

IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,  
BENGALURU

DATED THIS THE 30<sup>th</sup> DAY OF AUGUST 2021

PRESENT

HON'BLE JUSTICE B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE K P DINESH, JUDICIAL MEMBER

AND

HON'BLE P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL (K-REAT) NO. 303/2020

**BETWEEN**

M/s Shivani Developers,  
No. 401, Palace View apartments,  
9<sup>th</sup> Cross Road, HAL 3<sup>rd</sup> Stage, Kodihalli,  
Bengaluru - 560 008.  
A Registered Partnership Firm  
Represented by its Managing Partner,  
Sri Koteshwara Rao Padapati,

**APPELLANT**

(By Sri B N Suresh Babu, Adv for Appellant)

**AND**

1. The Karnataka Real Estate Regulatory Authority,  
No.1/4, 2<sup>nd</sup> Floor, Silver Jubilee Block,  
Unity Building, CSI Compound,  
Bengaluru-560 027.  
Represented by its Secretary
2. Sri Manish Raturi,  
S/o C N Raturi,  
Aged Major,  
Both residing at No. 33,  
Shivani Sunshine,  
Chudasandra, Sarjapura,  
Bangaluru - 560 099.

**RESPONDENTS**

(R1-RERA served, unrepresented)

(Sri Maths Law Associates Adv for R2)



RERA-2021



2-9-2021  
50-2  
3/9/21



This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal to set aside the impugned order dated 05<sup>th</sup> June, 2020 passed in Complaint No. CMP/180623/0000948 by respondent No.1-Authority.

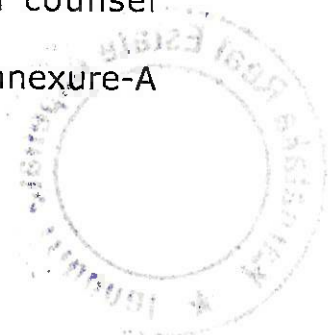
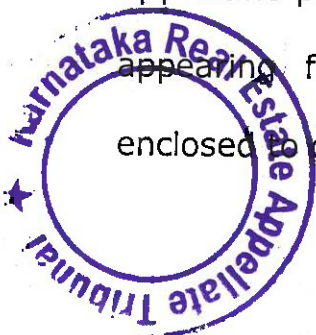
This Appeal, coming on for Orders, this day, the Hon'ble Chairman, delivered the following:

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

The appellant, who is promoter of a real estate project known as "SHIVANI SUNSHINE" has preferred this appeal challenging the common order dated 05th June, 2020 passed by the Authority in CMP/180623/0000948.

2. Subsequent to the filing of this appeal, the appellant-promoter and Respondent No.2-allottee of a flat in the project undertaken by the appellant, after due deliberation and discussion of their dispute pertaining to CMP/180623/0000948 and this appeal, have 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-promoter, respondent No.2-allottee and learned counsel appearing for the appellant and respondent no.2 and Annexure-A enclosed compromise petition are taken on record.



4. That under Annexure-A to the compromise petition, the appellant has undertaken to complete the remaining works of Item Nos. 2 to 9 mentioned in Annexure-'A' within the extended period of time as agreed in the meeting held on 15.8.2021.

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 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 court that the appeal may be disposed of in terms of the Compromise Petition.

6. The appellant, 2<sup>nd</sup> respondent and the learned counsel appearing for them pray the Tribunal to dispose of the above appeal in terms of the compromise petition. Accordingly, we pass the following:

### ORDER

- 1) Appeal is disposed of in terms of the Compromise Petition filed in the court today;
- 2) Compromise Petition filed by the Appellant-Promoter and Respondent No.2-allottee and Annexure-A enclosed to compromise petition are ordered to be treated as part and parcel of this order;

3) Appellant and Respondent No.2 shall discharge their respective obligations incorporated in the Compromise



Petition and Annexure-A enclosed to compromise petition in order to give effect to the compromise and to avoid unnecessary litigation in future;

- 4) In view of disposal of the Appeal in terms of compromise petition, pending I.As., if any, stand disposed of as they do not survive for consideration;
- 5) 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 Compromise Petition and Annexure-A enclosed to compromise petition.
- 6) 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**

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*[Handwritten Signature]*  
**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.303/2020**

**BETWEEN:**

M/s Shivani Developers

APPELLANT

AND

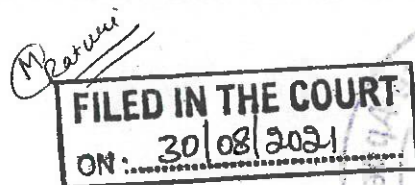
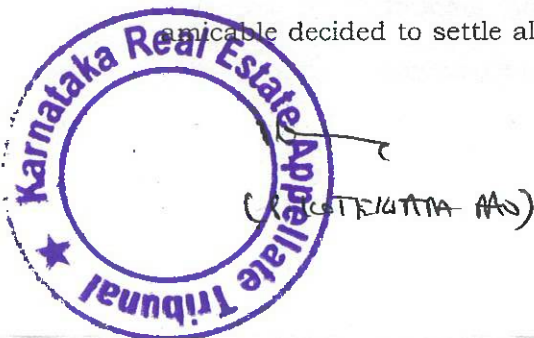
The Karnataka Real Estate Regulatory  
Authority and others

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 15<sup>th</sup> April 2021.

b. The Children play area work will be completed on or before 31<sup>st</sup> 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 20<sup>th</sup> 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.

d. The appellant has agreed to pay a sum of Rs. 2,42,835/- (Rupees two Lakhs ~~Forty~~ two Thousand Eight 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



(P. S. SWANA Ad)

*M. S. S. S.*



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.

h. The appellant will provide to respondent No.2 individual E-Khatha within three to four months from the date of disposal of the



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suit filed by Smt.Rajamma 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.
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 interms of the above compromise in the interest of justice and equity.

**BENGALURU**

DATE:- 30/8/2021

*B. M. Sobbe*

**ADVOCATE FOR APPELLANT**

*P. K. Koteswara Rao*  
**APPELLANT**  
(P. KOTESWARA RAO)

**RESPONDENT NO.2**

*H. Narayana Rao*  
**ADVOCATE FOR RESPONDENT NO.2**



*M. Ratna*





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**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:- 30/8/2021

*[Signature]*  
**APPELLANT**  
P. KOTESWARA (A)

*[Signature]*  
**RESPONDENT NO.2**



SECTION OFFICER  
KARNATAKA REAL ESTATE  
APPELLATE TRIBUNAL  
BENGALURU - 560 017  
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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	-	31-May-2021
8	Outlet for STP	-	30-Jun-2021
9	Provisions for Cauvery water connection		30-Jun-2021

The remaining works of items no. 2 to 9 will be completed within the extended period of time as agreed in the meeting held on 15/6/2021

*M. Anurag*

BENGALURU

*Pb*

*M. Anurag*

DATE: 30.8.2021

APPELLANT

RESPONDENT NO.2

( P. KOTELWARA (A))



**"TRUE COPY"**

*S. V. Anurag*  
SECTION OFFICER  
KARNATAKA REAL ESTATE  
APPELLATE TRIBUNAL  
BENGALURU - 560 077

