



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

RERA APPEAL NO.76 OF 2025

BETWEEN:

1. MR.NAVARATAN JHUNJHUNWALA,
AGED ABOUT 55 YEARS,
S/O LATE OMPRAKASH JHUNJHUNWALA,
HAVING OFFICE AT: NO.1127,
SECTOR-07, NEAR BDA COMPLEX,
HSR LAYOUT, BANGALORE-560 102.
2. M/S DURGA PROJECTS AND
INFRASTRUCTURE PVT LTD.,
HAVING ITS OFFICE AT NO.1127,
SECTOR-7, NEAR BDA COMPLEX,
HSR LAYOUT, BANGALORE-560 102.
REP. BY ITS DIRECTOR,
MR.NIRAJ JHUNJHUNWALA.

...APPELLANTS

(BY SRI S.K.MITHUN., ADVOCATE)

AND:

1. THE KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL,
REP. BY ITS SECRETARY,
2. THE KARNTAKA REAL ESTATE
REGULATORY AUTHORITY,
REP. BY ITS SECRETARY,

R1 & R2 HAVING ADDRESS AT:
NO.1/14, GROUND FLOOR,





**NC: 2026:KHC:34204-DB
RERA.A No.76 of 2025**

SILVER JUBILEE BLOCK,
UNITY BUILDING, CSI COMPOUND,
3RD CROSS, MISSION ROAD,
BENGALURU-560 027.

3. SOWMYA NAYAK ULLAL,
W/O ULLAL PRAKASH NAYAK,
AGED ABOUT 53 YEARS,
4. MR.ULLAL PRAKASH NAYAK,
AGED ABOUT 58 YEARS,

R3 & R4 ARE R/AT:
NO.104, DURGA FLUTE APARTMENTS,
4TH CROSS, MAHALAXMIPURAM,
BENGALURU-560 022.

...RESPONDENTS

(BY SRI K.V.GIRISH., ADVOCATE FOR R1;
MS.THANIMA BEKAL, ADVOCATE FOR R3 AND R4;
R2 SERVED)

THIS RERA APPEAL IS FILED UNDER SECTION 58 OF REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 PRAYING TO SET ASIDE THE ORDER DATED 07.08.2025 PASSED BY THE KARNATAKA REAL ESTATE APPELLATE TRIBUNAL IN APPEAL NO.(K-REAT) NO.102/2024.

THIS RERA APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

Heard learned Counsel for the appellants and learned Counsel appearing for respondent Nos.3 and 4.



2. The instant appeal is filed to challenge the order dated 07.08.2025 passed by the Karnataka Real Estate Appellate Tribunal¹ in Appeal No.(K-REAT) 102/2024.

3. By the impugned judgment and order, the appeal filed by the appellants² was dismissed and the order dated 10.04.2024 passed by the Karnataka Real Estate Regulatory Authority³ in Complaint No.01252/2023 was confirmed. Registry of the Tribunal was also directed to release the amount in deposit before the Tribunal including the interest accrued thereon in favour of the allottees/respondent Nos.2 and 3 therein.

4. It appears from the narration of the Authority in its order of 10.04.2024 that a complaint was filed against the appellants/promoters for relief of refund of excess amount collected by them along with interest. It was noted by the Authority that the project was not registered under the Real Estate (Regulation and Development) Act, 2016⁴.

¹ Appellate Tribunal

² Promoters

³ Authority

⁴ RERA Act



5. The contention on behalf of the allottees was that the promoters had collected a sum of Rs.1,75,000/- as additional deposit towards payment to BESCOM, BWSSB, Khata, Transfer of Electric Meter. The occupancy certificate was obtained by the promoters from the Competent Authority only on 05.02.2020. It is noted by the Authority that sale deed pertaining to the flat was executed in favour of the allottees on 23.03.2016. The case of the allottees was that out of the amount of Rs.1,75,000/- collected as additional deposit, the promoters had incurred an expenditure of only Rs.75,000/- and hence the balance amount of Rs.1,00,000/- had to be refunded to them.

6. It appears from the reasons mentioned by the Authority in its order that the contents of the agreement to sell executed between the promoters and the allottees, nowhere mentioned regarding charging additional amount towards BESCOM, BWSSB, Transfer of Electric Meter, etc. Therefore the objection of the promoters was not accepted and the allottees' claim for an amount of Rs.1,76,811/- by means of their memo of calculation as on 30.11.2023 towards refund with interest



was accepted and the allottees were held entitled to the same. It was ordered accordingly.

7. Before the Appellate Tribunal, the objection as to jurisdiction was raised by the promoters on the ground that the project had not been registered with the Authority and therefore the Authority had no jurisdiction to pass the impugned order. By means of the impugned judgment, the contention of the promoters was rejected.

8. The contention of learned Counsel for the promoters is that given the provisions of Explanation (iv) to Rule 4 of the Karnataka Real Estate (Regulation and Development) Rules, 2017⁵, the project of the promoters in the instant case could not be held to be an ongoing project and therefore, neither the Authority nor the Appellate Tribunal had jurisdiction in the matter.

9. A perusal of the order passed by the Authority reveals that the project was not registered. It is also the admitted case that a sale deed was executed on 23.03.2016. Also, admittedly the occupancy certificate was issued in the

⁵ The Rules



year 2020. There is no material shown to have been filed either before the Authority or before the Appellate Tribunal that any application had been submitted before the Competent Authority for issue of completion certificate or occupancy certificate. Even before this Court, no material has been submitted to demonstrate that due application for completion certificate was made before the Competent Authority.

10. In this view of the matter, Explanation (iv) to Rule 4 of the aforesaid Rules 2017 would not enure to the benefit of the promoters. It is the mandate of Section 3 of the RERA Act that the registration of ongoing projects has to be made by the promoters within the period specified under the RERA Act. This has, admittedly, not been done by the promoters in the instant matter. Moreover, the exemption from registration could have been claimed by the promoters, where it had received completion certificate for a real estate project prior to commencement of the RERA Act as is the mandate of Clause (b) of sub-Section (2) of Section 3 of the RERA Act. This too, has not been demonstrated.



11. It is noted from perusal of the order of the Appellate Tribunal the consideration that was there before the Tribunal was the entitlement of the promoters to charge from the allottees a sum of money dehors the agreement to sell. Evidently the Appellate Tribunal exercised the jurisdiction under sub-Section (3) of Section 18 of the RERA Act to pass the impugned order.

12. For the reasons aforesaid, we find no question of law, much less a substantial question of law arising in the instant appeal. This appeal is therefore dismissed.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**