

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

DATED THIS THE 16TH DAY OF OCTOBER, 2026

PRESENT

**HON'BLE Ms. JUSTICE J.M. KHAZI,
CHAIRPERSON**

AND

**HON'BLE SRI SANTHOSH KUMAR SHETTY N.
JUDICIAL MEMBER**

APPEAL No. (K-REAT) 60/ 2026

BETWEEN:

East North VVS Realty,
Represented by its Partner,
P.A. Vinay, S/o, P.C.Anand,
Aged about 57 years,
R/at No.2644, 8th A Main Road,
BSK 2nd Stage, Bengaluru-70.

APPELLANT

(Samarth Shreedhar & Associates, Advocates)

AND:

1. B.K. Nagaraj,
S/o. Late A. Krishnamurthy,
Aged about 82 years,
R/at No.13, Raj Residency,
3rd Main, 1st Cross,
Vinayaka Layout, Shanthipura,
Electronic City Post,

- Bengaluru – 100.
2. M/s. East North Reality Pvt.Ltd.,
No.2317, 3rd Floor,
27th Main, Sector – 1,
HSR Layout, Bengaluru -102.
Reptd. by its Director –Mrs.S.Vasu.
 3. Real EstateRegulatory Authority,
Reptd. by the Secretary,
Silver Jubilee Block,
3rd Cross Road, CSI Compound,
Mission Road,Sampangirama Nagara,
Bengaluru-560027.
 4. Prabhakara Reddy,
S/o Late R.Krishna Reddy,
Aged about 56years,
R/at 2250, 15th C Cross,
22nd B Main Road,
1st Sector, HSR Layout,
Bengaluru – 102.
 5. R.Venkatesh,
S/o. Ramappa,
Aged about 43 years,
R/at Flat No.103, 1st Floor,
SLV Pride Apartment,
Pragathinagar,
Chikkathoguru Main Road,
Electronic City, Bengaluru – 100. **RESPONDENTS**

(Sri. Nagesha Poojary Y., Advocate for R1., Sri. K.V.Girish, Advocate for R.3 – RERA, Sri. Lokesh R., Advocate for R4. R.2 & R5 were placed exparte)

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 11.12.2023, passed by

the 3rd Respondent-RERA in Complaint No.CMP/00154/2023.

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

JUDGMENT

The captioned appeal arises out of the judgment and order dated 11.12.2023 passed by the Karnataka Real Estate Regulatory Authority (hereinafter referred to as "the Authority") in Complaint No. CMP/00154/2023, whereby the Authority allowed the complaint filed by Respondent No. 1 (hereinafter referred to as "the Allottee") against Respondents Nos. 2 and 5, who are partners of the appellant firm.

2. Briefly stated, the averments made in the complaint and the substance of the impugned order are that the Allottee agreed to purchase an apartment in the project "Nash Ville", developed by the Promoters, for a total sale consideration of Rs. 42,00,000/- and accordingly entered into a Sale Agreement dated 29.11.2019, under

which possession was to be delivered on or before 28.11.2020. The Allottee claims to have paid the entire sale consideration; however, despite the lapse of more than two years, the Promoters failed to deliver possession of the apartment, compelling the Allottee to approach the Authority seeking a refund with interest as per the memorandum of calculation. Since the Promoters failed to appear before the Authority despite service of notice, the Authority heard the Allottee's arguments and allowed the complaint, directing the Promoters to refund Rs.64,46,190/- with interest, calculated from 01.05.2017 to 11.11.2023, within 60 days from the date of the order and to pay further interest from 12.12.2023 until the date of final payment, calculated on the same basis.

3. Aggrieved by the impugned order, the Managing Partner of the Appellant Firm, claiming that the firm is the actual promoter and developer of the project "Nash Ville", has preferred the present appeal contending that the impugned order is erroneous, contrary to law and the

provisions of the RERA Act and is liable to be set aside. In the memorandum of appeal, the appellant has referred to the Deed of Reconstitution of the Firm, the induction of partners, and the notice dated 21.12.2024 received from the office of the Tahsildar, Anekal Taluk, intimating the recovery proceedings initiated pursuant to the order passed in the complaint. It is contended that the appellant came to know of the proceedings only upon approaching the Tahsildar and that, although the appellant claims to be the actual promoter of the project, it was not impleaded as a party to the complaint, whereas Respondent No.5, a private limited company, was arrayed as a respondent and notices were issued to its old address, resulting in the proceedings being conducted ex parte. The appellant further contends that Respondents No.2 and 5, who were arrayed as parties to the complaint, were neither the promoters of the project nor holders of the RERA registration certificate and that the Authority failed to examine these material aspects, thereby demonstrating non-application of mind. It is also

contended that the Allottee failed to produce booking receipts or payment receipts issued by the actual promoter to establish the payments allegedly made, yet the Authority directed a refund of an amount that the appellant claims it never received directly. According to the appellant, Respondents No.2 and 5 were not even partners of the appellant firm when the impugned order was passed, and the Allottee and Respondents No.2 and 5 colluded with each other and deliberately suppressed material particulars of the transaction, including the details of the alleged payments and the absence of documentary proof. The appellant further alleges that the Authority failed to verify whether any payment had been made and if so, to which account it had been credited and also failed to consider that the appellant had availed a loan from Shivashree Souharda Credit Cooperative Society Limited for financing the project. It is further contended that the Allottee had filed another complaint, bearing No. CMP/236/2023, against the appellant and Respondent No.2 seeking

monthly rent of Rs. 15,000/- on account of delay in completion of the project, and that the matter was referred to the Lok Adalat, where a sum of Rs. 3,00,000/- was paid to the Allottee towards full and final settlement. According to the appellant, the filing of two complaints concerning the same project against different parties demonstrates deliberate suppression and misrepresentation of material facts by the Allottee. On these grounds, the appellant seeks to set aside the impugned order passed by the Authority.

4. In response to the notice issued by this Tribunal, the Allottee and Respondents No.3 and 4 appeared through their respective counsel and the Allottee and Respondent No.4 filed their objections. The Allottee, in his objections, has supported the findings recorded by the Authority and reiterated the averments made in the complaint. It is further contended that the appellant firm had executed a special power of attorney in favour of Respondent No.5, who duly executed the Sale Agreement in favour of the Allottee, being the landowner of the project and one of the

partners of the appellant firm. The Sale Agreement was duly executed and registered before the jurisdictional Sub-Registrar and therefore, cannot be treated as a private document, as alleged by the appellant. It is further contended that a mere change in the constitution of the appellant firm or the induction of new partners after execution of the Sale Agreement cannot defeat the rights of the Allottee under the RERA Act and the newly inducted partners are bound by the terms of the Agreement and the order passed by the Authority. According to the Allottee, the appellant has raised a false defense that it was unaware of the sale transaction only to evade its liability to refund the amount due to him. The Allottee further contends that he has no concern with the change in the constitution of the partnership firm and that the reconstitution of the firm was never intimated to him. It is also submitted that the Allottee, being a senior citizen, invested his hard-earned life savings with the hope of owning a house but was compelled to run from pillar to

post to recover his money. On these grounds, among others, the Allottee contends that the grounds urged in the appeal are unsustainable in law and on facts and accordingly prays for dismissal of the appeal.

5. In the objections, Respondent No.4 contended that the appeal filed against him is not maintainable, either in law or on facts. The allegations made against him are false, baseless, misleading, vexatious and motivated by malice and ulterior motives, with the intention of harassing him and causing wrongful loss. It is further contended that the appellant has suppressed material facts and that the relief sought in the appeal is wholly misconceived and unsustainable. According to Respondent No.4, Mr. P. A. Vinay and Mr. Vasu were inducted as partners of the appellant firm under a deed of reconstitution dated 03.09.2020, whereby they were collectively allotted 97% of the partnership share and took over the entire project. Therefore, the appellant cannot now take a contrary stand or dispute the documents produced in support of the

complaint. Respondent No.4 further contended that the appellant has deliberately suppressed the memorandum of understanding dated 02.09.2020, despite being fully aware of its existence, with the intention of evading its liabilities and depriving the allottee of the benefits flowing from the impugned order. It is also contended that Respondent No. 4 has no subsisting connection with the allottee, as he had transferred all the assets and liabilities of the firm to the appellant, as admitted in the appeal itself. In view of the appellant having taken control of the firm pursuant to the deed of reconstitution, Respondent No.4 contended that the appellant's conduct in approaching this Tribunal is arbitrary, whimsical and unsustainable. On these and other grounds urged in the objections, Respondent No. 4 prayed for dismissal of the appeal.

6. After admitting the appeal and calling for the records of the Authority, this Tribunal heard the arguments advanced by the learned counsel appearing for the appellant, the allottee and Respondent No. 4. The

learned counsel appearing for the appellant and the allottee also filed their respective written arguments, which have been taken into consideration along with the oral submissions and the records of the case.

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

1. Whether the Appellant proves that the Impugned Order passed without affording it an opportunity of being heard and that, consequently, the liability fastened upon it is liable to be set aside?
2. Whether the impugned order suffers from an error apparent on the face of the record and is liable to be modified?
3. What order?

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

Point No.1 : In the Negative

Point No.2 : In the Affirmative

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

REASONS

9. Point No. 1:- Before advertizing to the points in controversy, it would be appropriate to recapitulate the background of the Appellant Firm and certain undisputed facts relevant to the consideration of this appeal. The Appellant is a Partnership Firm constituted under a Deed of Partnership dated 11-07-2016, executed between two individuals, namely, M. Siddareddy and R. Venkatesh (respondent No. 3 herein), and a Private Limited Company, namely, M/s East North Realty Private Limited. The Firm was issued a Certificate of Registration on 17-06-2017. However, prior to the constitution of the Firm, M. Siddareddy and respondent No. 3 had jointly purchased a landed property under a Registered Sale Deed dated 14-11-2013 and subsequently obtained conversion of the said property for non-agricultural purposes. On 26-01-2017, M. Siddareddy passed away, whereupon, with the consent of his widow and other children, his son, Anil Kumar A.S., was inducted as a partner of the Firm under a

Reconstituted Deed of Partnership dated 20-06-2017. Subsequently, under a further Reconstituted Deed of Partnership dated 22-11-2017, Anil Kumar A.S. retired from the Firm upon receiving a sum of Rs. 2.40 crores towards full and final settlement of his capital and other amounts due from the Firm. Thereafter, on 03-09-2020, the Firm was again reconstituted under a Registered Deed of Partnership, whereby P. A. Vinay, son of late P. C. Anand, and C. S. Vasu, son of Vedugopal Naidu, were inducted as incoming partners. As stated above, M/s East North Realty Private Limited continued as one of the partners of the Firm, represented by its three Directors, one of whom is the aforesaid P. A. Vinay.

10. It is not in dispute that, on 29-11-2019, the Appellant Firm, represented by two of its partners, namely, M/s East North Realty Private Limited and R. Venkatesh, executed a Registered Agreement of Sale in favour of the Allottee, agreeing to sell an apartment in the project undertaken by them for a total sale consideration of

Rs.42,00,000/-. It is the case of the Allottee that, despite having paid the entire sale consideration, the Promoters failed to complete the project within the stipulated period. Consequently, the Allottee lodged two separate complaints before the Authority, one seeking compensation towards the loss of rental income suffered by him on account of the delay in handing over possession and the other seeking refund of the amount paid by him, together with interest. The complaint seeking compensation towards loss of rental income was entertained by the Adjudicating Officer and was subsequently settled before the Lok Adalat, pursuant to which the Allottee received a sum of Rs.3,00,000/- towards rental loss. The other complaint, seeking refund of the amount paid, was entertained by the Authority. Despite due service of notice, the respondents therein, namely, M/s. East North Realty Private Limited and R. Venkatesh, failed to appear and contest the proceedings. Consequently, the Authority, proceeding on the basis of the averments and assertions made by the Allottee, allowed the

complaint and directed the respondents therein to refund a sum of Rs.64,46,190/-.

11. Upon examining the Impugned Order, it is evident that the aforesaid Private Limited Company and respondent No.3 herein, who are none other than the partners of the Appellant Firm, were arrayed as respondents in the proceedings before the Authority. The vehement submission of Mr. P. A. Vinay, the present Managing Partner of the Appellant Firm, is that, although the Firm was the Promoter and developer of the project, the Allottee, in collusion with the other partners of the Firm, instituted the complaint without impleading the Firm as a party to the proceedings. It is his further submission that, as borne out by the Bank statement produced by the Firm at Document No.11, the entire sale consideration was received by the aforesaid Private Limited Company and not by the Appellant Firm. Hence, according to him, the Appellant Firm has nothing to do with the amounts paid by

the Allottee to the said company and cannot be held responsible for the same.

12. Refuting each and every contention advanced on behalf of the Promoter, the foremost submission of the learned counsel for the Allottee is that the name of the Appellant Firm and that of one of its partners, namely, M/s. East North Realty Private Limited, are almost identical and that the Directors of the said Company are associated with the Firm as its partners. According to him, the Firm and the Private Limited Company carried on their business simultaneously under their respective names with the intention of misleading and duping the general public. In support of his contentions, the learned counsel for the Allottee produced before this Tribunal a copy of the Deed of Reconstitution of Partnership dated 19-10-2020 and the Memorandum of Understanding dated 02-09-2020 executed between the aforesaid Private Limited Company and the Appellant Partnership Firm, involving their respective Directors and Promoters. Drawing the attention

of this Tribunal to the contents of the Memorandum of Understanding, he submitted that the project in question has been specifically referred to therein and that P. A. Vinay had undertaken to clear the existing liabilities, together with interest, in respect of the Real Estate Project undertaken by the firm. On these grounds, the learned counsel for the Allottee sought to justify the findings recorded by the Authority and prayed for dismissal of the appeal.

13. In the factual backdrop of the case, we deem it appropriate to examine the relevant clauses incorporated in the Registered Agreement of Sale dated 29-11-2019, the Registered Deed of Reconstitution of the Appellant Firm dated 03-09-2020 and the other two documents relied upon by the learned counsel for the Allottee. In our considered view, Clauses 5(1) to 5(6) of the aforesaid Registered Deed of Reconstitution of the Firm are of considerable significance for the proper adjudication of the controversy involved in this appeal. Accordingly, the

relevant clauses are reproduced hereinbelow for ready reference and proper appreciation.

“5.(1). That the parties hereto agree that the changes herein recorded are changes consequent upon change in the constitution of the **“Firm”** not involving the dissolution of the **“Firm”**.

(2). That from hereon, the address of the **FIRM** shall be No.2644, 8th A Main, BSK 2nd stage, Bangalore-560 070.

(3). After reconstitution of the **“Firm”**, the **“Incoming Partners”** shall share the profits and losses of the **“Firm”** in future as follows:

Incoming Partners:

Sri P.A.Vinay	--	57%
Sri S. Vasu	--	40%
Sri R.Venkatesh	--	1%
M/s.East North Reality (P) Ltd.--		1%
Sri Prabhakar Reddy	--	1%

(4). The banking account/s of the **“Firm”** shall henceforth be operated by the **Incoming Partner- Sri. P.A.Vinay** and the said Sri

P.A.Vinay shall be the Managing partner of the “Firm” and shall alone manage the entire “Firm”.

Sri P.A.Vinay shall alone execute and register all the documents of the Firm, from time to time.

(5). The Remuneration payable to the Managing Partners of the firm shall be as follows:

Sri P.A.Vinay Rs.2,50,000 per month

Sri S.Vasu Rs.2,50,000 per month

(6) All other terms and conditions stipulated in the earlier partnership Deed dated 11.07.2016, the Reconstitution Deed dt.22.11.2017 and another Reconstitution Deed dt. 22.11.2019 are binding on the “Incoming Partners”.

(Underlined for emphasis)

14. As stated supra, by virtue of the aforesaid reconstitution of the Firm, Mr. P. A. Vinay was inducted as its Managing Partner and the newly inducted partners unequivocally undertook to share the profits and losses of the Firm arising out of all its transactions. In the facts and circumstances of the case, having been inducted as a

Managing Partner of the Firm, Mr. P. A. Vinay cannot disown the responsibilities and liabilities of the Firm arising out of its business transactions, including those relating to the terms and conditions incorporated in the registered Agreement of Sale dated 29-11-2019 executed in favour of the Allottee. Added to this, respondent No. 4 herein, in his statement of objections as well as during the course of oral arguments, reiterated the contentions advanced by the Allottee and acknowledged the collective responsibility of the partners of the Firm. These circumstances assume significance while considering the contention advanced on behalf of the Appellant that the Firm is not liable for the obligations arising out of the aforesaid Agreement of Sale.

15. As discussed earlier, prior to the induction of Mr. P. A. Vinay as the Managing Partner of the Appellant Firm, M/s East North Realty Private Limited was functioning as one of its partners and Mr. P. A. Vinay was also serving as one of the Directors of the said Company.

Since the aforesaid Private Limited Company was arrayed as a party to the complaint before the Authority, it is reasonable to infer that the institution of the complaint against the Company and respondent No.3 herein, who was also a partner of the Firm, was within the knowledge of Mr. P. A. Vinay, who is now representing the Appellant Firm. The manner in which Mr. P. A. Vinay represents both the Company and the Firm gives rise to a strong inference that their business activities were carried on under the names of both entities in circumstances that warrant scrutiny. Viewed in this factual backdrop, we are of the considered opinion that the present appeal is an attempt to avoid the legitimate obligations of the Firm and thereby defeat the lawful rights of the Allottee. In the light of the foregoing discussion, we find no merit in the contentions advanced on behalf of the Appellant and no justification for exonerating the Firm from its responsibilities and liabilities arising out of the transaction in question. Accordingly, we answer Point No.1 in the Negative.

16. Point No.2: In the case on hand, the sale agreement came to be executed on 29.11.2019. In such circumstances, it is reasonable to infer that the payment schedule commenced pursuant to the said agreement and that the allottee began making payments thereafter. However, in the impugned order, the Authority has directed the promoter to pay interest for the delayed period commencing from 01.05.2017. Such a direction is neither legally sustainable nor supported by the facts on record.

17. In all probability, the allottee is entitled to interest, if otherwise eligible, only from the date of the Sale Agreement and not from any date prior thereto, for the simple reason that there could have been no occasion for the allottee to make payments towards the sale consideration before the execution of the agreement. Further, it is not the case of the allottee that any payment was made in the year 2017.

18. Though neither of the parties raised this issue in the present proceedings. This Tribunal, being the first

appellate forum, is duty-bound to correct an error apparent on the face of the record. If the erroneous direction to pay interest from 01.05.2017 is allowed to stand, it would result in the allottee receiving interest for a period during which no payment is shown to have been made, thereby conferring an unjustified benefit upon the allottee at the expense of the promoter. Accordingly, Point No. 2 is answered in the affirmative.

19. Point No.3:In view of the above findings, the Tribunal proceeds to pass the following order:

ORDER

- (a) The Appeal in so far as it seeks to exonerate the appellant from its liability, is hereby dismissed;
- (b) The Impugned Order dated 11.12.2023, passed by the Authority in Complaint No.CMP/00154/2023 is hereby modified as under:
- (c) The appellant is liable to refund the sale consideration of Rs.42,00,000/- to the

allottee, together with interest thereon at the rate of SBI MCLR plus 2% per annum, calculated from 29.11.2019, being the date of execution of the sale agreement, till 24.03.2025, being the date on which the appellant deposited the amount before this Tribunal in compliance with the requirement under Section 43(5) of the RERA Act.

- (d) The Registry is directed to release the amount payable to the allottee, as calculated under Order Clause(c), together with the interest accrued thereon from the fixed deposit, by issuing a banker's cheque or demand draft, upon expiry of the period of appeal. The balance amount, if any, shall be refunded to the appellant in accordance with the prescribed 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 is no order as to costs.

Sd/-

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

Sd/-

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