

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

DATED THIS THE 29TH DAY OF JUNE, 2026

PRESENT

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

AND

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

APPEAL NO. (K-REAT) 43/2025

BETWEEN:

Bengaluru Development Authority,
Kumara Park West,
5th Main Road,
Guttahalli,
Bengaluru – 560 020.

Represented by its Commissioner

(By Sri B. Vachan, Advocate)

...APPELLANT

: AND :

1. Sri. Suthanthiraraj,
S/o. Doraiswamy,
Aged about 78 years,
452, First Floor, 12th Cross,
Vidyaranyapura,
Bengaluru – 560 097.

2. Real Estate Regulatory Authority,
Represented by Secretary,
No.1/14, 2nd Floor,
Silver Jubilee Block,
Unity Building Backside,
CSI Compound,
3rd Cross, Mission Road,
Bengaluru-560 027.

...RESPONDENTS

(R.1 – Party-in-person

Sri. K.V. Girish, 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 13.02.2025, passed by the 2nd Respondent-RERA in Complaint No.CMP/UR/201029/0006977.

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 Order dated 13.02.2025 passed by the Karnataka Real Estate Regulatory Authority (hereinafter referred to as 'the Authority' for short) in Complaint No. CMP/201029/0006977, whereby the Authority allowed the Complaint filed by the Respondent No.1/Allottee (for short 'the Allottee') against the Appellant/Promoter (for short 'the Appellant').

2. The facts gathered from the record broadly revealed that, the allottee had purchased Site No.358 in Arkavathi layout, Bengaluru measuring 15 mtrs. x 24 mtrs. vide Registered Sale Deed dated 30.12.2016. The contention of the allottee is that, even after lapse of 07 years from the date of registration of Sale Deed, the appellant failed to complete the project with civic amenities and handover physical possession of the site. Feeling aggrieved by the inaction on the part of the appellant, allottee filed a complaint before the Authority for the relief of interest on delay period and direction to the appellant to complete the project.

3. After registration of the complaint, Authority sent notice to the appellant for its due appearance. In the meantime, since project was not registered under Section 3 of the Real Estate (Regulation and Development) Act, 2016 (for short 'the RERA Act, 2016'), Authority passed an interim order on 03.11.2023 directing the appellant to *register the project 'Arkavathy Layout', situated at Sy.No.19/5, 19/6 and 19/7, 18th Block, Amani Byrathikane,*

Bengaluru East under RERA within two weeks from the date of receipt of the said order. The appellant was also given an opportunity to submit its explanation within three weeks, as to why penalty proceedings u/s.59(1) of the RERA Act should not be initiated for violation of section 3 of the Act. In the impugned judgment, the Authority observed that the Allottee had submitted a Memo of Calculation dated 19.03.2024 claiming a sum of Rs.12,43,792/- towards delay charges with interest and that the same was forwarded to the appellant, who acknowledged its receipt on 16.04.2024. Despite passing the interim order and providing sufficient opportunities, the appellant has not complied with the said order nor shown any interest in registering the project, filing statement of objections and producing documents, if any, on their behalf. Finally, the Authority upon considering grounds urged in the complaint as well as Memo of Calculation dated 19.03.2024, passed impugned judgment on 13.02.2025 directing to initiate penalty proceedings against the appellant u/s. 59 (1) of the Act for violation of Section 3 of the Act and to pay the

delay period charges with interest of Rs.12,43,792/- to the allottee.

04. Feeling aggrieved by the judgment of the Authority, the appellant has preferred the present Appeal on the grounds that, they are governed by Bengaluru Development Authority Act and Rules. As such, the RERA Act and corresponding Rules are not applicable to it. Further, the appellant contended that the Authority had duly communicated to the BDA, in as much as all the e-mails/notices were addressed directly to the Commissioner's Secretariat, who is entrusted only with administrative duties. The said department is not sensitised regarding the procedures of the courts. The notices/e-mail communications had to be addressed to the Law Department which is primarily responsible for handling litigation by co-ordinating with various other departments and its panel counsels. In the event, the law department was duly notified about the proceedings, it would have taken necessary action in ensuring that the

BDA is represented in the impugned proceedings to put forward its case.

05. Further the appellant contended that, the Authority failed to appreciate the fact that no timeline had been fixed by the BDA for handing over the possession or for completion of the layout. As such, delay in completing the layout could not have been entertained by the Authority. In the event, if the RERA Act, 2016 were to be applied to the BDA, it would make it impossible for the BDA to function due to the issue relating to acquisition, funding, large extent of development etc. The appellant being a Planning Authority should not be considered as a 'promoter' under the RERA Act, 2016.

06. It is further contended by the appellant that the BDA Act, 1976 is a special enactment and a complete code in itself. The appellant is a completely autonomous body. Since the appellant undertakes a lot of public works like construction of a flyover or an under bridge or for maintenance and upkeep of the roads etc., it has to be in a position to exercise its financial freedom and allocate the

funds required for completion of such public works. If at all, the provisions of the RERA Act, 2016 were to be held applicable to the BDA and the BDA had to register itself as a Promoter, it would result in locking its funds with the Authority as a result of which the BDA will not be in a position to discharge its statutory duties.

07. It is further contended by the appellant that the BDA Act has been time and again tested before various benches of the Hon'ble Apex Court and has been upheld to be a self-contained code that provides for necessary provisions to implement and deliver the basic objective which was in the mind of the framers of the said Act. When such is the circumstance, the provisions of the RERA Act are not applicable to the BDA. Accordingly, appellant stated that the RERA does not have jurisdiction to either regulate the functioning of the BDA or entertain any complaints against it and thereby prayed this Tribunal to set aside the impugned order.

08. Per Contra, the allottee filed a Statement of Objections contending more or less the facts narrated in the

complaint. Added to that, allottee listed various works to be completed and laches on the part of the appellant in the Arkavathy Layout. Further stated that, BDA has not given physical possession of the allotted site with civic amenities till date. Further contended that the Authority has jurisdiction to regulate real estate business carried out in Karnataka as per the threshold limit specified in the Act. The Authority is empowered to entertain any complaints/petitions filed by aggrieved consumers against the BDA. It is further stated by the allottee that as per Section 27 of the BDA Act, five years time limit is fixed for implementation of the project. If the scheme is not implemented within the timeframe, the scheme will lapse as per BDA Act and cannot extend the timeline for completion on its own. Accordingly, prayed to dismiss the Appeal, direct the appellant to comply the Authority order dated 13.02.2025; to pay the delay period interest; allow the penalty proceedings against appellant under Section 59(1) of RERA Act.

09. Having considered the submissions of the Parties and the material on record, the points that would arise for our consideration are:

- i) Whether, the Appellant proves that, the Authority lacks jurisdiction either to regulate its function or to entertain any complaints against the appellant?
- ii) Whether, the Appellant proves that, the Authority failed to issue notice to it as mandated under Rule 29 of the Karnataka Real Estate (Regulation and Development) Rules, 2017 and the impugned order is liable to be set aside?
- iii) What Order?

10. Our findings on the above Points are as under:

Point No.(i) - in the **Negative**

Point No.(ii) – **As per the findings**

Point No.(iii) - As per final order

For the following:

REASONS

11. Point No. (i):- Before evaluating the point in controversy, we deem it appropriate to recapitulate the

background of the present appeal. According to appellant, it was constituted under the provisions of the Bengaluru Development Authority Act, 1976 and vested with wide ranging powers and responsibilities, including planning, formulation of developmental schemes and acquisition of lands to achieve the Directive Principles of State Policy by providing housing facilities to the general public. Hence, the provisions of the RERA Act, 2016 cannot be thrust upon the appellant.

12. The undisputed fact is that the first respondent/allottee purchased Site No.358 in Arkavathi Layout for a total consideration of Rs.7,56,000/- under a Registered Sale Deed dated 30.12.2016. However, the contention of the first respondent is that, even after lapse of 07 years from the date of registration of Sale Deed, the appellant failed to complete the project with the requisite civic amenities and hand over physical possession of the site. Feeling aggrieved by the inaction on the part of the appellant, the first respondent lodged a complaint before the Authority. After registration of the complaint, the

Authority issued notice to the appellant calling upon it to appear before the Authority. However, the appellant failed to appear despite service of notice. Since project had not been registered under Section 3 of the Real Estate (Regulation and Development) Act, 2016 (for short 'the RERA Act, 2016'), Authority, by interim order dated 03.11.2023, directed the appellant to *register the project situated at Sy.No.19/5, 19/6 and 19/7 of Byrathikane village, Bengaluru East Taluk, within two weeks from the date of receipt of the said order.* It appears that despite the specific directions issued under the impugned order, the appellant neither took steps to register the project as contemplated under Section 3 of the Act nor appeared in the said proceedings. Ultimately, the Authority, upon considering grounds urged in the complaint as well as the memo of calculation dated 19.03.2024 submitted by the allottee, passed the impugned order on 13.02.2025, the operative portion of which reads as under:

“ In exercise of the powers conferred under Section 31of the Real Estate (Regulation and Development)

Act, 2016, the complaint bearing No. CMP/201029/0006977 is hereby allowed as under:

1. The Authority to initiate penalty proceedings against Respondent 'Commissioner, Bengaluru Development Authority' u/s. 59 (1) of the Act for violation of Section 3 of the Act.
2. The Respondent 'Commissioner, Bengaluru Development Authority' is hereby directed to pay the delay period charges with interest of Rs.12,43,792/- as on 19.03.2024 to the complainant within 60 days from the date of this order.
3. Further, the interest due from 20.03.2024 upto the date will be calculated likewise and paid to the complainant.
4. The complainant is at liberty to enforce the said order in accordance with law if the respondent fails to comply with the order.

No order as to costs. ”

13. Feeling aggrieved by the order passed by the Authority, the appellant has preferred the present Appeal. The principal contention urged by the appellant is that, it is governed by the Bengaluru Development Authority Act, 1976 and the Rules framed there under and therefore, the provisions of the RERA Act, 2016 are not applicable to it. As such, the Authority had no jurisdiction to entertain the

complaint and therefore has prayed for setting aside the impugned order by this Tribunal.

14. It is pertinent to note that, when the Appeal was initially preferred before this Tribunal, the appellant had not deposited statutory pre-deposit as contemplated under Section 43(5) of the RERA Act, 2016. As such, no regular appeal number was not assigned and the matter continued to remain as F.R.(K-REAT) No.31/2025. When the matter was taken up for hearing on office objections, the appellant primarily contended that it is governed by a self-contained Code and that the provisions of RERA Act, 2016 are not applicable to it. On that premise, the appellant sought exemption from making the statutory pre-deposit. On the basis of the aforesaid contentions urged by the appellant, this Tribunal formulated the following points for its consideration:

“ i) Whether the appellant establish that the BDA does not comes within the purview of RERA Act?

ii) Whether the appellant establishes that being planning authority does not required to deposit

the amount awarded by the Authority as contemplated under proviso to sub-section (5) of Section 43 of the RERA Act?”

15. This tribunal, after affording sufficient opportunities to the appellant, answered point No.(i) in the negative. However, for reasons assigned in the said order, the appellant was permitted to prosecute the matter without making the statutory pre-deposit.

16. It is needless to mention that, as per provisions contained in Section 58 of the RERA Act 2016, *any decision or order passed by this Tribunal is appealable on the file of Hon'ble High Court.* Another aspect that requires consideration is that the appellant herein has also preferred various other Appeals bearing No.02/2026 and 08/2026 to 27/2026. In the said Appeals, the foremost contention urged by the appellant is that they are governed by a self-contained Code and the provisions of RERA Act are not applicable to them. After hearing the appellant, this Tribunal, by its order dated 03.03.2026, has categorically held that the provisions of RERA Act, 2016

are applicable to the BDA. Consequently, the contention regarding ouster of jurisdiction raised in those Appeals were rejected and all the Appeals came to be dismissed at the stage of admission. In the said factual matrix and in the light of the findings recorded in our Orders dated 05.06.2025 and 03.03.2026, this Tribunal finds no merit in the contention urged by the appellant. Accordingly, point No.(i) is answered in the 'Negative'.

17. Point No.(ii):- As stated supra, another contention urged by the appellant is that no notice, as contemplated under Rule 29 of the K-RERD Rules, 2017 was issued to them when the matter heard and decided by the Authority. It is further contended that the e-mails/notices were directly addressed to the Commissioner's Secretariat, which is entrusted only with the administrative duties and that the said department is not sensitised to Court procedures. According to the appellant, the notices/email communications ought to have been addressed to the Law Department, which is primarily responsible for handling litigations by co-ordinating with the concerned

departments and panel counsel. On these grounds, the appellant has prayed that this Tribunal set aside the order directing payment of delay compensation amounting to Rs.12,43,792/- together with interest thereon. Hence, among other grounds, the learned Counsel for the appellant argued before this Tribunal that the matter be remanded to the Authority so as to afford an opportunity to the appellant to put-forth its contention that, even on merits, there was no delay on its part in completion of the project.

18. On perusal of the interim order dated 03.11.2023 and the impugned order dated 13.02.2025, it is evident that the Authority has specifically observed that, despite affording sufficient opportunities, the appellant failed to put forth its grievance and did not evince any interest in participating in the proceedings by filing Statement of Objections or by producing documents, if any. As discussed earlier, it is the contention of the appellant that no notice, as mandated under Rule 29 of the K-RERD Rules, 2017 was issued to it. It is further contended that the e-mails/notices were

directly addressed to the Commissioner's Secretariat, which deals only with administrative matters and that the said department is not sensitized to Court procedures.

19. Now it is evident that, owing to the non-appearance of the appellant before the Authority, the impugned order came to be passed solely on the basis of the contentions urged by the allottee, coupled with the memo of calculation submitted by him. On perusal of the impugned order, there are no detailed particulars indicating how and in what manner the appellant is liable to pay the amount awarded under the impugned order. In view of the aforesaid factual matrix and in the interest of justice and equity, so as to afford one more opportunity to the appellant to defend the claim, the only course left open to this Tribunal is to set aside the impugned order and remand the matter for fresh disposal.

20. Another aspect that requires consideration is that the interim order dated 03.11.2023 passed by the Authority, directing the appellant to register the project under Section

3 of the RERA Act, 2016 within 02 weeks from the date of said order, is still in force and the said order has not been challenged by the appellant.

21. The averments made in paragraph-4 (viii) of the Memorandum of Appeal are relevant for the purpose of consideration of the present matter. Hence, the same is reproduced hereunder:

“The appellant respectfully submits that an Interim Order dated 03.11.2023 was passed by the Authority, directing the appellant to register the project “Arkavathy Layout” under Section 3 of the Real Estate (Regulation and Development) Act, 2016, within two weeks from the date of the order. However, the appellant was unaware of this order, as all the communications/notices issued by this Hon’ble Authority was addressed to the e-mail of the Commissioner’s Secretariat and not the Law Department.”

22. It is now clear that at the time of preferring the present appeal, the appellant was fully aware of the interim order dated 03.11.2023. Though, at the inception of this Appeal, this Tribunal granted an order of stay against the

impugned order, the interim order dated 03.11.2023 is not subject matter of the present Appeal and there is no order of stay operating against the said order dated 03.11.2023. As such, it was bounden duty of the appellant to register the project, as directed under the interim order dated 03.11.2023. In such circumstances, if the appellant failed to register the project in compliance with the said interim order, it would certainly be liable to face penalty proceedings under Section 59 (1) of the Act. However, considering nature of functions discharged by the appellant, this Tribunal deems it expedient to afford one more opportunity to the appellant to register the project, as contemplated under Section 3 of the Act, within 14 days from the date of this order. In default thereof, the Authority is at liberty to initiate penalty proceedings against the appellant, as stated in the operative portion of the impugned order. With these observations, point No.(ii) is answered as per findings and proceed to pass the following:

ORDER

- (a) The appeal is allowed in part;
- (b) The impugned order dated 13.02.2025 passed by the 2nd Respondent-RERA in Complaint No. No.CMP/UR/201029/0006977, directing the appellant to pay delay period interest of Rs.12,43,792/- together with future interest from 20.03.2024 till the realisation is hereby set aside;
- (c) As observed in the body of this judgment, one more opportunity is afforded to the appellant to get the project registered under Section 3 of the RERA Act, 2016 within 14 days from the date of this order. In default thereof, order at serial No.1 of the operative portion of the impugned judgment shall stand confirmed, thereby permitting the Authority to initiate penalty proceedings in accordance with law;
- (d) The matter is remitted to the Authority with a direction to afford one more opportunity to both parties to put forth their contentions with regard to the delay period interest and thereafter to dispose of the matter within 60

days from the date of communication of this order, uninfluenced by any of the findings made in this judgment;

- (e) Since the appellant as well as the first respondent had entered appearance in this appeal, they are directed to appear before the RERA on 27.07.2026, without expecting further notice from the RERA;
- (f) In the event, if there is no sitting of RERA on 27.07.2026, the matter may be taken on the immediate next sitting day;
- (g) In view of disposal of the main appeal, pending I.As., if any, shall stand disposed of, as they do not survive for consideration;
- (h) 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/-
(Ms. JUSTICE J.M. KHAZI)
HON'BLE CHAIRPERSON

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