

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO. 28 OF 2023

Dedhia Builders and Developers
(India) LLP

..Appellant.

v/s.

Sunny Patni & Anr.

..Respondents

Mr. Nilesh Gala a/w. Minil Shah, Mr. manish Galal i/b. Law Square for
the for the Appellant.

Mr. fR.S.Lodhi for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 9th NOVEMBER, 2023.**

P.C.

1. The appellant has challenged the Order dated 29.09.2022 in Appeal No.AT 006000000053307 passed by the learned Member, Maha RERA dismissing the application No.560 of 2021 for condonation of delay.

2. During pendency of the appeal, the parties have entered into settlement. They have placed on record the consent terms which are signed by Sonesh Dedhia-Authorized signatory as well as Power of Attorney of the Appellant, and by Respondent No.1 Sunny Patni and Uma Patni, Power of Attorney of Respondent No.2.

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3. The Authorized signatory as well as the Power of Attorney of the Appellant, as well as the Respondent No.1 and the Power of Attorney of the Respondent No.2 are present before the Court. They have placed on record consent terms which read thus:

CONSENT TERMS:

1. *The Appellant and the Respondents (hereinafter collectively referred to as “the Parties”) have amicably resolved and settled all their disputes mutually, which have arisen out of Order dated 9th November, 2018 passed by the MahaRERA in Complaint No. CC006000000055269, Order dated 12.02.2021 passed by the Maharashtra Real Estate Appellate Tribunal in Appeal No. AT006000000010972 and Order dated 29.09.2022 in passed by the Appeal No.AT006000000053307 and which is the subject matter of the present Second Appeal.*
2. *The Respondents agree and undertake to this Hon’ble Court that they have no grievance of whatsoever nature against the Appellant with respect to their respect of Flat No. 2402 on the 24th floor of the building named El-Canto (“**the said flat**”) situated at Ghodbunder Road, Village Kavesar, Thane purchased by the Respondents from the Appellant by a registered Agreement for Sale dated 20th April, 2017 duly registered with the office of Sub-*

*Registrar of Assurances at Thane under Sr. No. TNN5-4427-2017 (hereinafter referred to as “**the said Agreement**”).*

3. *The summary of facts leading to the present proceedings is as under:*

a. *The Respondents agreed to purchase the said flat under said Agreement on the terms and conditions more particularly mentioned therein.*

b. *The Respondents filed a RERA Complaint bearing CC006000000055269 before the Maharashtra Real Estate Regulatory Authority, which came to be dismissed vide Order dated 9th November, 2018*

c. *The Respondents filed an Appeal No.AT006000000010972 before the Maharashtra Real Estate Appellate Tribunal, which came to be disposed off vide order dated 12.02.2021.*

d. *Aggrieved by the Order dated 12.02.2021 passed by the Appellate Tribunal, the Appellant filed a Review Application No. 21 of 2021 in Appeal No. AT006000000010972 and the Respondent also filed Appeal AT006000000053307 of 2021 before the Maharashtra Real Estate Appellate Tribunal along with Miscellaneous Application No. 560 of 2021 for Condonation of Delay. The Application for Condonation of Delay came to be rejected*

vide Order dated 29.09.2022.

e. The Respondents filed an Execution Application No. 17 of 2021 in Appeal No. AT006000000010972 before the Maharashtra Real Estate Appellate Tribunal seeking execution of the Order dated 12.02.2021 passed by the Appellate Tribunal.

f. Aggrieved by the Order dated 29.09.2022 passed by the Appellate Tribunal, the Appellant filed the instant Second Appeal before this Hon'ble Court. During the hearing before this Bombay High Court, the Parties entered into settlement talks and accordingly the Parties have mutually decided to settle the disputes between the parties.

*4. The Appellant and the Respondents respectively irrevocably and unconditionally release, waive and forever relinquish any and all claims, causes of action, liabilities, obligations, indebtedness, attorneys' fees, demands, suits, cost, expenses or damages of every kind and nature (hereinafter collectively referred to as "**Claims**") that they respectively have or may have against each other arising out of or in connection with the subject matter of the present Second Appeal and /or anything arising out of or in connection with the subject matter of the present Second Appeal and/or anything arising out of or in connection with the said Agreement.*

5. The Parties confirm and undertake that upon execution of

these Consent Terms, all the disputes between the Parties are resolved and the Parties shall not initiate any legal proceedings in any Court of Law, Tribunals and/or any authorities against each other with respect to said Flat and/or anything arising out of or in connection with the subject matter of captioned Second Appeal and/or anything arising out of or in connection with the said Agreement save and except save and accept any proceedings for implementation of these Consent Terms or non fulfillment of any obligations cast on the respective parties under these Consent Terms. The Parties agree that the present Terms record and constitute full and final settlement of all the Claims that the Respondents have/may have against the Appellant with respect to the said Flat and/or the said Agreement. By consent of the Parties the Impugned Order dated 29.09.2022 passed in M.A. No. 560 of 2021 in Appeal No. AT006000000053307 stand quashed and set aside.

6. The Appeal No. AT006000000053307 and Review Application No. 21 of 2021 in Appeal No. AT006000000010972 filed by the Appellants before the Appellate Tribunal is hereby allowed by consent of the Parties. The Parties further Consent that the Order dated 9th November, 2018 in Complaint No. CC006000000055269 passed by the MahaRERA and Order dated 12th February, 2021 passed by the Appellate Tribunal in Appeal

No. AT006000000010972 stands quashed and set aside.

7. The Parties hereto unconditionally withdraw all the allegations made against each other; and record that the Parties have entered into these Consent Terms under the legal advice and with their free will and volition.

8. The Parties agree that the captioned Second Appeals be disposed of in terms of these consent terms filed before the Hon'ble Bombay High Court and the Respondent agrees, confirms and undertakes to unconditionally withdraw the Execution Application No. 17 of 2021 and Appeal No. AT006000000010972 on the next scheduled date of hearing fixed before the Appellate Tribunal after the execution of the present Consent Terms.

9. The Parties further undertake not to question/dispute the terms and conditions of these Consent Terms, which shall be binding upon them including their respective successors-in-title, legal representatives, executors, administrators and assigns.

10. The Parties hereby agree to bear their own legal costs and fees.

11. The Parties hereto, pray to this Hon'ble Court that the Consent Terms be taken on record and orders may be passed accordingly."

4. The parties have identified their signatures on the consent terms,

and confirmed having entered into the consent terms willingly and at their own volition. The consent terms are taken on record and marked 'X' for identification.

5. Second appeal stands disposed of in terms of the consent terms.

(ANUJA PRABHUDESSAI, J.)