

IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU

DATED THIS THE 28th DAY OF SEPTEMBER, 2021

PRESENT

HON'BLE SRI B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL NO. (K-REAT) 45/2021

BETWEEN:

M/S Adarsh Developers ,
A partnership firm, having its
Registered office at
No.10, Vittal Mallya Road,
Bengaluru-560 001
Represented by its partner
– Mr. B.M.Karunesh, S/O Late Madaiah,
Aged about 52 years,

...APPELLANT

(By Sri. Hegde Prakash and Associates Advocate)

AND

1. The Adjudicating Officer,
The Karnataka Real Estate
Regulatory Authority,
Second Floor, Silver Jubilee Block,
Unity Building, CSI compound,
3rd Cross, Mission Road,
Bengaluru-560 027.

2. Chidambar Dixit,
Age about 52 years,
R/O # 24, B-2, Akkamahadevi Road,
P.J.Extension,
Davanagere-577002

..RESPONDENTS

(R-1-RERA –served un-represented
By Sri.Vishwajith Sadananda, Adv., for R-2)



RERA-3050



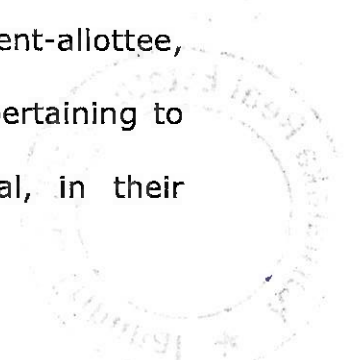
This Appeal is filed under Section 44 (2) of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal praying to call for the records and also praying to allow this appeal, set aside the order dated 15th September 2020 passed by the Adjudicating Officer, RERA, Bengaluru in CMP/191205/0004891.

This appeal, coming on for orders, this day, the Hon'ble Chairman delivered the following:

J U D G M E N T

The appellant, who is a developer-promoter of a real estate project known as "Adarsh Premia" has preferred this appeal challenging the impugned order dated 15th September 2020 passed by the Adjudicating Officer, RERA, Bengaluru in CMP/191205/0004891, directing the appellant to return a sum of Rs.60,00,000/- (rupees sixty lakhs only) to the 2nd respondent with interest at 9% P.A from respective dates of payments till 30.04.2017 and interest at the rate of 2% above the MCLR of SBI commencing from 1st May 2017 till realization of entire amount.

2. Sri. Hegde Prakash, learned counsel appearing for the appellant, Sri. B.M. Karunesh, managing partner of the appellant firm, Sri. Vishwajith Sadananda, learned counsel appearing for the 2nd respondent-allottee, Sri. Chidamber Ramanath Dixit-allottee who are all present in the Court submit that subsequent to filing of this appeal the appellant-promoter and 2nd respondent-allottee, after due deliberation and discussion of their dispute pertaining to Compliant No. CMP/191205/0004891 and this appeal, in their

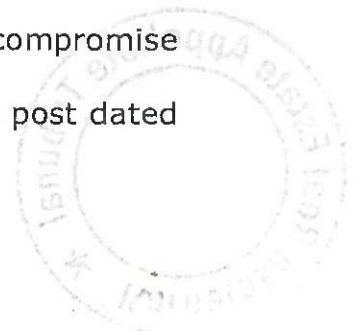


presence have got settled their dispute by reducing the terms of settlement into writing by way of filing a compromise petition filed under Order XXIII, Rule 3 of the Code of Civil Procedure signed by partner of the appellant company, respondent No.2 and learned counsel appearing for them.

3. The memorandum of compromise petition filed under Order XXIII, Rule 3 of the Code of Civil Procedure along with memo regarding the particulars of the payment schedule and cheque numbers issued by the appellant in favour of the 2nd respondent-allottee are taken on record and they are ordered to be treated as part and parcel of this order.

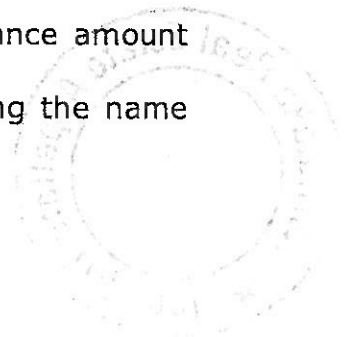
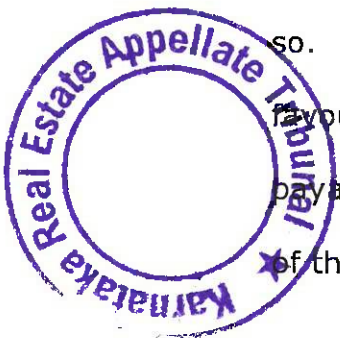
4. The terms of compromise petition are read over to the partner of the appellant company and 2nd Respondent-allottee who are present in the court, in the language known to them and they have stated that the settlement entered into between them is on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and pray the Tribunal that the appeal may be disposed of in terms of the compromise petition subject to encashment of the cheques issued by the appellant in favour of the 2nd respondent-allottee.

5. As per the terms and conditions of the compromise petition the appellant-promoter has handed over fifteen post dated



cheque to the 2nd respondent and the 2nd respondent-allottee acknowledged for having received those cheques in the open Court.

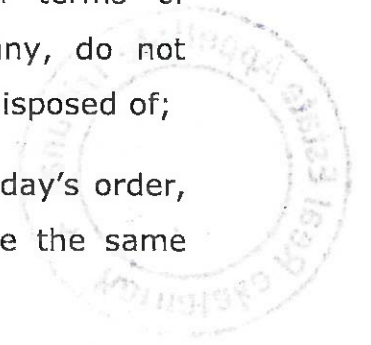
6. The learned counsel appearing for R-2/allottee on instructions from the 2nd respondent/allottee, who is present in the court submits that correct name of respondent No.2 is Chidamber Ramanath Dixit. Ramnath is his father name and Dixit is his family name. Except in his bank account and passbook, where his name is shown as Chidamber Ramanath Dixit, but in his other documents such as pan-card and Aadhar card and also in the agreement for sale and supplementary sale agreement entered with the appellant/promoter his name is appeared as Chidamber R Dixit. Further he signs as Chidamber R Dixit. Hence, he submitted that at the time of issuing cheque/DD by the Registry of this Tribunal may be directed to issue the cheque/DD showing his name as Chidamber Ramanath Dixit as shown in his bank account and the passbook so as to enable him to have the cheques to be issued towards release of the amount encashed. The learned counsel appearing for the appellant and the appellant, who are present in the court submit that they have no objection for doing so. Further appellant has issued 15(Fifteen) post dated cheques in favour of the 2nd respondent towards payment of balance amount payable as per the terms of compromise by mentioning the name of the 2nd respondent as Chidamber Ramanath Dixit.



7. In view of the above submissions and the terms of the Compromise Petition, we pass the following:

ORDER

- 1) Appeal stands allowed in terms of the Compromise Petition filed in the court today;
- 2) The Compromise Petition filed along with the memo filed today is ordered to be treated as part and parcel of the order;
- 3) The Registry is hereby directed to release the amount deposited by the appellant with this Tribunal in part compliance of proviso to Section 43(5) of the Act in favour of the 2nd respondent/allottee along with interest accrued if any by issuing Banker's cheque/DD by mentioning his name as Chidamber Ramanath Dixit.
- 4) Appellant-promoter and 2nd respondent-allottee shall strictly adhere to the terms of compromise and discharge their respective obligations incorporated in the Compromise Petition in order to give effect to the compromise and to avoid unnecessary litigation in future;
- 5) In view of disposal of the Appeal in terms of Compromise Petition, pending I.As, if any, do not survive for consideration and shall stand disposed of;
- 6) Registry, while issuing certified copy of today's order, at the instance of the parties, shall issue the same



along with the copy of the Compromise Petition and memo annexed thereto;

- 7) Registry is hereby directed to comply with the provision of Section 44(4) of the Act and to return the record to RERA, if received.


No order as to costs.

Sd/-
HON'BLE CHAIRMAN

Sd/-
HON'BLE JUDICIAL MEMBER

Sd/-
HON'BLE ADMINISTRATIVE MEMBER

"TRUE COPY"


SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU - 560 077





39

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

IA No.11

BETWEEN

M/s Adarsh Developers,

A partnership firm, having its
Registered Office at No. 10, Vittal Mallya Road,
Bengaluru- 560001, represented by its
Partner, Mr. B. M. Karunesh,
S/o. Late Madaiah

.....APPLICANT No.1/APPELLANT

AND

CHIDAMBAR DIXIT, (D)

Age about 52 years,
R/o. # 24, B-2,
Akkamahadevi Road,
P.J. Extension,
Davanagere- 560027

.... APPLICANT No.2/RESPONDENT No.2

IN

**Appeal No.45/2021
(IN FR No.172/2020)**

BETWEEN

M/s Adarsh Developers,

...APPELLANT

AND

The Adjudicating Officer;
and Sri CHIDAMBAR DIXIT, **...RESPONDENTS**

APPLICATION/ COMPROMISE PETITION

**U/S. 44 (3) of the RERA Act, 2016 R/W Order-XX111 Rule-3, OF
THE CODE OF CIVIL PROCEDURE**

The Appellant and the Respondent No.2 together in the above
appeal jointly beg to submit as under:

1. Whereas the Appellant has got instituted the above appeal
challenging the impugned order, dated 15-09-2020 passed by the
respondent No.1 in Complaint No. CMP/191205/0004891, certified

For ADARSH DEVELOPERS

FILED IN THE COURT
ON: 28.09.2021

PARTNER



copy of which is produced ~~here~~ with ^{the appeal memo} and marked as ANNEXURE-
A, directing the Appellant to refund some amount and interest to
the respondent No.2 amongst consequential reliefs.

2. Whereas the Appellant has deposited an amount of **Rs.37,57,695/-**
(Rupees thirty seven lakhs fifty seven thousand and six hundred
ninety-five) only, being transferred to the account No. Account
Number.39095244926 with STATE BANK OF INDIA IFSC CODE
SBIN0060133 as prescribed by the Hon'ble Appellate Tribunal,
vide UTR no. HDFCR52021071452811229.
3. The appellant and the Respondent No.2 have decided to amicably
settle all the disputes amongst them in the interest of each other
and thereby, put an end to the pending litigation. Accordingly, the
Appellant and the Respondent No.2 here unto mutually and
reciprocally offered and agreed to have the settlement of their said
dispute with the specific terms mentioned hereunder.

TERMS AND CONDITIONS:

- 1) In terms of this settlement of dispute the appellant shall refund Rs.
2,25,70,549/- (Rupees Two Crores Twenty Five Lakhs Seventy
Thousand Five Hundred and Forty Nine only) to the Respondent
No.2 towards amount paid by him for the purpose of acquiring the
apartment booked by him in the project of "ADARSH PREMIA"
undertaken by the appellant (which is inclusive of interest at the
rate 7.5% agreed to be paid on amount received by the
Respondent No.2), towards full and final amount of settlement and
payment of the dispute thereof, payment of which shall be as
follows:-
 - i) A sum of **Rs.37,57,695/-** (Rupees thirty seven lakhs fifty seven
thousand and six hundred ninety-five) only, which has been
deposited with the Hon'ble Appellate Tribunal in the matter of
preferring the above appeal shall be withdrawn and repaid to the



For ADARSH DEVELOPERS

PARTNER

Respondent No.2 on allowing the compromise petition herein. The appellant has no-objection to such withdrawal by Respondent No.2 and shall cooperate to sign any such documents required for such withdrawal;

ii) Remaining amount of the **Rs.1,88,12,854/-** (Rupees one crore eighty-eight lakhs twelve thousand eight hundred fifty four) shall be repaid by the appellant to the Respondent No.2 in 15 equal monthly installment of Rs.12,54,191/- (Rupees Twelve Lakhs Fifty Four Thousand One Hundred and Ninety One only) commencing from Fifteenth October, Two thousand twenty one (15-10-2021). The Appellant shall handover the Respondent No.2 with the requisite post-dated cheques for all 15 installments simultaneous with the execution of this compromise petition. The details of the 15 post dated cheques are as hereunder.

Sl No.	In favour of	Cheque number	Dated	amount
1.	Chidamber Ramanath Dixit	003301	15-10-2021	Rs. 12,54,191/-
2.	Chidamber Ramanath Dixit	003302	15-11-2021	Rs. 12,54,191/-
3.	Chidamber Ramanath Dixit	003303	15-12-2021	Rs. 12,54,191/-
4.	Chidamber Ramanath Dixit	003304	15-01-2022	Rs. 12,54,191/-
5.	Chidamber Ramanath Dixit	003305	15-02-2022	Rs. 12,54,191/-
6.	Chidamber Ramanath Dixit	003306	15-03-2022	Rs. 12,54,191/-
7.	Chidamber Ramanath Dixit	003307	15-04-2022	Rs. 12,54,191/-
8.	Chidamber Ramanath Dixit	003308	15-05-2022	Rs. 12,54,191/-
9.	Chidamber Ramanath Dixit	003309	15-06-2022	Rs. 12,54,191/-
10.	Chidamber Ramanath Dixit	003310	15-07-2022	Rs. 12,54,191/-
11.	Chidamber Ramanath Dixit	003311	15-08-2022	Rs. 12,54,191/-
12.	Chidamber Ramanath Dixit	003312	15-09-2022	Rs. 12,54,191/-
13.	Chidamber Ramanath Dixit	003313	15-10-2022	Rs. 12,54,191/-
14.	Chidamber Ramanath Dixit	003314	15-11-2022	Rs. 12,54,191/-
15.	Chidamber Ramanath Dixit	003315	15-12-2022	Rs. 12,54,191/-

All cheques are drawn on HDFC-1852 Bank, Kasturba Road Branch, Bengaluru- 560001

For ADARSH DEVELOPERS

PARTNER



2) That the repayment terms as described above have been agreed in the interest of both the parties. If the Appellant fails to repay the amount of settlement in full and as per the schedule set out above, the Respondent No.2 will be entitled to recover the un-repaid (balance) amount from the appellant along with interest on the amount of dues thereof at the rate of 9% per annum in accordance with the remedies available to him under this petition and/or applicable law.

3) That the Appellant shall not, without the consent of the Respondent No.2, alienate/transfer the apartment booked by the Respondent No.2 until the entire amount of settlement mentioned hereinabove is repaid.

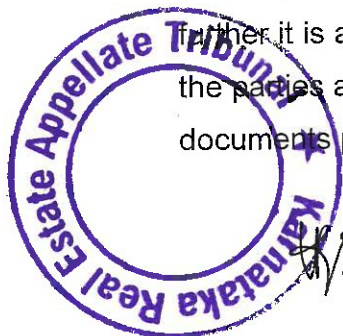
4) Provided that the Appellant can search for new purchaser for the said apartment and for the said purpose, it can enter into such agreement for sale getting enable to pay the dues of the Respondent No.2 out of the said settlement amount.

5) On making the repayment of entire amount as stated above, all of the claims/demands of Respondent No.2 against the Appellant, including the claim of prohibitory order in respect of the property of the apartment booked by him will be waived. The Respondent No. 2 had approached bank for a house loan for purchase of the apartment constructed by the Appellant and the respondent No. 2 had further agreed to repay the loan borrowed from the bank and the Appellant shall not be held liable for the loan borrowed by the Respondent No. 2. That the Appellant and the Respondent No.2 have specifically agreed and conceded that the settlement under this compromise has been arrived at their freewill and consent and in accordance with the settlement effected under this compromise petition, they will not claim anything else from each other; and

Further it is agreed that a cancellation agreement shall be signed by the parties and the Respondent No. 2 shall handover all the original documents pertaining to the project.

work in 15th April 2022

PARTNER



RS

RS

It is further submitted that, if this compromise petition is allowed no hardship and inconvenience would be caused to the parties of the above complaint or any other, as nothing is intended to be done against to the interest of any other parties. On the other hand, if this compromise petition is not allowed, it would cause great hardship, injustice and inconvenience to the Appellant, as well as the Respondent No.2. Moreover, if this compromise petition is allowed as prayed for, the same would helpful to both the side of parties.

5. In the above circumstances, the Appellant and the Respondent No.2, jointly seek the leave of this Hon'ble Authority to proceed with this joint compromise petition, seeking appropriate order in terms of the aforesaid settlement by taking note of this compromise petition on record, in the interest of justice and equity.

PRAYER

WHEREFORE, the Appellant and the Respondent No.2 herewith jointly, humbly and respectfully pray that, this Hon'ble Authority may kindly be pleased to pass the order, allowing this compromise petition and consequently; to pass such appropriate order/s in the above suit in pursuance of this compromise petition, in the ends of justice and equity,
for the kindness of which the Appellant and the Respondent No.2 would remain obliged.

ADVOCATE FOR APPELLANT

For ADARSH DEVELOPERS

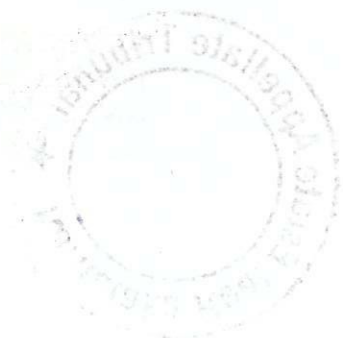
PARTNER

APPELLANT

ADVOCATE FOR RESPONDENT NO.2

RESPONDENT NO.2

PLACE: BENGALURU
DATE: 28-09-2021



IN THE REAL ESTATE APPELLATE TRIBUNAL,
AT BENGALURU

IA No.II

IN

Appeal No.45/2021
(IN FR No.172/2020)

BETWEEN

M/s Adarsh Developers,

...APPELLANT

AND

The Adjudicating Officer;
and Sri Chidambar Dixit,

...RESPONDENTS

VERIFYING AFFIDAVIT

Herein I, B. M. Karunesh, S/o. Late Madaiah, age about 52 years a partner of M/s Adarsh Developers, having its Registered Office at No. 10, Vittal Mallya Road, Bengaluru- 560001 do hereby solemnly affirm and state on oath as hereunder:

1. I state and submit, I am an Authorized signatory of the Appellant in the above appeal. I know the facts and circumstances of the case and competent to swear the contents of this affidavit.
2. I state and submit, I have taken steps to file accompanying compromise petition along with the respondent No.2 in the above appeal and accordingly, I hereby verify and declare that the statements made at paragraphs of the accompanying compromise petition are true and correct to the best of my knowledge, information and belief and I believe them to be true and correct.

I, B. M. Karunesh, S/o. Late Madaiah, the deponent above named do hereby, verify and declare that what are stated above are true and correct to the best of my knowledge, information and belief.

IDENTIFIED BY ME



For ADARSH DEVELOPERS

PARTNER

DEPONENT

ADVOCATE
PLACE: BENGALURU
DATE: 28-09-2021
No. of Corrections:

SWORN TO BEFORE ME

28/9/2021
C. VENKATAPATHY
ADVOCATE & NOTARY
002, Crescent Heights Apartment
1st Cross, Snehaganagar, Amruthaballi
Sahakara Nagar (Post)
Bengaluru - 560092



IN THE REAL ESTATE APPELLATE TRIBUNAL,
AT BENGALURU

~~IA No. II~~ *RAE*
~~IN~~

Appeal No.45/2021
(IN FR No.172/2020)

BETWEEN

M/s Adarsh Developers,

...APPELLANT

AND

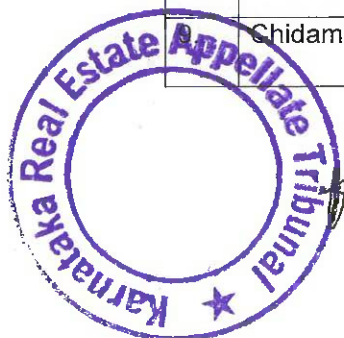
The Adjudicating Officer;
and Sri Chidambar Dixit,

...RESPONDENTS

MEMO

The appellant humbly submits as hereunder:
That in lieu of the terms of the compromise petition entered between the appellant and the respondent No. 2, the appellant has agreed to accept 15 post dated cheques towards monthly installments of the outstanding amounts of Rs. 1,88,12,865/- (Rupees One Crore Eighty Eight Lakhs Twelve Thousand Eight Hundred and Sixty Five only). Hence the appellant is herewith tendering the post dated cheques as detailed hereinbelow:

Sl No.	In favour of	Cheque number	Dated	amount
1.	Chidamber Ramanath Dixit	003301	15-10-2021	Rs. 12,54,191/-
2.	Chidamber Ramanath Dixit	003302	15-11-2021	Rs. 12,54,191/-
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8.	Chidamber Ramanath Dixit	003308	15-05-2022	Rs. 12,54,191/-
	Chidamber Ramanath Dixit	003309	15-06-2022	Rs. 12,54,191/-



For ADARSH DEVELOPERS

[Signature]
PARTNER



10.	Chidamber Ramanath Dixit	003310	15-07-2022	Rs. 12,54,191/-
11.	Chidamber Ramanath Dixit	003311	15-08-2022	Rs. 12,54,191/-
12.	Chidamber Ramanath Dixit	003312	15-09-2022	Rs. 12,54,191/-
13.	Chidamber Ramanath Dixit	003313	15-10-2022	Rs. 12,54,191/-
14.	Chidamber Ramanath Dixit	003314	15-11-2022	Rs. 12,54,191/-
15.	Chidamber Ramanath Dixit	003315	15-12-2022	Rs. 12,54,191/-

All cheques are drawn on HDFC0000009, Kasturba Road, Bangalore.


ADVOCATE FOR APPELLANT

For ADARSH DEVELOPERS


PARTNER
APPELLANT


ADVOCATE FOR RESPONDENT No. 2


RESPONDENT No. 2

PLACE: BANGALORE
DATE: 28-09-2021

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SECTION OFFICER
KARNATAKA REAL ESTATE
APPELLATE TRIBUNAL
BENGALURU - 560 027
11/10/21

