



NC: 2026:KHC:34569-DB
RERA.A No. 74 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2026

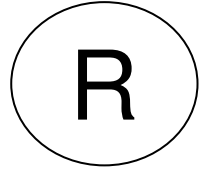
PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

RERA APPEAL NO.74 OF 2025



BETWEEN:

1. MR.SHAILESH B. CHARATI,
S/O BASAVAPRABHU CHARATI,
AGED ABOUT 47 YEARS,
2. MRS. MAMTA S. CHARATI,
W/O SHAILESH B. CHARATI,
AGED ABOUT 44 YEARS,

BOTH ARE R/AT:
5P105, ARYA HAMSA APARTMENTS,
J P NAGAR 8TH PHASE,
BENGALURU-560 083.

...APPELLANTS

(BY SRI.VIDYADHAR M. DURGEKAR, ADVOCATE)

AND:

1. M/S. ARYA GRUHA PRIVATE LIMITED,
A COMPANY REGISTERED UNDER
THE PROVISIONS OF COMPANIES ACT, 1956,
REP. BY ITS DIRECTOR
& AUTHORIZED SIGNATORY,
MR.RAMNARAIN.C.K,
HAVING ITS REGISTERED OFFICE AT:
SHOP NO.4, 1ST FLOOR,
ARYA HAMSA, SURVEY NO.28/1,
KOTHNOOR, J P NAGAR 8TH PHASE,
2ND BLOCK, BANGALORE- 560 083.





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2. MR.RAMNARAIN KRISHNA COPPARAM,
DIRECTOR-M/S ARYA GRUHA PRIVATE LIMITED,
MAJOR, E-MAIL ckr@thearyagroup.in
R/AT NO.24, RAMAKRISHNAPPA ROAD,
COX TOWN, BENGALURU-560 005.
3. MR.MUNISWAMAPPA MANJUNATH,
DIRECTOR, M/S ARYA GRUHA PRIVATE LIMITED
AND LANDOWNER,
MAJOR, EMAIL manjesh5999@gmail.com
4. MR.MOHITH M,
LANDOWNER,
MAJOR,
5. MRS.ROOPA M,
LANDOWNER,
MAJOR,
6. MRS.RUKKAMMA,
SINCE DECEASED ON 03-12-2017,
REP. BY HER LEGAL HEIRS,
- 6(a). MRS. PREMAKUMARI.M,
D/O H.MUNISWAMAPPA,
LANDOWNER, MAJOR,
- 6(b). MRS.SARASWATHI.M,
D/O H.MUNISWAMAPPA,
LANDOWNER, MAJOR,
7. MR.VINEETH M,
LANDOWNER,
MAJOR,

R3 TO R7 ARE R/AT
72, VANASHRI VADDARAPALYA VILLAGE,
J.P.NAGAR, 8TH PHASE, 2ND BLOCK
GOTTIGERE, BENGALURU-560 083.
8. REAL ESTATE REGULATORY AUTHORITY,
REPRESENTED BY ITS SECRETARY,
2ND FLOOR, SILVER JUBILEE BLOCK,
UNITY BUILDING, CSI COMPOUND,



3RD CROSS, MISSION ROAD,
BENGALURU-560 027

...RESPONDENTS

THIS RERA APPEAL IS FILED UNDER SECTION 58 OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 PRAYING TO ALLOW THIS APPEAL AND SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 01.08.2025 PASSED BY THE KARNATAKA REAL ESTATE APPELLATE TRIBUNAL IN APPEAL NO. (K-REAT) 61/2022 AND ETC.

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 MS. JUSTICE TARA VITASTA GANJU)

I.A.No.1/2025:

1. This is an application seeking condonation of delay of 25 days in filing the present appeal.
2. The learned counsel for the appellants submits that since the documents are voluminous, it took time to arrange and file them before this Court and thus the delay was caused. It has also been stated that the reasons for



the delay are *bona fide* and no *prejudice* would be caused to the respondents, if the delay is condoned.

3. This Court has examined the Affidavit filed by the appellants. The delay is not inordinate and sufficient cause has been shown in the affidavit filed in support of the application for condonation of delay. Accordingly, I.A.No.1/2025 is allowed and the delay is condoned.

RERA.A.No.74/2025:

1. The present appeal seeks to challenge an order dated 01.08.2025 passed by the Karnataka Real Estate Appellate Tribunal in Appeal No.(K-REAT) 61/2022 [hereinafter referred to as the "Impugned Judgment"]. By the Impugned Judgment, the appeal filed by the appellants [hereinafter referred to as the 'Allottees'] was dismissed and the order dated 06.05.2022 as amended by Order dated 24.01.2023 passed by the Karnataka Real Estate Regulatory Authority [hereinafter referred to as the "Authority"] in Complaint No.CMP/210402/0007857 was confirmed.



2. The challenge in the present appeal has been made by the Allottees of a Project constructed by the respondent Nos.1 to 7.

3. Briefly the facts of the case are that the Allottees are the owners of an apartment named "Arya Hamsa" constructed on land bearing Survey No.28/1 situated at Kothnur Village, Uttarahalli Hobli, Bangalore South Taluk. This project was approved by Bruhat Bengaluru Mahanagara Palike [BBMP] and received its occupancy certificate in the year 2015 prior to the enactment of the Real Estate (Regulation and Development) Act, 2016 [hereinafter referred to as the "RERA Act"].

4. The Respondent No.1 subsequently developed another project called "Arya Hamsa Grande" on a land parcel which was adjacent to the Arya Hamsa Project and situated at Survey No.28/2, Kothnur Village, Uttarahalli Hobli, Bangalore South Taluk. The 'Arya Hamsa Gande' project was an on-going project at the time of the commencement of the Act and subsequently registered with K-RERA under Registration No.PRM/ KA/ RERA/ 1251/



310/ PR/ 171015/ 000479 and Occupancy Certificate in respect of "Arya Hamsa Grande" Project was obtained on 31.1.2019.

5. The two projects were developed under separate Joint Development Agreements with different sets of landowners and were sanctioned under separate and independent sanction plans. However, it is not disputed that these Projects were constructed adjacent to each other.

6. A complaint was filed under Section 31 of the RERA Act before the Authority, for the relief of revocation of registration granted to the project of the Developer and to impose penalty as per Sections 60 and 61 of the RERA Act for contravention of Sections 4 and 14 of the RERA Act. It was contended that since both Projects are distinct by sharing of common amenities such as Club House, roads, pathways, Entrance and Exit gates etc., designed for limited use, affected the appellants/Allottees' right to live peacefully in their respective properties purchased.



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7. The Authority examined the documents including the sale deed and found that there is no provision for the exclusive use of the common amenities for the purchasers or the Allottees under the Arya Hamsa project. In fact the Authority found that the recitals of the Sale Deed dated 03.11.2015 executed by the Allottees with the Respondents and duly registered [hereinafter referred to as the "Sale Deed"], would go contrary to the demand of the Allottees. Thus the Authority dismissed the complaint filed by the Allottees by its Order dated 06.05.2022, as amended on 24.01.2023 [hereinafter referred to as the "Order of the Authority"].

8. The Order of the Authority was challenged before the Appellate Tribunal. The Appellate Tribunal also dismissed the appeal by holding that the clause(s) of the Sale Deed(s) are crystal clear that the flat owners of both the projects had given their consent to share the amenities. It was further held that since the Sale Deeds clearly stated that the Flat owners of both the projects are permitted to make use of the common amenities as provided in both



the projects, the Allottees are estopped from taking any stand, which is contrary to the terms of the Sale Deeds they executed.

9. Learned Counsel for the Allottees has contended that both the Order of the Authority and the Impugned Judgment suffers from an infirmity. He submits that in view of the provisions of Section 11 of the Transfer of Property Act, 1882 [hereinafter referred to as the "T.P. Act"] the restriction placed on the Allottees in the Sale Deed was void. In addition, it is submitted that such a clause is void for uncertainty in terms of Section 29 of the Indian Contract Act, 1872 [hereinafter referred to as the "Contract Act"].

10. An examination of the provisions of Section 11 of the T.P. Act reflects that this provision sets out that, where, on a transfer of property, an interest is created in favour of any person, but the terms of transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such



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interest as if there was no such direction. This provision is extracted below:

"11. Restriction repugnant to interest created.—

*Where, on a transfer of property, an interest therein is created absolutely in favour of any person, **but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.***

*Where any such direction has been made in respect of **one piece of immoveable property for the purpose of securing the beneficial enjoyment of another piece of such property**, nothing in this section shall be deemed to affect any right which the **transferor may have to enforce such direction or any remedy which he may have in respect of a breach thereof.**"*

[Emphasis Supplied]

10.1 Section 11 of the T.P. Act essentially sets out that any condition conflicting with the interest created in a transfer, is void, consequently, when property is transferred absolutely, it must include all its legal attributes. This provision states that the provision is only applicable when the transfer is absolute and creates a complete interest in favour of the transferee, who is then entitled to deal with the property freely, as though no specific directions about its use or enjoyment existed.



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10.2 The 2nd para of this provision allows for an exception to the transfer and states that where a direction limits how the transferee enjoys the transferred property, it would be valid if it is imposed to ensure the beneficial use of another property that the transferor keeps.

11. The Supreme Court in the judgment captioned ***Indu Kakkar v. Haryana State Industrial Development Corpn. Ltd.¹***, while interpreting this provision has held that Section 11 of the T.P. Act voids restrictions on enjoyment only if the transfer creates an absolute interest in favour of the transferee. The relevant extract is below:

"For a transferee to deal with interest in the property transferred "as if there were no such direction" regarding the particular manner of enjoyment of the property, the instrument of transfer should evidence that an absolute interest in favour of the transferee has been created. This is clearly discernible from Section 11 of the TP Act. The section rests on a principle that any condition which is repugnant to the interest created is void and when property is transferred absolutely, it must be done with all its legal incidents."

[Emphasis Supplied]

12. In the present case, the provision would be inapplicable. The interested Allottees had no exclusive

¹ (1999) 2 SCC 37



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rights over the common areas. The only sharing that is envisaged is with respect to facilities available in the common areas such as roads, club house and entertainment facility in any phase by any of the owners of units in the Project. The interest that is being referred to by the Allottees is not created on the flat that has been allotted to them, but on the common facilities such as the club house and other easementary facilities as provided to the Allottees by the Respondents. Since such an interest is not an absolute interest and would not attract the provisions of Section 11 of the T.P Act.

13. In any event and as stated above, the Allottees themselves have agreed to the sharing of the facilities in the Sale Deed, which is a validly executed contract and is binding on the parties. The registered sale deed, concededly, has not been challenged by the Allottees in a Court of law.

14. Both the Authority as well as the Appellate Tribunal after examining this contention found that the Allottees have agreed sharing of the facilities in the Sale Deed. In



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fact, the relevant clauses of the Sale Deed have also been reproduced in the Impugned Judgment. The relevant extract of the Impugned Judgment is set out below:

*"14. Keeping in mind the contention and rival contention of the parties, we have carefully gone through the pleadings of the parties and the materials placed before us. Now it is clear that, though the Developer herein is one of the Promoters with respect of both projects 'Arya Hamsa' and 'Arya Hamsa Grande', it cannot be said that the Appellants herein are the Allottees with respect to the project 'Arya Hamsa Grande'. **As stated supra, the Allottees were the Flat owners of a single unit in the project 'Arya Hamsa' and it was completed much before the commencement of the RERA Act.** This being the factual position, it is just and proper to reproduce the recitals incorporated in **Para No.1.11 to 1.13 of the Sale Deed dated 03.11.2015, executed in favour of the Allottees Same is read as under:***

*"1.11 The Developers are providing **a Club House and Entertainment Facility outside the schedule A Property** and common facilities, etc. inside the Schedule A Property including roads, STP, transformer yards, electrical infrastructure, etc.*

1.12 The Common facilities, Club House and Entertainment Facility shall be managed and maintained by the Association of Apartment Owners and be made available to the Apartment Owners to manage it on such terms as they find fit, with no charges payable to the Developers.

1.13 The Purchaser/s hereby consents to use the space, as may be identified by the Developers for the purpose and consents to the same being provided for all owners of units in the project, which may consist of different phases which may be located within or outside the Schedule A Property and expressly consents to the use of common amenities including the roads, Club House and the use of common amenities including the roads, Club House and Entertainment Facility in any phase by any of the Owners of units in the Project."

[Underlined for emphasis]



*15. On perusal of the afore-mentioned recitals it is clear that, the Club house and Entertainment facilities as provided to the Allottees herein is not in **the project developed by their Promoters in 'Arya Hamsa'**. Hence, reasons to believe that those 2 facilities were provided to the Allottees in the other project constructed by the Developer in 'Arya Hamsa Grande'. Likewise, certain other amenities to the Flat owners of 'Arya Hamsa Grande' are provided in the project 'Arya Hamsa', wherein the Flat of the Allottees is situated. **On perusal of the recitals in the Sale Deed of the Allottees it is crystal clear that, in unambiguous terms, the Flat owners of both the projects had given their consent to share the amenities. Since in their Sale Deed it was clearly mentioned that, the Flat owners of both the projects are permitted to make use of common amenities as provided in both the projects, the Allottees are estopped from taking any other stand,** which is contrary to the terms of their Sale Deed. As such, taking note of these facts in the right perspective the Authority has dismissed the complaint".*

[Emphasis Supplied]

15. So far as concerns the contention of the learned counsel for the appellants/Allottees that the Sale Deed is void for 'uncertainty' in terms of Section 29 of the Contract Act, the submission is without any merit. Section 29 of the Contract Act provides that certain agreements would be void for uncertainty. The provision is explained by virtue of its illustrations as below:

"29. Agreements void for uncertainty.—

Agreements, the meaning of which is not certain, or capable of being made certain, are void.

Illustrations:



(a) A agrees to sell B "a hundred tons of oil". There is nothing whatever to show what kind of oil was intended. The agreement is void for uncertainty.

(b) A agrees to sell B one hundred tons of oil of a specified description, known as an article of commerce. There is no uncertainty here to make the agreement void.

(c) A, who is a dealer in coconut-oil only, agrees to sell to B "one hundred tons of oil". The nature of A's trade affords an indication of the meaning of the words, and A has entered into a contract for the sale of one hundred tons of coconut-oil.

(d) A agrees to sell B "all the grain in my granary at Ramnagar". There is no uncertainty here to make the agreement void.

(e) A agrees to sell to B "one thousand maunds of rice at a price to be fixed by C". As the price is capable of being made certain, there is no uncertainty here to make the agreement void.

(f) A agrees to sell to B "my white horse for rupees five hundred or rupees one thousand". There is nothing to show which of the two prices was to be given. The agreement is void."

[Emphasis Supplied]

16. This provision would be inapplicable in a case where a Sale Deed clearly sets out the sale consideration and the transfer and has been duly registered. In any event and as stated above, the Sale Deed has not been challenged in a Civil Court by the Allottees.

17. For the reasons as stated above, no question of law much less, a substantial question of law arises in the present appeal.



18. The appeal is accordingly ***dismissed***. All pending application(s) shall stand closed.

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

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

KSR/BMV*
List No.: 1 Sl No.: 5