

**IN THE KARNATAKA REAL ESTATE APPELLATE
TRIBUNAL, BENGALURU****DATED THIS THE 08th DAY OF JULY, 2026****PRESENT****HON'BLE Ms. JUSTICE J.M. KHAZI,
CHAIRPERSON****AND****HON'BLE SRI SANTHOSH KUMAR SHETTY N.
JUDICIAL MEMBER****APPEAL NO. (K-REAT) 120/2025****BETWEEN:**

M/s. Adarsh Nivaas Private Limited,
Reptd by its Authorised Person,
Sri B.M. Karunesh,
No.2/4, Langford Gardens,
Richmond Road,
Bengaluru – 560 001.

...APPELLANT

(By Smt. Sheela L.S. & Archana Sindhe, Advocates)

: AND :

1. Mr. Anil Kumar Kurra,
S/o Kurra Venkateswara Rao,
Aged about 45years,
R/at No.2044, Casa Paradiso,
Sobha City, Hegde Nagar,

Bengaluru – 560 077.

2. The Karnataka Real Estate
Regulatory Authority,
Reptd. by its Secretary,
Second Floor,
Silver Jubilee Block,
Unit Building,
CSI Compound, 3rd Cross,
Mission Road, Bengaluru -27.

...RESPONDENTS

(By Sri.Srinivas V., Advocate for R1. Sri. I.S.Devaiah,
Advocate for R.2 - RERA)

This Appeal is filed under Section 44(1) of the Real Estate (Regulation and Development) Act, 2016, praying to set aside the impugned order dated 02.09.2025, passed by the 2nd Respondent-RERA in Complaint No.01068/2024.

This appeal having been heard and reserved for Judgment, coming up for pronouncement of Judgment, this day, the **Hon'ble Judicial Member** delivered the following:

JUDGMENT

The captioned appeal arises out of the Judgment dated 02.09.2025, in Complaint No.01068/2024 passed by the 2nd Respondent - Karnataka Real Estate Regulatory Authority ('the Authority' for short) whereby the Authority allowed the Complaint filed by the Respondent No.1/ Allottee against the Appellant/Promoter.

2. Briefly stated, the averments made in the complaint are that the appellant being the Promoter, developed a real estate project under the name and style of “Adarsh Palm Acres Phase” situated at Huttanahalli Village, Bengaluru District. The Allottee booked villa No.393, measuring 4790 sq. feet, in the said project and entered into an Agreement to Sell dated 12.09.2022 with the Promoter for a total consideration of Rs.4,00,07,215/- and paid advance sale consideration to the Promoter. The Promoter agreed to complete the construction and deliver the flat on or before 30.08.2021. However, the Promoter failed to complete the construction and hand over possession within the stipulated period. The Allottee shifted back to Bengaluru in the bonafide expectation that the villa would be ready for occupation. Since the Promoter failed to deliver the Villa as promised, the Allottee was constrained to reside in a rental house and paying bank EMI. Hence, the Allottee has filed the complaint before the Authority for the relief of compensation for rent and mental agony.

3. In response to the notice, Promoter appeared through its counsel and filed objections denying the averments made in the complaint. It is further contended that at the time of launching the project, they have come across with various hurdles like lorry strike, shortage of sand and shortage of labours and Covid-19 pandemic. There was a cash crunch during that period. Further contended that the Allottee knowing well the delay caused, came forward and booked the villa on 30.12.2021 and entered into Agreement of Sale on 12.09.2022. There was delay in payment schedule. It is further contended that there was no intentional delay in handing over possession. They have received Occupancy Certificate on 21.08.2024 and immediately informed to the Allottees on 29.8.2024 and requested him to make balance payments and obtain the registered sale deed. It is further contended that the Authority has no jurisdiction to adjudicate the complaint. The Promoter had obtained the Occupancy Certificate in respect of phase -2 of the project prior to the institution of the complaint. Therefore, the claim for reimbursement of

rent paid for alternative accommodation until the amenities sought by the Allottee were provided is untenable and does not arise for consideration. At the stage of arguments the Allottee has altered and sought the relief of mental agony, financial loss of opportunities, rent and legal expenses till completion and handover of possession. The rental /lease agreements relied upon by the Allottee are not admissible in evidence for want of proper stamping and the Allottee has not produced any proof about paying rent as per lease agreements. Hence, the Promoter prayed to dismiss the complaint.

4. Upon hearing the arguments advanced on behalf of the Allottee and Promoter, the learned Adjudicating Officer allowed the complaint vide order dated 02.09.2025, directing the promoter to pay compensation of Rs.11,87,500 to Allottee towards loss of rent, calculated from 15.05.2024 till 31.10.2025, Rs.4,00,000/- towards mental agony and Rs.7,000/- towards litigation costs. The Authority further directed the promoter to comply the afore

said order within 60days from the date of order. In the event of default, the amount shall carry interest at the rate of MCLR plus 2% per annum from 61st day from the date of the order till entire realization.

5. Being aggrieved by the impugned order, the Promoter has preferred this appeal, interalia, contending that as per the Agreement, the Allottee was to pay 10% of the sale consideration amount for booking of the villa. But he delayed and failed to make payments, whereas he has paid only Rs.5,00,000/- at the time of booking the villa and the balance amount was not made within the time. It is contended that the Authority erred in not considering 9 months, being the extension provided as per Covid-19 guidelines at the time of calculation. The Authority erred in not considering the delay payments made by the Allottee, against the demand raised by the Promoter. The Authority has not considered their objections, additional objections and written arguments. Hence, on these and other grounds, the Promoter has prayed to setting aside the

impugned judgment dated 02.09.2025 passed in the complaint.

6. In response to the notice, the Respondents entered appearance through their counsel. The Allottee filed a statement of objections substantially reiterating the averments made in the complaint. Further contended that based on the assurance of the Promoter to handover the flat by 2024, Allottee and his family members moved to Bengaluru in the beginning of 2024. However to their shock and dismay the Promoter failed to deliver the same. As such they made alternative arrangements for their stay and took a residential premises on lease under a lease deed dated 29.4.2024 at a monthly rent of Rs.65,000/-. The Allottee found a ready villa for lease in the same project and entered into a fresh lease on 01.11.2024 at a monthly rent of Rs.75,000/- and they were in possession of the said property as per the lease deed dated 01.11.2024. It is only on 11.07.2025 that the Promoter issued an email informing that the property was ready for handing over. Though an

inspection was conducted on 17.7.2025, the same was not concluded as the Promoter failed to complete the constructions as per the assurance. The Promoter has filed this appeal without any merits, by reiterating the same contentions which were raised before the Authority, which is not maintainable. If there was any delay in making payment, the Promoter ought to have either filed a separate complaint for the compensation or ought to have pleaded the compensation for the said delay in the form of counter claim by producing necessary documents. In the present case, apart from vague, bald averments, Promoter failed to take action. In the said circumstances, the claim of the promoter regarding delay in payments by Allottee does not hold any water. On the above grounds, Allottee prayed to dismiss the appeal.

7. Arguments of the learned counsel for the Promoter and the Respondents were heard. In the course of his argument, the learned counsel for the Allottee has relied upon the decision of Hon'ble Supreme Court in the

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case of Fortune Infrastructure (Now known as M/s. Hicon Infrastructure) and others Vs. Trevor D'Lima & others¹.

8. Now the points that would arise for our consideration are :

1. Whether the Promoter proves that the Authority erred in awarding compensation of Rs.11,87,500/- towards loss of rent?
2. Whether the Promoter further proves that award of compensation of Rs.4,00,000/- towards mental agony is illegal, arbitrary and contrary to the facts and circumstances of the case?
3. What order?

9. Our findings on the above points are as under:

Point No.1 : Partly in the Affirmative

Point No.2 : Partly in the Affirmative

Point No.3 : As per final order, for the following:

REASONS

10. Point No.1 : Before advertng to the controversy involved in the present appeal, it is necessary to

¹(2018) 5 SCC 442

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recapitulate certain undisputed facts. On 30.12.2021, the Allottee booked villa No.393, for a total sale consideration of Rs.4,00,07,215/- by paying a token advance of Rs.5,00,000/-. Thereafter, the parties entered into a registered Agreement of Sale on 12.09.2022. Though the Agreement of Sale came to be executed on 12.09.2022, it is rather surprising to note that the stipulated date for delivery of possession mentioned therein is 30.08.2021, which is anterior to the date of execution of the Agreement. The relevant recitals in the Agreement of Sale further stipulate that both parties shall abide by the terms and conditions incorporated therein and that possession of the Villa shall be delivered on the agreed date. Since the Agreement of Sale itself came into existence on 12.09.2022, there was no occasion for the Promoter to give an undertake to deliver possession on or before 30.08.2021. Hence, it is apparent that the date stipulated for delivery of possession in the Agreement of sale suffers from a typographical or clerical error and is prima facie incongruous.

11. In paragraph No.23 of the Impugned judgment, the learned Adjudicating Officer has categorically observed that the Agreement of Sale is a key instrument and binding on the parties. Accordingly, placing substantial reliance on the date stipulated for delivery of possession under Clause 7.1 of the Agreement to Sell, as well as the recitals contained in the Lease cum Rent Agreements produced by the Allottee, the learned Adjudicating Officer came to the conclusion that, acting upon the representation and assurance of the Promoter, the Allottee shifted to Bengaluru. Accordingly, proceeding on the premise that the project was not completed within the time stipulated under the Agreement to Sell and that the Allottee was consequently compelled to secure alternative accommodation on rent, the Learned Adjudicating Officer directed the Promoter to pay compensation towards loss of rent at the rate of Rs.65,000/- per month from 15.05.2024 to 31.05.2025 and Rs.75,000/- per month from 01.06.2025 to 31.10.2025, aggregating to Rs.11,87,500/-.

12. Since the date of delivery referred to in Clause 7.1 of the Agreement of Sale suffers from patent ambiguity, it becomes necessary to examine each and every relevant term and condition incorporated therein. In the said circumstances, it is just and proper to advert to Clause 10 of the Agreement of Sale, which assumes significance for the purpose of resolving the ambiguity. The same is reproduced hereunder:

“Conveyance of said Villa / Building:

The vendor/Promoter, on receipt of total price of the villa/ building as per 1.2 under the agreement from the Allottee, shall execute a conveyance deed and convey the title of the villa/building together with proportionate indivisible share in the common areas within 3 months from the date of issuance of the Occupancy Certificate and the completion certificate, as the case may be, in favour of the Allottee. However, in case the Allottee fails to deposit the stamp duty and / or registration charges within the period mentioned in the notice, the allottee authorized the vendor/promoter to withhold registration of the

conveyance deed in his/her favour till payment of stamp duty and registration charges to the vendor /promoter is made by the allottee.”

13. As culled out from the pleadings as well as impugned judgment, it is not in dispute that the Promoter secured the Completion Certificate on 03.07.2024 and got the Occupancy Certificate on 21.08.2024. The said fact is also evident in the documents furnished by the parties before the Authority, which is available at Trial Court Records. The recitals incorporated in Clause 10 of the Agreement of Sale unequivocally make it clear that the parties had mutually agreed that the execution of the conveyance deed, followed by the delivery of possession of the scheduled Villa, would take place within three months from the date of issuance of the Occupancy Certificate / Completion Certificate, as the case may be. Since the Occupancy Certificate was procured by the Promoter on 21.08.2024, it can for all practical purposes, be held that agreed date for delivery of possession was three months therefrom, i.e., 21.11.2024. Consequently by no stretch of

imagination can the date of delivery erroneously mentioned in the Agreement of Sale be treated as the agreed date of possession or be relied upon for determining the rights and liabilities of the parties.

14. During the course of his arguments, the learned counsel for the allottee fairly conceded that the date of delivery of possession mentioned in the Agreement of Sale was erroneously incorporated. Consequently, he placed relied on the alleged completion date of 31.08.2023 in support of the allottee's claim that the promoter had failed to deliver possession within the stipulated period. However, in view of the foregoing discussion and having regard to the admitted fact that the balance sale consideration has remained unpaid till date, we are of the considered opinion that, for all practical purposes, the agreed period for delivery of possession should be reckoned as three months from the date of issuance of the Occupancy Certificate.

15. The other defence put forth by the Promoter is that the Lease-cum-Rent Agreements relied upon by the Allottee are insufficiently stamped. It is contended that the said documents are liable to be impounded and cannot be looked into or relied for any purpose, unless they are duly stamped in accordance with law. It is further contended that the persons described as owners in the said documents are not the actual owners of the respective units referred to therein. According to the Promoter, the said documents have been created solely with a view to securing wrongful gain and therefore, lacks authenticity and evidentiary value.

16. However, it is pertinent to note that the said documents were relied upon only for an ancillary and limited purpose. They were not tendered in evidence for formal marking as exhibits. Therefore, there was no legal impediment for the Authority to look into the said documents for such limited purpose. Consequently, the alleged insufficiency of stamp duty would not, by itself,

preclude the Authority from taking those documents into consideration for the limited purpose for which they were relied upon.

17. As discussed earlier, the agreed date of delivery of possession would be 21.11.2024. As such, while computing the loss of rent, the learned Adjudicating Officer ought to have considered the said date and not 15.05.2024, as described in Paragraph No.31 of the impugned judgment. In view of the foregoing discussion, the Allottee is entitled to compensation towards loss of rent at the rate of Rs.65,000/- per month from 22.11.2024 to 31.05.2025 and at the rate of Rs.75,000/- per month from 01.06.2025 to 31.10.2025. In view of the above modification, the compensation awarded towards loss of rent in a sum of Rs.11,87,500/- cannot be sustained. Consequently, the Allottee shall be entitled to compensation towards loss of rent only to the extent of Rs.7,84,500/- and the impugned order stands modified and accordingly point No.1 is answered partly in the affirmative.

18. Point No.2: As regards the award of compensation towards mental agony, it is necessary to note that the agreed sale consideration under the Agreement of Sale was Rs.4,00,07,215/-. Out of the said consideration, the Allottee had paid only Rs.3,42,05,569/- as on the date of the proceedings before the Authority. Consequently, a substantial sum of Rs.58,01,646/- remained due and payable towards the sale consideration. This factual position is clearly borne out from Paragraph No.30 of the Impugned Judgment. In the course of arguments, it was brought to the notice of this Tribunal that, owing to the pendency of the present dispute and the non-payment of the balance sale consideration, the conveyance deed has not been executed in favour of Allottee till date. Further, as observed in Paragraph No.21 of the impugned judgment, the Allottee addressed an email dated 26.02.2025 to the Promoter. The contents of the said email assume considerable significance in determining the

point in controversy. The sum and substance of the said email is as follows:

“Please can you share the structural drawing of V-393.

We will be removing the wall between utility and kitchen. We also spoke to Raghavan site engineer. Kindly redirect the wiring accordingly. My wife also mentioned to you on phone to hold wooden flooring till the completion of interiors”

(underlined for emphasis)

19. The Allottee lodged the complaint before the Authority on 5.11.2024 and the said fact is evident from the Trial Court Record. Thereafter numerous email communication were exchanged between the parties. It is pertinent to note that, in the email dated 26.02.2025 referred supra, the allottee himself requested the Promoter to defer the laying of the wooden flooring until the completion of the interior works. The tenor of the email communications exchanged between the parties clearly demonstrates that, even after the institution of the

complaint, their relationship had not become stained. On the contrary, the Allottee himself requested the Promoter to defer the laying of the wooden flooring until the completion of the interiors.

20. As rightly observed by the learned the Adjudicating Officer in paragraphs 25 and 26 of the impugned order, there is no hard and fast rule for assessing compensation towards mental agony. However, the absence of a fixed standard does not confer unfettered discretion to award compensation. Such compensation must be founded on the facts and circumstances of each case supported by cogent evidence demonstrating actual mental suffering attributable to the acts or omission of the Promoter.

21. In the above factual background, it is apposite to examine the relevant provisions of Real Estate (Regulation and Development) Act, 2016. Sec.18(1) of the Act entitles an allottee to claim compensation where the promoter fails to complete or handover possession of the apartment in

accordance with the terms of the agreement for sale. Sections 71 and 72 empower the Adjudicating Officer to determine such compensation. While Section 72 does not prescribe any rigid formula for quantification, it mandates that the Adjudicating Officer shall have due regard to the amount of disproportionate gain or unfair advantage derived by the respondent, the loss caused to the allottee, the repetitive nature of the default and such other relevant factors as may be considered necessary in the facts and circumstances of the case. The expression "compensation" occurring in the Act is of wide important and is not confined merely to pecuniary loss; it is sufficiently broad to encompass compensation towards mental agony, harassment and inconvenience suffered by an allottee, provided the same is established on the basis of the material available on record. At the same time, compensation towards mental agony cannot be awarded either mechanically or arbitrarily. It must be reasonable, proportionate to the injury suffered and supported by cogent reasons recorded in the order. The mere fact that

the value of the subject apartment is Rs.4,14,61,035/- does not, by itself, justify the award of Rs.4,00,000/- towards mental agony; equally, the quantum cannot be termed excessive solely because it is Rs.4,00,000/-. The determination must necessarily depend upon the facts of each case, including the period of delay, whether the allottee was compelled to bear the dual burden of payment of rent and EMIs, the conduct of the promoter, whether repeated assurances were held out and breached, the age and personal circumstances of the Allottee and the nature and extent of the inconvenience, hardship and mental distress actually suffered. It is well settled through the pronouncements of the Hon'ble Supreme Court and the National Consumer Disputes Redressal Commission that delay in handing over possession of a residential unit may legitimately give rise to compensation towards mental agony and harassment. Nevertheless, such compensation must rest on a rational and reasoned basis, founded upon the evidence on record and cannot be awarded as a matter of course.

22. Keeping the aforesaid principles in mind, it is necessary to examine the factual matrix of the present case. A careful reading of the email dated 26.02.2025 addressed by the Allottee to the Promoter unmistakably indicates that his approach was reciprocal, pragmatic and conciliatory in nature. The tenor and contents of the said communication do not disclose any circumstance from which it could reasonably be inferred that the Allottee had gone such mental agony or emotional distress as to have spent sleepless nights in securing the property in his favour. On the contrary, the record reveals that the Allottee himself had delayed payment of the balance sale consideration amounting to Rs.58,01,646/-. This conduct is a relevant circumstance while assessing his claim for compensation on account of mental agony.

23. The decision relied upon by the learned counsel for the Allottee is distinguishable on facts and has no direct bearing on the point in controversy in the present case. Consequently, the principles laid down therein is not

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applicable to the facts of the present case. This being the facts and circumstances of the case, the findings recorded by the learned Adjudicating Officer in Paragraphs 25 and 26 of the impugned order, in our considered view are certainly an exaggeration. Awarding a sum of Rs.4,00,000/- as compensation towards mental agony is excessive and arbitrary and we find no logic in awarding such a huge amount under that head. As such we are of the opinion that compensation of Rs.2,00,000/- towards mentally agony would meet the ends of justice. Accordingly, we answer point No.2 partly in the affirmative and proceed to pass the following:

ORDER

- (a) The Appeal is hereby allowed in part;
- (b) The Impugned Order dated 02.09.2025, passed by the Authority in Complaint No.01068/2024 is hereby modified.
- (c) The Promoter is hereby directed to pay to the Allottee a sum of Rs.7,84,500/- towards compensation for loss of rent for

the period from 21.11.2024 to 31.10.2025, Rs.2,00,000/- towards mental agony and Rs.7,000/- towards litigation costs.

- (d) In view of the above modification, the Registry is directed to issue a banker's cheque / Demand Draft in favour of the Allottee for a sum of Rs.9,91,500/-, together with the interest accrued thereon and the balance amount lying in statutory deposit with interest accrued thereon shall be paid to the Promoter by issuing a banker's cheque or Demand Draft after the expiry of the appeal period and by following the due procedure;
- (e) In view of disposal of the main appeal, pending I.As., if any, shall stand disposed of, as they do not survive for consideration;
- (f) Registry is directed to comply with the provisions of Section 44(4) of the Act and to return the records to RERA, if any received.

There shall be no order as to costs.

**Sd/-
(JUSTICE Ms. J.M. KHAZI)
HON'BLE CHAIRPERSON**

**Sd/-
(SRI SANTHOSH KUMAR SHETTY N.)
HON'BLE JUDICIAL MEMBER**

GRL/-

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