

IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU

DATED THIS THE 17th DAY OF SEPTEMBER, 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) 23/2021

BETWEEN:

Dinesh D Ranka,
The Estate, 10th Floor,
Dickenson Road, Yellappa Garden,
FM Kariyappa Colony,
Bengaluru-560 042
Represented by GPA holder
Nishant Ranka

...APPELLANT

(By Sri. Harish for M/S. Ashlar Law Advocate for appellant)

AND

1. Sri. Praveen Gopinathan,
No.17, Sri. Manjunatha Nagar,
10th Cross, 2nd Main Road,
Opposite Lakshmi Narasimaiah Temple,
Kalkere Road, Ramamurthy Nagar,
Bengaluru-560016.
2. Karnataka Real Estate Regulatory Authority,
No.1/14, 2nd Floor, Silver Jubilee Block,
Unity Building Back side,
CSI compound, 3rd Cross,
Mission Road, Bengaluru-560 027.
Represented by its Secretary.



RERA-2928

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3. M/S Kolte Patil Developers Limited,
No.17, City Point, 2nd Floor,
Dhole Patil Road, Pune-411001
Branch Office at
No.22/11, 1st Floor, Park West Building,
Vital Mallya Road, Bangalore-560001
Represented by its Director Mr. Naresh Patil,
who is represented by POA holder
Mr. B.C. Jagadisha.

..RESPONDENTS

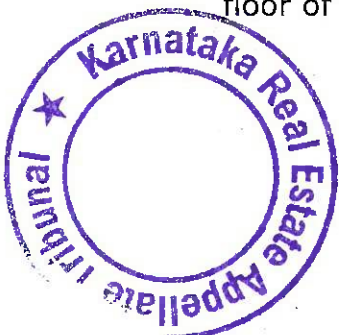
(Sri. Praveen Gopinathan, Respondent-1 party in person
2nd respondent RERA served
R-3 is represented by Sri. B.C. Jagadeesha, GPA holder of R-3)

This Appeal is filed under Section 44 (1) of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal praying to call for the records and also praying to allow this appeal, set aside the order dated 28th October, 2020 passed by the RERA, Bengaluru in CMP/200301/0005610.

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

J U D G M E N T

The appellant, who is landowner of a real estate project known as "KOLTE PATIL MIRABILIS" has preferred this appeal challenging the impugned order dated 28th October, 2020 passed by the Karnataka Real Estate Regulatory Authority (for short 'the RERA') in CMP/200301/0005610, directing the appellant and fourth respondent (developer) to execute and get registered a sale deed in respect of flat No. C-206 in "C" Block on the second floor of the said project in favour of first respondent herein.



2. Respondent No.2 RERA though served remain unrepresented. Respondent No.3 (developer) is represented by its GPA holder Sri. B.C. Jagadeesha.

3. Sri. Harish Advocate for M/S. Ashlar Law Advocates, the learned counsel appearing for the appellant-landowner, Sri. Nishant Ranka, GPA holder of Dinesh D. Ranka, Sri. Praveen Gopinathan (1st respondent-allottee) who appears as party in person, Sri. Jagadeesha, the GPA holder of developer-respondent No.3 who are all present in the Court submit that subsequent to filing of this appeal the landowner, developer and allottee, after due deliberation and discussion of their dispute pertaining to Complaint No. CMP/200301/0005610 and this appeal, have got settled their dispute by reducing the terms of settlement into writing by way of filing a Compromise petition, signed by Sri. Nishant Ranka, GPA holder of the appellant, learned counsel for the appellant, Sri. Praveen Gopinathan (1st respondent-allottee) and Sri. Jagadeesha, GPA holder of developer (respondent No.3).

4. The memorandum of compromise petition filed under Order XXIII, Rule 3 of the Code of Civil Procedure is taken on record.

5. The terms of Compromise petition are read over to the GPA holder of the appellant, 1st Respondent-allottee and the



GPA holder of the developer/respondent No.3 who are present in the court, in the language known to them and they have stated 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 pray the Tribunal that the appeal may be disposed of in terms of the Compromise petition.

6. As per the terms and conditions of the compromise petition the appellant-landowner along with the developer (respondent No.3) have agreed to execute a tripartite sale deed in favour of 1st respondent-allottee without demanding any additional money within four weeks from the date of this compromise petition.

7. In view of the above submissions and the terms of the Compromise petition, we pass the following:

ORDER

- 1) Appeal stands allowed in terms of the Compromise petition filed in the court today;
- 2) The Compromise petition filed is ordered to be treated as part and parcel of the order passed today;
- 3) Appellant-landowner, 1st respondent-allottee and respondent No.3-developer shall strictly adhere to the terms of compromise and discharge their



respective obligations incorporated in the 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 do not survive for consideration and shall stand disposed of;
- 5) Registry, while issuing certified copy of today's order, at the instance of the parties, shall issue the same along with the copy of the 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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SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
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III
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IN THE KARNATAKA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.23/2021
in

CMP/200301/0005610

Between

Dinesh D Ranka
Represented by CIPA holder Nishant Ranka
And

...Appellant

1. Praveen Gopinathan
2. Karnataka Real Estate Regulatory Authority

3. M/s. Kolte Patil Developers Limited
Represented by its Director who is
represented by its FOA holder Mr. Jagadeesh

...Respondents

COMPROMISE PETITION UNDER ORDER XXIII RULE 3 READ WITH SECTION
151 OF THE CODE OF CIVIL PROCEDURE, 1908

1. It is submitted that Respondent No. 2 had passed a common impugned order dated 28.10.2020 in both CMP/200224/0005523 and CMP/200301/0005610, wherein a direction was passed against the Appellant herein who is the land owner and M/s. Kolte Patil Developers Limited (The Respondent No.3) who is the developer in the project named as MIRABILIS, under Section 37 of the Real Estate (Regulation and Development) Act, 2016 ("Act"), whereby both the Appellant and the Respondent No.3 were asked to execute a tripartite sale deed with respect to respondents respective units in the project despite the units falling in the landowners share whereby Appellant/landowner having complete right, interest and title to convey the said units in his individual capacity.
2. It is submitted that the Respondent No.1 had entered into an Agreement to Sell dated 10.04.2019 with the Appellant and the Respondent No.3, by virtue of which the Respondent No.1 had agreed to purchase a two-bedroom Apartment bearing No 206 on the 2nd floor in the C block in the project named as MIRABILIS ("Apartment").



[Signature]
NISHANT RANKA
[Signature]
PRAVEEN

FILED IN THE COURT
ON: 17-09-2021

3. It is submitted that at the time of execution of the final Sale Deed with respect to the Apartment, the Appellant proposed to execute a bi-partite Sale Deed which was not acceptable by the Respondent No.1 and the Respondent No.1 preferred CMP/200301/0005610 which was adjudicated before the Karnataka Real Estate Regulatory Authority wherein the above mentioned common impugned order dated 28.10.2020 was passed. Being aggrieved by the said common impugned order, the Appellant herein preferred this present Appeal.
4. It is submitted that subsequent to the institution of this present Appeal, the Appellant along with Respondent No.3 has now agreed for the execution of a Tripartite Sale Deed with the Respondent No.1 with a view to avoid unnecessary prolonged litigation and in view of arriving at an amicable settlement.
5. It is submitted that the Appellant has taken the decision of execution of the Tripartite Sale Deed at the request of the Respondent No.1 and the Respondent No.1 has agreed not to question the right, interest and title that lies the Appellant to convey the units those fall in to shares in an individual capacity, i.e. by way of execution of a Bi-partite Sale Deed. Further, Respondent No.3 has agreed to execute the Tripartite Sale Deed only at the request of the Appellant and Respondent No.1 and 2 and the act of executing such Tripartite Sale Deed shall not make Respondent No.3 to execute any such writing in favour of any of the purchase of any other apartment in the project named MIRABILIS.
6. It is submitted that the Respondent No.1 further agrees and understands that the Hon'ble Appellate Tribunal has not has given any direction/order with respect to the right, interest and title that lies the Appellant to convey the units those fall in to shares in an individual capacity, i.e. by way of execution of a Bi-partite Sale Deed.
7. It is submitted that the Appellant agrees not to demand for any additional money from the Respondent No.1 either at the time of registration of the Sale



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PRANEEN GOPINATHAN

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NISHANT ANKA

Deed or at a later date, in addition to the agreed sale price as per the Agreement. It is further submitted that the responsibilities, liabilities and obligations of the Respondent No.3 in the proposed tripartite sale deed shall be limited to what is agreed under the Joint Development Agreement dated 3.4.2010 entered into with the Appellant.

- 8. It is submitted that the Appellant will not show any discrimination to the Respondent No.1 and the Respondent No.1 shall have equal privileges and rights in terms of any allotments/rights/privileges in comparison to the other allottees in project named as MIRABILIS.
- 9. It is submitted that the Appellant agrees to provide the Respondent No.1 with sufficient time to inspect the Apartment prior to registration and that the Respondent No.1 has the option to used professional expert services at his own cost. Further, if any defects/deviations are found during such inspection the same shall be cured by the Respondent No.3 in accordance with the provisions of the Karnataka Real Estate Regulatory Authority Act and its Rules.
- 10. It is submitted that the Respondent No.1 agrees not to disclose the terms of compromise to any other allottees/purchasers/buyers and/or not to induce other allottees/purchasers/buyers to seek for/demand for an execution of a Tripartite Sale Deed with respect to conveyance, of their apartments in the project named MIRABILIS.
- 11. It is submitted that Appellant, Respondent No.1 and the Respondent No.3 fully understand that by entering into this compromise and subsequent closure of the proceedings before this Hon'ble Appellate Tribunal, would not amount to setting of a precedent any nature whatsoever that would be detrimental to right, interest and title that lies the Appellant to convey the units those fall in to shares in an individual capacity, i.e. by way of execution of a Bi-partite Sale Deed and/or any other right title and/or interest of Respondent No.3.

12. JWS Compromise has been arrived between parties with respect to Cause pertaining to tripartite sale only.



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WHEREFORE, it is respectfully prayed that this Hon'ble Tribunal may be pleased to pass an Order allowing this Compromise Petition by recording the terms and conditions of the compromise and pass such appropriate orders in the above Appeal in pursuance of this Compromise Petition, in the ends of justice and equity.

For the kindness of which the parties would remain obliged.


Advocate for Appellants


Appellant


Respondent No. 1

Place: Bengaluru

Date: 17.09.2021

PRANEEN GOPINATHAN


Respondent No. 3

VERIFICATION

I, Nishant Ranka, S/o Dinesh Ranka, aged about 41 years the Power of Attorney Holder for the Appellant do hereby verify that the contents of paragraphs 1-12 are true to my personal knowledge belief and that I have not suppressed any material facts.

Place: Bengaluru

Date: 17.09.2021


APPELLANT



IN THE KARNATAKA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.23/2021
in

CMP/200301/0005610

Between

Dinesh D Ranka

...Appellant

And

Praveen Gopinathan and Ors.

...Respondents

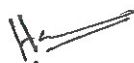
VERIFYING AFFIDAVIT

I, Nishant Ranka, S/o. Mr.Dinesh Devraj Ranka, aged about 41 years residing at Flat No.1503, Embassy Habitat, 59, Palace Road, Bangalore - 01, the GPA holder of the Appellant in the above Appeal, do hereby solemnly affirm and state on oath as follows:

1. I submit that I am the GPA holder of the Appellant in the above appeal and I am aware of the facts and circumstances leading to the filing of the above appeal, hence, I am competent to swear to this affidavit.
2. I submit that the averments made in Paragraphs 1 to 12 of the Memorandum of Compromise Petition are true and correct to the best of my knowledge, information and belief.

I, the deponent named above, do hereby verify and affirm that the contents of the affidavit are true and correct to the best of my knowledge, information and belief and this is my name and signature. I swear accordingly.

Identified by me



(KAR/1064/2021)

ADVOCATE


DEPONENT

Place: Bengaluru
Date: 17/09/2021

"TRUE COPY"


SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
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