BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

(Under the Real Estate Regulation And Development Act 2016)

Wednesday the 8th day of June 2022

Coram : Ms.Leena Nair, Administrative Member
Mr.R.Padmanabhan, Judicial Member

Appeal No. 31 of 2021

Emaar India Ltd.,
(Formerly known as M/s.Emaar MGF Land Ltd.,)
Rep. by its Authorised Signatory
Mr.S.P.Surendranath Karthik ... Appellant

-Vs-

Adnan .... Respondent

This appeal was taken on file on 15.03.2021. At one stage as requested by both sides the matter was referred to mediation centre on 27.10.2021 and finally came up on 08.06.2022 in the presence of M/s.KNS Law Chambers, Kaushik N Sharma, J.Jeya Sabare Eswaran, Prakash Venkataramani, Ramalingam.VA, Srinithi.R,, Counsels for the appellant and M/s. Nathan And Associates, Mr.Devasenathipathi, Counsel for the

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respondent. Both parties filed settlement agreement and hearing both side counsels through video conferencing, this Tribunal delivered the following:

ORDER

The brief facts of the case are as follows:

1. The respondent/allottee booked a flat with the appellant/promoter in their project named "Avenues at Esplanade" at Tondiarpet, Chennai. The total cost of construction of the flat is fixed at Rs.41,19,167/. The respondent/allottee paid a sum of Rs.40,27,075/- to the appellant/promoter on various dates. Subsequently the appellant/promoter failed to deliver possession as per the construction agreement. In spite of the notice issued by the respondent/allottee, the appellant/promoter failed to deliver possession as per the construction agreement. Hence the respondent/allottee preferred application for compensation in C.C.P.No.110/2019 on the file of Adjudicating Officer attached to the Tamil Nadu Real Estate Regulatory Authority, Chennai.

2. The learned Adjudicating Officer passed exparte order against the appellant/promoter on 03.01.2020 directing the appellant/builder to refund the entire advance amount of Rs.40,27,075/- with interest at 10.15% p.a. to be calculated from the dates of respective payments. The learned adjudicating officer also awarded Rs.2,00,000/- as compensation for mental agony and hardship inconvenience caused to the

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respondent/allottee. Further Rs.20,000/- was also awarded towards the cost of litigation incurred by the respondent/allottee. One month time was granted for the payment of the above said amounts.

3. Aggrieved over the exparte order passed by the learned Adjudicating officer in C.C.P.No.110/2019 dated 03.01.2020 the appellant/promoter preferred this appeal before this Tribunal.

4. As per the order of this Tribunal passed in M.A.No.38/2021 the appellant/promoter deposited a sum of Rs.23,03,839/- as per section 43(5) of the Real Estate (Regulation and Development) Act, 2016 being the 30% of all the amounts awarded by the Adjudicating Officer.

5. Later when the matter is pending for arguments at the request made by both the counsels on record the matter was referred to the mediation centre, Chennai for settlement u/s 89 of CPC on 27.10.2021.

6. The matter was amicably settled between the parties at the mediation centre. The settlement agreement duly signed by both the parties and their counsels was also received from the mediation centre, Chennai. The same was perused by us and satisfied with the terms of settlement agreement. Today at the virtual hearing both side counsels appeared and requested to record the settlement agreement. They also agreed to dispose the appeal in terms of the agreement.

7. The settlement agreement dated 18.5.2022 is hereby recorded. The appeal is disposed in terms of the settlement agreement. The original

of the settlement agreement received from the mediation centre shall form part of this Order. Appeal disposed accordingly.

Connected Miscellaneous Applications pending if any are closed.

This Order is dictated to the Stenographer and typed in the computer by her, corrected and pronounced by us in the open court on 08th Day of June 2022.

Sd/- XXXX
ADMN. MEMBER

Sd/- XXXX
JUDL. MEMBER

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தமிழ்நாடு तमिलनाडु TAMIL NADU 18/05/2022 06AC 993407

Emaar India Ltd

R. SHANMUGAVALLI
STAMP VENDOR L/No. 1090/B4/CH(C) 2021-
62/107, Rama Street, Nungambakkam.
Chennai - 600 034. Mobile: 9445361496

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SETTLEMENT AGREEMENT

This **SETTLEMENT AGREEMENT** ("**Agreement**") is made and executed at **Chennai** on this 18th day of May 2022, by and between:

Mr. Adnan, S/o MR. Jaffarus Sadik, R/O, No.31, Armenian Street 3rd Floor, Mubarak Manzil, Chennai – 600001, Tamilnadu, India(hereinafter referred to as the "**Allottee**") which term shall include his/her legal heirs, successors, executants, legal representatives, nominees, assignees, of the **ONE PART**.

AND

Emaar India Limited (CIN No. U45201DL2005PLC133161 ,PAN No. AABCE4308B), (*formerly known as Emaar MGF Land Limited*), a company incorporated under the Companies Act, 1956 and existing under the Companies Act, 2013, having its registered office at 306-308, 3rd Floor, Square One, Saket, New Delhi – 110 017, and having its corporate office at Emaar Business Park, Mehrauli Gurugram Road, Sikanderpur Chowk, Sector – 28,Gurugram (Gurgaon) 122002, Haryana, acting through its authorized representative **Mr. SP.Surendranath Karthik** authorized vide Board Resolution dated 25.08.2021, hereinafter referred to as the "**Company**", which term or expression shall, unless it be repugnant to the subject, context or meaning thereof, mean and be deemed to mean and include its successors in interest, administrators, executors, nominees and permitted assigns etc. of the **SECOND PART;**

For EMAAR INDIA LIMITED

Authorised Signatory

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The **"Allottee"**and the **"Company"** may also be collectively referred to as **"Parties"** and individually as **"Party"**, as the context may require.

WHEREAS:

A. The Company is engaged in the business of real estate development and is developing a Group Housing Complex under the name and style of **"The Avenues at Esplanade"** situated at No.75, New Vaidyanathan Street, Tondairpet, Chennai 600 081 (hereinafter referred to as **"Project")** under and by virtue of the necessary and requisite licenses, permissions and approvals granted by the Chennai Metropolitan Development Authority.

B. The Allottee is allotted a Unit bearing No.AVN-T15-F03-302/D5a(hereinafter referred to as "**Unit**")in the Projectand the Parties entered into the Agreement for Sale dated25.03.2013and Construction Agreementdated 25.03.2013(collectively referred to as the **"Agreements"**) for the above said Unit setting out the terms and conditions for the purchase of the Unit. Further to the execution of Agreements the Allottee has paid a sum of Rs.43,71,292/- [Rupees Fourty Three Lakhs Seventy-One Thousand Two Hundred and Ninety-Two only] as against the total value of Rs. 53,55,301/- for the Said Unit. The principal dues [Rs.9,84,011] and delayed payment charges [DPC] [Rs, 1,057,881] dues to the Company as on 28-Feb-2022 amounts to sum of Rs. 2,041,892 /-[Rupees Twenty forty one thousands eight hundred ninety two only]. The above detailed dues are after crediting Compensation as per Agreements and a detailed Statement of Account [SOA] is annexed as Annexure A.

C. That subsequent to the execution of the Agreements between the Parties, certain grievances/differences/disputes arose on the part of the Allottee which resulted into initiation and/or filing of certain legal proceedings and/or other proceedings between the Parties hereto, details whereof are set out hereunder:

S. No.	Title	Court /Authority /Tribunal	Case No. / Complaint No.
1.	Adnan vs. Emaar MGF Land Ltd.	Tamilnadu Real Estate Regulatory Authority, Chennai("TNRERA")	CPNo.110/2019
2.	Adnan vs. Emaar India Ltd. .	Tamilnadu Real Estate Regulatory Authority, Chennai("TNRERA")	E.P No. 12 of 2021 in CP No. 110 of 2019.
3.	Emaar India Limited Vs. Adnan	Tamilnadu Real Estate Appellate Tribunal, Chennai("TNREAT")	Appeal A.S No.31 of 2021 in CP No.110 of 2019

hereinafter collectively referred to as the "**Disputes**". The said Dispute arepending adjudication before the respective forums.

D. The Company has completed the project and handed over the units in the project to customers and due to reasons best known to the Allottee, the above Disputes were initiated and the parties have now agreed to settle the above Disputes amicably.

E. Notwithstanding any other contract, laws, statute, applicable laws in force, the Parties have now mutually agreed to amicably resolve and settle all the issues, grievances, concerns whatsoever of the Allottee in relation to the Said Unit and the Said Project and as against the Company or otherwise. The Allottee has / have agreed not to proceed further with and pursue any type of legal proceedings and / or other proceedings against the Company its subsidiary(ies) / director(s) / affiliate(s) / employee(s) / agent(s) / promoter(s) etc., concerning the Said Unit and/or the Said Project before any forum / tribunal / authority / court / competent authority / statutory authority / Quasi-judicial authority / Government agency etc., and accordingly the Parties have arrived at an arrangement and understanding terms whereof are being reduced to and recorded herein in writing.

Adnan

Tamil Nadu Mediation and Conciliation Centre
26 MAY 2022

For EMAAR INDIA LIMITED

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F. Each Party confirms to the other that it has truly and faithfully disclosed each and every dispute(s), difference(s), issue(s), concern(s) etc., between them so that each Party has consciously considered the same while arriving at the amicable resolution on the terms and conditions as agreed in this Agreement with regard to all the issues and concerns whatsoever of the Allottee and / or anyone claimingthrough or under the Allottee with regard to the Said Unit and the Said Project.

G. During the course of discussions between the parties, it has been decided and agreed that the Allottee shall pay an amount of **Rs.11,00,000/- (Rupees Eleven Lakhs Only)** to the Company towards the following dues with respect to the Said Unit:

i) Principal dues outstanding as on 28- Feb-2022 amounting to sum of Rs.9,84,011/- [Rupees Nine Lakhs Eighty-Four Thousand and Eleven only]

ii) Delayed Payment charges [DPC]of Rs. 1,15,989/- [Rupees One Lakhs Fifteen Thousand Nine Hundred and Eighty-Nine only].

The above said amount is paid by the Allottee to the Company on 20th day April 2022 by the following ways;

a. Cheque No.000186 dated 16.04.2022 for a sum of Rs.6,00,000/- (Rupees Six Lakhs Only) to and in favor of **Emaar India Limited**.

b. Cheque No.000001 dated 16.04.2022 for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) to and in favor of **Emaar India Limited**.

The aforesaid amounts are duly credited to the account of the Company.

Further the Allottee shall pay the maintenance dues till date with respect to said unit directly to the Avenues Association and shall produce No due certificate from the Association to the Company to that effect. It is specially agreed between the parties that the Company shall waive the following dues with respect to the said unit:

i) Delayed Payment Charges (DPC) amounting Rs.8,80,573
ii) Transfer charges of Rs.56,499/- in case the Allotee wishes to register the unit in favour of any of its Nominee

H. The Company shall on receipt of above said amount of Rs.11,00,000/- (Rupees Eleven Lakhs only) and No Due Certificate from the Avenues Association, shall duly register the Said Unit in favour of the Allottee or its nominees and handover physical possession of the Said Unit **"As it where is it basis"** to the Allotees or its Nominee.

I. It is specifically agreed between the parties that Company is not liable to carry out any repair works or improvements with respect to the Said Unit in whatsoever nature.

J. It is further agreed between the parties that Company is not liable to pay any taxes including property tax with respect to the Said Unit.

K. The Parties have agreed to record the terms of Settlement in the manner appearing hereinafter.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN, THE PARTIES HERETO DO HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. That the Allotteeshall pay an amount of **Rs.11,00,000/- (Rupees Eleven Lakhs Only)** to the Company towards the following dues with respect to the Said Unit:

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Principal Due to the Company as per **Annexure A.**	Rs.9,84,011/- [Rupees Nine Lakhs Eighty Four Thousand and Eleven only]
Part of Delayed Payment Charges [DPC] as per **Annexure A.**	Rs. 1,15,989/- [Rupees One Lakhs Fifteen Thousand Nine Hundred and Eighty Nine only].

The above said amount is paid by the Allottee to the Company on 20th day April 2022 by way of Cheques to and in favor of **Emaar India Limited**. The aforesaid amounts are duly credited to the account of the Company.

Further the Allottee shall pay maintenance dues till date with respect to said unit directly to the Avenues Association and shall produce No due certificate from the Association to the Company to that effect. It is specially agrees between the parties that the Company shall waive DPC amounting Rs.8,80,573 and shall also waive transfer charges of Rs.56,499/- in case the Allotee wishes to register the unit in favour of any of its Nominee.

2. The Parties herein agree that the aforesaid amount shall be treated as full and final settlement between the parties and both parties shall not have any further financial obligations than whatever has been agreed under this agreement.

3. The Allottee herein consents to file this Agreement in all the aforesaid Judicial / Quasi Judicial forums for the purpose of withdrawal and closure of the pending applications.

4. That upon execution of the Settlement Agreement, the parties specifically agree that Company is not liable to carry out any repair works or improvements with respect to the Said Unit in whatsoever nature and its further agreed between the parties that Company is not liable to pay any taxes, including property tax dues with respect to the Said Unit.

5. That upon execution of this Agreement and receipt of the amount thereafter by the Company and No Due Certificate from the Avenues Association, the Company shall duly register the Said Unit in favour of the Allottee or its nominees and handover physical possession of the Said Unit **"As it where is it basis"** to the Allotees or its Nominee.

6. That upon execution of the Settlement Agreement and receipt of the amount thereafter by the Company, the Allottee shall not be left with any claims, demands, benefits, compensation, etc., of any nature and extent whatsoever in relation to the Said Unit and/or the Said Project against the Company and all its directors, officers, employees, agents, promoter(s) etc. and / or otherwise, and henceforth, the Allottee shall not raise any other / further claim, demand, benefits, compensation, etc. of any nature whatsoever before any forum, legal or otherwise.

7. That upon execution of this Agreement, the Allottee / or any other authorized person of Allottee completely releases and forever discharges the Company and all its directors, officers, employees, agents, promoters, etc., of and from any and all past, present and future claims, demands, obligations, actions, causes of action, rights, etc. related to any legal or other proceedings and / or any other claims, demands, etc. on account of, and/or in any way concerning the allotment of the Said Unit, the Agreements, and / or otherwise.

8. That in view of the present settlement, the Allottee unconditionally and irrevocably undertakes to withdraw the following matter filed by them and all other legal proceedings whatsoever qua the Said Unit and the Said Project, and agrees to execute all requisite and appropriate papers, documents as may be required and as advised by the Company to give effect to the same.

S. No.	Title	Court /Authority /Tribunal	Case No. / Complaint No.
1.	Adnan vs. Emaar MGF Land Ltd.	Tamilnadu Real Estate Regulatory Authority, Chennai("TNRERA")	CP No.110/2019

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Authorised Signatory

2.	Adnan vs. Emaar India Ltd. .	Tamilnadu Real Estate Regulatory Authority, Chennai("TNRERA")	E.P No. 12 of 2021 in CP No. 110 of 2019.
3.	Emaar India Limited Vs. Adnan	Tamilnadu Real Estate Appellate Tribunal, Chennai("TNREAT")	Appeal A.S No.31 of 2021 in CP No.110 of 2019

9. That the Allottee have been left with no subsisting/ surviving grievances, claims or any demands of whatsoever nature against the Company and/or any of its officers, employees, agents etc. All concerns, claims and grievances raised stand redressed to entire satisfaction of the Allottee and nothing stands pending against the Company andor any of its directors, officers, employees, agents, etc., in any manner whatsoever.

10. That the Allottee agrees, confirms and undertakes that the Allottee shall not file/ initiate/ pursue any complaint (either civil or criminal)/ legal proceedings before any court/ commission/ forum/ tribunal or authority including any complaint before any competent authority / statutory authority / Quasi-judicial authority / Government agency etc. and / or issue any legal notice/demand notice in relation thereto and shall not pursue any legal remedies or claim any damages, costs, compensation etc. from/ against the Company, its director(s) / affiliate(s) / employee(s) / agent(s) / promoter(s) and other connected thereto in respect of the said Unit or Said Project, in view of the settlement arrived at in terms of this Agreement.That the Allottee further agrees, confirms and undertakes that the Allottee shall neither challenge and / or raise any further claims, demands, dispute, objection etc. in relation to and matters arising out of this Agreement and / or the Said Unit and / or the Said Project and / or the Company, their respective director(s) / affiliate(s) / employee(s) / agent(s) / promoter(s) etc., or otherwise.The Allottee hereby declares and confirms that no complaint/appeal or other proceeding before any tribunal, authority, commission, forum, court whether civil and/or criminal has been / shall be filed and/or initiated and/or proceeded with further with respect to the Said Unit and the Said Project. Any and all legal notices / demand notices /communications / complaints or other proceeding before any tribunal, authority, commission, forum, court whether civil and/or criminal by the Allottee with regard to/ in relation to and matters arising out of this Agreement and/or the Said Unit and / or the Said Project and /or the Company, their respective director(s) / affiliate(s) / employee(s) / agent(s) / promoter(s) etc. or otherwise stands withdrawn and the Allottee agrees and undertakes that the same shall not be pursued further. The Allottee shall take all requisite steps in this regard including without limiting to the execution of necessary applications for the withdrawal/ rejection.

11. That the Allottee further confirms and agrees to give statement before the forum / tribunal / authority / court / competent authority / statutory authority / Quasi-judicial authority / Government agency etc. as may be required, to give effect to the understanding recorded herein.

12. That both the Parties categorically agree and undertake to respect the terms and conditions of this Agreement by keeping the same confidential, and the Allottee further assures the Company not to divulge or dissimilate contents of this Settlement Agreement to any third party. The Parties shall not, either during or after the tenure of this Agreement, disclose the same except so far as is necessary for the performance of their obligations under this Agreement and / or sought by statutory / competent authority. In such an event, Parties are under contractual obligation to keep each other informed in writing prior to disclosure of such information sought by statutory/ competent authority.

13. That the Parties acknowledge and confirm that this Agreement shall be irrevocable in nature and is made with free will, consent and without any coercion, undue influence, threat etc. and is full and final and binding upon the Parties. That all claims, disputes, conflicts shall be finally considered as resolved for once and all with no complaint/ conflict pending in this regard.

Mediation and Conciliation Centre
26 MAY 2022

For EMAAR INDIA LIMITED

Authorised Signatory

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14. That the Parties hereby unconditionally acknowledge, confirm and admit that the said Agreement has been entered into and executed and further acted upon after fully understanding the contents thereof, the obligations of the respective Parties thereto and after fully knowing the legal impact and effect thereof and he / she / they will be duly bound by the terms and conditions thereof.

15. That the Allottee haveobtained independent advice and opinion from competent professionals, consultants and lawyers, and theyhave read and understood the entire contents of this Agreement and other related documents, and theyare fully aware of the meaning and effect of this Agreementand same shall be binding on both the Allottee. However, the Parties will have the rights to take any legal course of action if this Agreement is not fulfilled as per agreed terms herein.

16. This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof, and supersedes any prior oral or written agreements, commitments or understandings with respect to the matters provided for herein.

17. This Agreement is solely for the benefit of the Parties hereto, and no other person or entity shall have any right hereunder. This Agreement shall be binding on and shall be for the benefit of the Parties and their respective executors, administrators, personal representatives, heirs, successors and assigns.

18. That Recitals to this Agreement forms an integral part of this Agreement.

19. This Agreement shall be subject to the laws of India and any dispute arising under the terms of this Agreement shall be subject to the jurisdictional Courts where the Said Unit is situated.

20. That the Parties agree that they shall not take any steps contrary to the terms and conditions as agreed between the Parties in this Agreement and the Parties herein undertake to keep the terms of this Agreement confidential and this Agreement shall not be treated as a precedent.

21. That in no event shall any Party to this Agreement be entitled to assert any claim of any nature either financial or otherwise against the other except on the basis of the terms agreed in this Agreement or if anything done in breach / contravention with the terms of the Agreement.

22. That the arrangement and understanding so arrived at between the Parties in terms of this Agreement shall be limited to the subject matter and issues dealt with in this Agreement only.

23. That each party has the full legal power, competence and lawful authority to enter into, execute and deliver this Agreement and to perform the acts as contemplated under this Settlement Agreement.

IN WITNESS WHEREOF, the Parties have set and subscribed their hands to this Agreement on the day and year first hereinabove written.

Mr. Adnan

Allottee

Tamil Nadu Mediation and Conciliation Centre
26 MAY 2022
High Court, Madras

M/s. Emaar India Limited
For EMAAR INDIA LIMITED
Authorised Signatory
Through its Authorized Signatory
Mr. SP.Surendranath Karthik
(Formerly Emaar MGF Land Limited)

WITNESSES:-

1. P. Rajaray (P. Rajaraj)
308, S.P. Colony,
Vyasarpadi, Ch-39

Consultant/Clerk/Agent
M/s. NATHAN AND ASSOCIATES
ADVOCATE'S
No. 6/31, KALIKUNDRAM MAIN ROAD,
TARAMANI (NEXT TO KARMEL CHURCH)
CHENNAI-600 113.

2. (MOHANRAJ.J)
No. 201, 9th Block,
NAGOORAR GARDEN, C#-81.

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