

**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)

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**

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