/allottee and learned Counsel appearing for them, is taken on record.

4. The terms and conditions of Compromise Petition were read over to the parties in the language known to them and they have declared that they have entered into this compromise on their free will



and volition and it is free from any force, mis-representation, undue influence and coercion.

5. The parties and learned Counsel appearing for them pray the Tribunal to dispose of the Appeal in terms of the compromise.

6. The parties, having present in the Court, have signed the order sheet of the Appeal memo.

7. In view of the above, following

ORDER

- (1) The Appeal stands disposed of in terms of the Compromise Petition.
- (2) The Compromise Petition is ordered to be treated as part and parcel of this order.
- (3) In the event of parties applying for copy of this order, the Registry shall issue the same along with copy of the Compromise Petition.
- (4) The appellant and 2nd respondent shall perform and discharge their respective obligations as incorporated in the Compromise Petition, in order to give effect to the compromise and to avoid unnecessary litigations in future.
- (5) As per para-5 of the Compromise Petition, both appellant and respondent No.2 shall withdraw all



pending litigation, if any, filed by them against each other.

- (6) As per Clause (e) of para-2, RERA is hereby directed to remove from their official website that there is a pending case against the Project of the appellant viz., "SHIVANI'S SUNSHINE".
- (7) In view of disposal of the Appeal, pending I.As., if any, stand disposed of, as they do not survive for consideration.
- (8) The Registry is hereby directed to comply provision of Section 44(4) of the RERA Act and to return the records of RERA, if received, forthwith.

Sd/-
HON'BLE CHAIRMAN

Sd/-
HON'BLE JUDICIAL MEMBER

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SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU-560 027



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**BEFORE THE HON'BLE REAL ESTATE APPELLATE TRIBUNAL AT
BENGALURU**

RERA APPEAL No.302/2020

BETWEEN:

M/s Shivani Developers

APPELLANT

AND

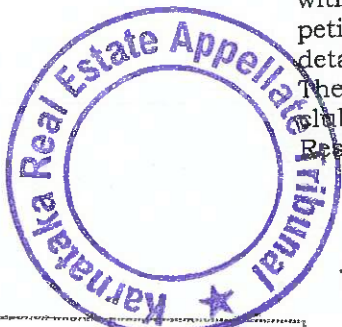
The Karnataka Real Estate Regulatory
Authority and others

RESPONDENTS

**COMPROMISE PETITION FILED BY THE APPELLANT AND
RESPONDENT NO.2 UNDER ORDER XXIII RULE 3 OF THE CODE OF
CIVIL PROCEDURE**

The appellant and the respondent No.2 above named most respectfully submits as follows:-

1. The appellant before this Hon'ble Tribunal is the Developer and the second respondent is the purchaser of the Row house constructed by the appellant. The respondent No.2 had filed a complaint before the first respondent authority against the appellant about pending works of providing amenities which were listed in the complaint and compensation for the delay in project. During the course of hearing before the first respondent the appellant and the respondent No.2 arrived at a compromise and submitted the same before the first respondent. However, the first respondent authority passed the final order, as such the appellant has preferred the above appeal.
2. The appellant and the respondent No.2 submit that the appellant and the respondent No.2 at the kind intervention of the Hon'ble Appellate Authority have once again renegotiated the terms and have amicably decided to settle all the disputes. The appellant has agreed to complete the pending works of providing amenities as per the time frame provided here under and the agreed terms and conditions of the compromise are reduced into writing which are as under:-
 - a. The appellant has agreed to provide power back-up as well as will install the CC Tv's on or before 15th April 2021.
 - b. The Children play area work will be completed on or before 31st May 2021.
 - c. The works of providing swimming pool, club house, party hall, Gym, table tennis, Snooker will be commenced simultaneously within 2 weeks from the date of accepting the compromise petition and will be completed within 20th September 2021. A detailed break up of work schedule is attached in Annexure A. The Appellant shall carry out work of club house as per the club house elevation plan which is submitted to the Respondent No.2 at the time of execution of sale deed.



RS

Shankar

FILED IN THE COURT
ON 17.03.2021

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- d. The appellant has agreed to pay a sum of Rs.7,11,435/- (Rupees Seven Lakhs Eleven Thousand Four Hundred and Thirty Five Only) towards full and final settlement of the compensation amount payable to the second respondent. The second respondent is in due a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the appellant for providing amenities. Out of which the respondent No.2 have agreed to pay/deposit a sum of Rs.1,00,000/- (Rupees one lakh only) each into escrow account bearing No.331201010035720, Union Bank of India, Domlur Branch, Bengaluru having IFSC code: UBIN0533122 in the name of Shivani Sunshine Amenities Account within a week from the compromise. The appellants must deposit the remaining amount required for the amenities within 10 days from the date of respondent no. 2 depositing the amount in the above-mentioned escrow account. The balance amount of Rs.1,00,000/- (Rupees one lakh) payable by the respondent No.2 to the appellant will be adjusted in the amounts payable by the appellant to the respondent No.2 towards compensation. The appellant has agreed to pay the compensation amount which is 30% of the calculated amount as per the AO order as mentioned above, on or before 15th July 2021 irrespective of the source of income. In any case if the appellants failed to pay the agreed compensation amount within the time, the same will attract 12% interest per annum until December 2021 and if the appellants fails to pay even after December 2021, the appellants is liable to pay 100% of the calculated amount as per the AO order with 12% interest and the respondent No.2 would be entitled to recover the compensation amount from the appellant together with costs and agreed interest. The appellant will be depositing his share in the escrow account towards completion of the works as mentioned in Appendix as per the agreed timeline.
- e. The respondent No.2 has no objection for removing the status in the official website of the RERA that there is a pending case on the project.
- f. The appellant shall clear all pending property tax due.
- g. The appellant will get Occupancy certificate from BDA within three to four months from the date of disposal of the suit filed by Smt.Rajamma in OS No.72/2008 at Anekal Court.
- h. The appellant will provide to respondent No.2 individual E-Khatha within three to four months from the date of disposal of the suit filed by Smt.Rajamma in OS No.72/2008 at Anekal Court and it is the appellant's responsibility to pay the property tax till the E-khatha is transferred to the respondents.

Details of the pending amenities and timelines are morefully provided in Annexure A

- 3. The appellant and the respondent No.2 will extend the mutual co-operation in completing the project in terms of the above compromise without making allegations against each other.



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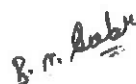


4. The respondent No.2 is liberty to execute this compromise in the event the appellant failed to adhere to the terms of the compromise.
5. In view of the above settlement the appellant as well as the respondent No.2 undertakes to withdraw all pending litigations against each other.
6. The appellant and the respondent No.2 have filed the above compromise out of their free will and consent without any fraud, coercion or threat or undue influence.

WHEREFORE, the appellant and the respondent No.2 above named most respectfully pray that this Hon'ble Appellate Authority may be pleased to modify the impugned order passed by the first respondent interims of the above compromise in the interest of justice and equity.

BENGALURU
DATE:-17/03/2021


APPELLANT


ADVOCATE FOR APPELLANT


RESPONDENT NO.2


ADVOCATE FOR RESPONDENT NO.2

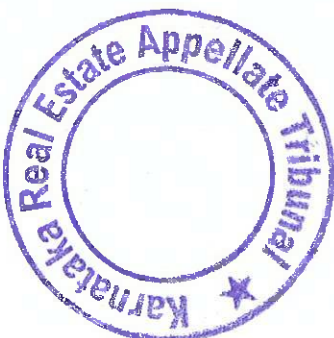
VERIFICATION

The appellant and the respondent No.2 do hereby verify and declare that what is stated above is true and correct to the best of their knowledge, information and belief which they believe to be true.

BENGALURU
DATE:-17/03/2021


APPELLANT


RESPONDENT NO.2



10/17



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ANNEXURE -A

Sl.no.	Work	Date Commencement	Date complete
1	Power backup generator	-	15-Apr-2021
2	CCTV security camera	-	15-Apr-2021
3.	Children play area		31-May-2021
4	Party hall, Gymnasium, Table Tennis, Snooker, Swimming pool	Within 2 Weeks from signing the compromise	20-Sep-2021
5	External painting	01-Apr-2021	31-June -2021
6	Individual civil works as reported by respondents as per the sale agreement	01-Apr-2021	31-May-2021
7	Electric motors replacement for STP as	-	31-May-2021
8	Outlet for STP as per applicable norms.	-	30-Jun-2021
9	Provisions for Cauvery water connection		30-Jun-2021

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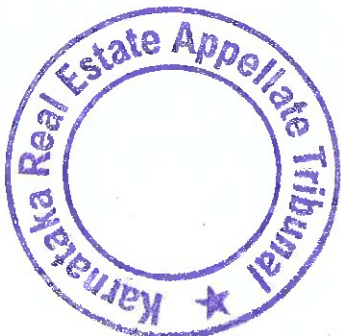
BENGALURU
DATE:-17.3.2021

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APPELLANT

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RESPONDENT NO.2

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SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU-560 027
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