

**IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU**

DATED THIS THE 11th DAY OF JANUARY, 2022

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) 48/2021

BETWEEN:

M/s Shriram Properties Private Limited,
New No. 31 (Old No.192), 2nd Main,
T. Chowdaiah Road, Sadashivanagar,
Bengaluru-560 080.
Represented by its Authorized signatory
Sri. Naveen Kumar.J.

...APPELLANT

(By Sri. Joseph Anthony for 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. Biju Sekhar,
E-201, Suraksha Marvella,
Near Sai Baba Temple, Nayapanahalli Road,
Bengaluru-560 076.

...RESPONDENTS

(R1 – RERA served, unrepresented)

(Sri. Vishnu P.V for M/s ATV Legal, Advocate for R2)

The appellant has filed the above appeal under Section 44 (1) of the Real Estate (Regulation and Development) Act, 2016, praying to set aside the order passed by the 1st Respondent dated 11th August, 2020 in CMP/191006/0004432, directing the appellant to pay the interest at the rate of 2% above the SBI marginal lending rate on home loans commencing from July, 2017 till handing over the possession of the flat after obtaining occupancy certificate.

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 "SHRIRAM SUMMIT" has preferred this appeal challenging the impugned order passed by the learned Adjudicating Officer directing the appellant to pay interest at the rate of 2% above the SBI marginal lending rate on home loans commencing from July, 2017 till handing over the possession of the flat after obtaining occupancy certificate.

2. Learned counsel appearing for the promoter and allottee submit that subsequent to the filing of this appeal the appellant- promoter and 2nd respondent-allottee, after due deliberation and discussion of their dispute pertaining to Compliant No. CMP/191006/0004432 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 dated 11.01.2022 signed by the authorized signatory of the appellant-promoter, 2nd Respondent/allottee and the learned counsel appearing for both the parties is taken on record.

4. First respondent-RERA 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. As per the terms of settlement, the 2nd respondent-allottee has agreed to receive a sum of Rs.12,00,000/- (Rupees twelve lakhs) in full final settlement of the dispute pertaining to Compliant No. CMP/191006/0004432 and this appeal and the appellant-promoter has agreed for releasing Rs.12,00,000/- in favour of 2nd respondent-allottee and balance amount with interest accrued on the entire deposit in favour of the appellant.

7. In view of the above, 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) From out of the amount deposited by the appellant-promoter in part compliance of proviso to sub-section (5) of Section-43 of the RERA Act, a sum Rs.12,00,000/- (rupees twelve lakhs) is directed to be released in favour the 2nd respondent-allottee by issuing bankers cheque/DD/Cheque in his favour, after following due procedure;
- 6) The Registry is directed to refund the remaining 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 on the total amount of deposit in favour of the appellant by issuing a cheque/DD/bankers cheque 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.

- 7) 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.
- 8) 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**