

Appeal No.45 of 2026

BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
(TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

Under the Real Estate (Regulation and Development) Act, 2016

Reserved on : 05.08.2026

Delivered on : 12.08.2026

Coram : Hon'ble Mr.Justice M.Duraiswamy, Chairperson
Mr.K.Babu, Judicial Member

Appeal No.45 of 2026
and
M.A.No.165 of 2026

1.A.Ajay Dugar

2.S.Archana

... Appellants

Vs.

M/s.A.RFOUNDATIONS (P) LTD.,
rep. by its Authorized Signatory
D.Vidya Sagar Reddy

... Respondent

Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (a) to set aside the order dated 10.03.2026 passed by the Adjudicating Officer, TNRERA, Chennai in C.C.P.No.26 of 2025; (b) to direct the respondent to pay a sum of Rs.1,00,00,000/- for all the mental agony caused to the appellants due to the actions of the respondent as prayed in C.C.P.No.26 of 2025 and (c) to direct the respondent to pay a sum of Rs.4,00,000/- for cost of legal proceedings and counsel fee and travel expenses and stamps.

For Appellants : Mr.Kumarpal R Chopra

For Respondent : Mr.P.J.Rishikesh

ORDER

The above appeal arises against the order passed by the learned Adjudicating Officer, Tamil Nadu Real Estate Regulatory Authority in C.C.P.No.26 of 2025 dated 10.03.2026. The complainants are the appellants and the respondent is the promoter/developer.

2.The complainants filed C.C.P.No.26 of 2025 seeking for a compensation of Rs.1,00,00,000/- for the mental agony caused to them due to the actions of the respondent and a sum of Rs.4,00,000/- towards the cost of legal proceedings, counsel fee, travel expenses and stamp duty.

3.The brief case of the appellants/complainants is as follows:

According to the appellants, on 20.02.2023, they entered into a Construction Agreement in respect of Flat No.201 in the 2nd Floor of the respondent's project, viz., "Amara Amethyst". It was agreed by the respondent/promoter to construct the residential Flat with a super built-up area of 3999.69 sq.ft. According to the appellants, they were informed that the project was under development and that the respondent/promoter promised to complete the construction on or before 30.04.2023 with a grace period of three months. Further according to the appellants, the total Sale Consideration of the Flat was fixed at Rs.8,30,41,589/- and on 21.02.2023, they paid a sum of Rs.1,00,00,000/- and for the balance amount, they applied for a Home Loan in HDFC Bank for Rs.7,55,00,000/-. The appellants contended that suddenly, the respondent had sold their Apartment to one S.Shanthi through a registered Construction Agreement on 24.04.2023 without

informing them. The appellants informed the respondent about their family situation and inability to proceed in buying the house and requested to refund the amount. The appellants contended that the respondent kept delaying the re-payment. In these circumstances, the appellants/complainants have filed the complaint before the Adjudicating Officer, TNRERA.

4.The brief case of the respondent/promoter is as follows:

According to the respondent, the averments and allegations stated in the complaint are baseless, misconceived and misleading. The respondent admitted that on 20.02.2023, they entered into a Construction Agreement in respect of the Apartment No.201 in its project “Amara Amethyst”. In the Construction Agreement, it has been specifically recited that the cancellation of the Apartment requires the complainants to execute a Cancellation Deed for return of money, subject to cancellation charges. The respondent had also admitted that the total Sale Consideration of the Flat was fixed at Rs.8,30,41,589/- and that the complainants paid a sum of Rs.1,00,00,000/- personally and they availed a Home Loan from HDFC Bank for the balance amount. The respondent, in their counter filed before the Adjudicating Officer, TNRERA, had stated that on the very same day (i.e.) on 20.02.2023, the 1st appellant/1st complainant sent a WhatsApp message to them requesting a change of allotment from “Amara Amethyst” to their other project “Amara Adhya”, Jaypore Colony, Gopalapuram, Chennai stating that they require a larger space. Considering the appellants’ request, the respondent agreed for change of allotment from “Amara Amethyst” to “Amara Adhya”. The

respondent also contended that the appellants were duly informed that Flat No.201, which was allotted to them earlier, would be sold to a third party, which was also accepted by the appellants without any objection. Pursuant to the same, the respondent sold the Flat in Flat No.201 to a third party in April 2023. Further, it is the case of the respondent that between May 2023 and October 2023, the appellants were in continuous contact with the respondent's Architect and Design Team in customizing their new unit in "Amara Adhya". Even in the absence of a fresh written Agreements, these customizations were allowed on mutual trust by the respondent/promoter. But, all on a sudden, the appellants/complainants sent an e-mail on 13.02.2024 informing the respondent/promoter that they are cancelling the booking for their own personal reasons and sought for a refund of the entire amount within 90 days. On 20.02.2024, the respondent sent a reply stating that the amount would be refunded after deducting cancellation charges and execution of Cancellation Deed as per the Agreement. They also requested the appellants to execute Cancellation Deed and to provide their Bank details, enabling them to refund the amount. However, the appellants did not turn up for furnishing the details and for the execution of the Cancellation Deed. Even for the legal notice dated 13.01.2025 sent by the respondent, the appellants sent their reply on 11.02.2025. Further, the respondent/promoter had stated that they filed a complaint in C.No.10 of 2025 before the TNRERA for a direction to refund the amount to the appellants/complainants by depositing the amount before the TNRERA. As per the order passed by the TNRERA dated 02.04.2025, they deposited

a sum of Rs.7,01,61,201/- with HDFC Bank on 07.05.2025. Further, the respondent has stated that as a counter-blast to C.No.10 of 2025, the appellants have come forward to file the present complaint in C.C.P.No.26 of 2025 seeking for compensation and also filed R.C.P.No.45 of 2025 seeking for refund. As per Rule 19 of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017, the allottee is bound by the terms of the Agreement. Further, the respondent/promoter have stated that the appellants had breached their contractual obligations by refusing to execute the Cancellation Deed. They had bonafidely calculated the interest of Rs.36,26,563/- and paid the same to the appellants along with the working sheet and cheque. The cancellation charges came to Rs.82,00,000/- and to avoid that payment, the appellants have filed the vexatious complaint. In fact, the respondent only incurred substantial losses due to repeated cancellations, customization costs and reputational damage. In these circumstances, the respondent prayed for the dismissal of the complaint.

5.Before the Adjudicating Officer, on the side of the appellants/complainants, the 1st appellant was examined as C.W.1 and 5 documents, Exs.A1 to A5 were marked. On the side of the respondent/promoter, the Authorized Signatory of the respondent Company was examined as R.W.1 and 11 documents, Exs.B1 to B11 were marked.

6.The Adjudicating Officer, after taking into consideration the oral and documentary evidences let in by the parties, dismissed the complaint. Aggrieved over the same, the complainants have filed the above appeal.

7. Heard Mr. Kumarpal R Chopra, learned counsel appearing for the appellants and Mr. P. J. Rishikesh, learned counsel appearing for the respondent.

8. Mr. Kumarpal R Chopra, learned counsel appearing for the appellants submitted that inspite of entering into a Construction Agreement on 20.02.2023 with the appellants/allottees in respect of Flat No.201 in the 2nd Floor in the project “Amara Amethyst”, the respondent/promoter sold the said Flat, without even informing the appellants, to one S. Shanthi by a registered Construction Agreement dated 24.04.2023 and also registered a Sale Deed on the very same day. The learned counsel submitted that having received the entire Sale Consideration of Rs.8,30,41,589/-, the respondent ought not have sold the property to a third party. Further, the learned counsel submitted that by the WhatsApp message dated 20.02.2023, the appellants wanted to buy two more Apartments in Jaypore Colony (i.e.) “Amara Adhya” and they have not sought for any cancellation of their booking in “Amara Amethyst”. The learned counsel further submitted that since the appellants have paid the entire amount and that the respondent had sold their Flat to some third party without the consent of the appellants, they are liable to compensate the appellants.

9. Countering the submissions made by the learned counsel for the appellants, Mr. P. J. Rishikesh, learned counsel appearing for the respondent submitted that on 20.02.2023, a Construction Agreement was entered into between the appellants and the respondent and on the next day (i.e.) on 21.02.2023, the appellants paid a sum of Rs.1,00,00,000/- to the respondent by RTGS. The learned counsel further

submitted that on the date of execution of the Construction Agreement (i.e.) on 20.02.2023 itself, the 1st appellant sent a WhatsApp message to the respondent stating that they want a bigger space, so they decided to buy two Apartments in the respondent's 2nd property of Jaypore Colony (i.e.) "Amara Adhya", for which the respondent replied immediately expressing their disappointment in honouring the commitment made by the appellants. In any event, the respondent agreed to allot one Flat in "Amara Adhya" instead of Flat No.201 in "Amara Amethyst". The learned counsel further submitted that since the appellants gave up Flat No.201, they sold the Flat to a third party in the month of April 2023. The learned counsel further submitted that there were several exchange of plans between the appellants and the respondent in respect of the Flat in "Amara Adhya" between May 2023 and October 2023. When the respondent was proceeding as per the instructions of the appellants in "Amara Adhya" project, all on a sudden, on 13.02.2024, the 1st appellant sent an e-mail to the respondent stating that they are proposing to withdraw/cancel their booking and requested the respondent to refund the amounts within 90 days. Further the learned counsel has stated that in the said e-mail, the 1st appellant has stated that the termination was for the reason beyond their control, hence, requested the respondent to do the needful. The learned counsel also submitted that the respondent, even prior to the filing of the present complaint by the appellants, filed a complaint in C.No.10 of 2025 before the TNRERA seeking permission to deposit the Sale Consideration amount after deducting the cancellation charges. Pursuant to the order passed in C.No.10

of 2025, the respondent had also settled the Home Loan availed by the appellants with HDFC Bank by paying Rs.7,01,61,201/- on 07.05.2025. The learned counsel further submitted that though they are not liable, the respondent had also paid Rs.36,26,563/- to the appellants, being the interest on the amounts paid by them.

10.Mr.P.J.Rishikesh, learned counsel further submitted that the appellants have filed the present complaint in C.C.P.No.26 of 2025 only after the filing of C.No.10 of 2025 by the respondent. The learned counsel also submitted that when the appellants on their own cancelled the booking, both in “Amara Amethyst” as well as in “Amara Adhya”, they are not entitled for any compensation and they are liable to pay the cancellation charges to the respondent/promoter. The learned counsel for the respondent submitted that the respondent had re-paid the amount received from the appellants and also settled the Home Loan obtained by the appellants from HDFC Bank in full on 07.05.2025. The learned counsel also submitted that the appellants are not entitled for any compensation since the cancellation was done only on their request and on the mistake committed by them. In these circumstances, the learned counsel prayed for dismissal of the appeal.

11.The appellants filed a Miscellaneous Application in M.A.No.165 of 2026 under Order 41 Rule 27 CPC seeking to produce additional documents. The appellants sought to file the copies of the WhatsApp messages and e-mails exchanged between the parties. Even though those documents were very much

available with them since 2023, they chose not to produce the documents before the Adjudicating Officer, TNRERA.

12.The respondent filed their counter and opposed the application on the ground that the appellants have not given any reason for not producing the documents before the Adjudicating Officer.

13.On a reading of the affidavit filed in support of the said application, it is clear that the appellants have not given any reason for not producing the documents before the Adjudicating Officer in C.C.P.No.26 of 2025. For producing additional documents at the appellate stage, the party seeking to file the additional documents should satisfy the Court as to why the said documents were not produced at the earliest point of time in the original proceedings. In the case on hand, the appellants have not uttered a single word for not producing the documents before the Adjudicating Officer. Though the documents were very much available with the appellants, they were not diligent in filing the documents before the Adjudicating Officer. In the absence of any reason given by the appellants, the application filed by them under Order 41 Rule 27 CPC is liable to be rejected.

14.On a careful consideration of the materials available on record and the submissions made by the learned counsel on either side, it is not in dispute that the appellants entered into a Construction Agreement on 20.02.2023 in respect of the Flat No.201 with a super built-up area of 3999.69 sq.ft. for a total Sale Consideration of Rs.8,30,41,589/-. On the very same day (i.e.) on 20.02.2023, a Tripartite Agreement was executed by the appellants, respondent and HDFC Bank,

wherein, the HDFC Bank agreed to advance Home Loan to the appellants to the tune of Rs.7,55,00,000/-. The appellants agreed to pay a sum of Rs.1,00,00,000/- directly to the respondent. Though the appellants promised to pay the amount on the same day (i.e.) on 20.02.2023, they did not pay the sum of Rs.1,00,00,000/- on that day. Instead, they sent a WhatsApp message on 20.02.2023, wherein, they have stated that they want a bigger space, therefore, decided to buy two Apartments in the respondent's 2nd property of Jaypore Colony (i.e.) "Amara Adhya". Further, they have stated that there will not be any further changes and tendered apology for the last minute change. For the said message, the respondent replied expressing their disappointment in not paying the sum of Rs.1,00,00,000/- as promised by the appellants and seeking for change of Flat from "Amara Amethyst" to "Amara Adhya".

15.In these circumstances, it would be appropriate to extract the WhatsApp messages exchanged between the parties on 20.02.2023, which reads as follows:

"1st appellant's WhatsApp message at 18:10:

Good evening sir. I want bigger space so decided to buy 2 apartments in your second property of jaypore colony. There is no further changes. Sorry for the last minute change. Can we meet you tomorrow around 6:00 PM to finalise???

Sir I am with advocate, shall call you around 7:00 PM & explain you for last minute changes.

Respondent's WhatsApp reply message at 18:12:

Ajay, honestly are you playing the fool with me. We were expecting the transfer today for which we have made commitments.

Is this why you were so keen on me transferring back the 1 crore? I did not expect this from you. If this is your way of working, I am not interested in dealing with you anymore. I am truly disappointed.”

Pursuant to the WhatsApp messages and telephonic conversations, the respondent agreed to change the Flat from “Amara Amethyst” to “Amara Adhya” and thereafter, the appellants paid a sum of Rs.1,00,00,000/- to the respondent by RTGS on the next day (i.e.) on 21.02.2023.

16. On a reading of the WhatsApp message sent by the 1st appellant, it is clear that he has not expressed his mind to buy two more Flats in “Amara Adhya” apart from Flat No.201 in “Amara Amethyst”. The contention of the learned counsel for the appellants that the appellants wanted to buy two more Flats in “Amara Adhya” apart from Flat No.201 in “Amara Amethyst” cannot be accepted for the reason that in the very same WhatsApp message, the 1st appellant has stated that there will not be any further changes and tendered apology for the last minute change. If the contention of the learned counsel for the appellants is accepted, then the appellants would not have tendered apology from the respondent. He had tendered apology only because he cancelled the booking on the very same day (i.e.) on 20.02.2023, the date on which the Construction Agreement was executed in respect of “Amara Amethyst” and not for buying two more Flats in “Amara Adhya”. By buying two more Flats, he would have only further boosted the business of the respondent and for buying two more Flats, no prudent man would tender apology to the seller. Since the appellants failed to pay the sum of Rs.1,00,00,000/- on

20.02.2023 itself, the respondent, in their reply message, have expressed their anguish and disappointment and have also stated that they were not interested in dealing with the appellants anymore. The reply sent by the respondent would also establish that the appellants had cancelled the booking of the Flat in Flat No.201 in “Amara Amethyst” on the very same day and sought to change the Flat to “Amara Adhya”. Ultimately, the respondent agreed to change the booking to “Amara Adhya” instead of “Amara Amethyst”. Since the appellants sought for cancellation and for change of Flat from “Amara Amethyst” to “Amara Adhya”, the respondent cancelled their booking in respect of “Amara Amethyst” and allotted a Flat in “Amara Adhya”. Thereafter, the appellants paid a sum of Rs.1,00,00,000/- by RTGS to the respondent on 21.02.2023. After the appellants shifted their booking from “Amara Amethyst” to “Amara Adhya”, the respondent had shared the Floor Plans of “Amara Adhya” to the appellants on 22.05.2023. There were several exchange of e-mails and plans between the parties during the period May 2023 and October 2023. After the cancellation of Flat No.201 in “Amara Amethyst”, the respondent sold the Flat to one S.Shanthi in April 2023.

17.It is pertinent to note that the sale made in favour of the third party in the month of April 2023 was only after the cancellation of the booking made by the appellants on 20.02.2023. The e-mails and the WhatsApp messages would establish that between May 2023 and October 2023, the appellants were in continuous interaction with the respondent’s Architectural and Design Team in customization of the layout and interiors of the unit in “Amara Adhya”. The appellants have not

found fault with the respondent in any manner whatsoever at any stage. All on a sudden, on 13.02.2024, the appellants sent an e-mail and sought for withdrawal/ cancellation of the booking and requested the respondent to refund the amounts within 90 days. In the said e-mail, the 1st appellant has stated that the termination is for the reasons beyond their control and requested to kindly do the needful. It is also appropriate to extract the e-mail dated 13.02.2024, which reads as follows:

“From: msd chennai <msd_chennai@hotmail.com>
Date: Tue, Feb 13, 2024 at 6:40 PM
Subject: Cancellation of apartment
To: life@amarahomes.in <life@amarahomes.in>,
amarreddychennai@yahoo.com
<amarreddychennai@yahoo.com>
Cc: tilak@chitaleinfra.com <tilak@chitaleinfra.com>,
veerakumar@amarahomes.in
<veerakumar@amarahomes.in>,
msp@amarahomes.in <msp@amarahomes.in>

Dear sir,

I am proposing to withdraw/cancel my booking as discussed and for the reasons stated to you. As agreed between us in our conversation we request you to kindly refund the amounts within 90 days pursuant to which we can execute mutual cancellation deed. As the termination is for the reasons beyond our control hence would request to kindly do the needful.

Happy to execute necessary documents in this regard on receipt of the payments.

Regards,
Ajay Dugar,
+91-9789053554
Sent from my iPhone”

18.From the WhatsApp message dated 20.02.2023 and the e-mail dated 13.02.2024, it is clear that the appellants have unilaterally aborted the transaction

not once, but twice. By their reply dated 20.02.2024, the respondent explained the agreed cancellation procedure, including applicability of cancellation charges and clarified that refund would be processed upon execution of Cancellation Deed and furnishing of Bank details. In spite of repeated reminders and a legal notice dated 13.01.2025, the appellants failed to execute the Cancellation Deed or provide Bank Account details. In their reply notice dated 11.02.2025 (the date has been wrongly mentioned as 11.02.2024 in the notice), the appellants have stated that they had cancelled their booking in “Amara Amethyst” only on 18.12.2023 for the reason “family issues in arranging funds” and further, they have stated that they have made booking only in “Amara Amethyst” and not in “Amara Adhya”. This contention is falsified by the e-mail dated 22.05.2023 sent by the respondent to the appellants along with “Amara Adhya” Floor Plan and Roof Slab beam detail drawing. If the appellants have booked a Flat only in “Amara Amethyst” and not in “Amara Adhya”, the necessity for getting the project Floor Plan and Roof Slab Beam detail drawing with regard to “Amara Adhya” has not been explained by them. For the reply dated 11.02.2025, the respondent sent a re-joinder on 14.02.2025 narrating the entire facts. On 10.10.2023 also, the respondent sent drawings in *pdf* format to the appellants in respect of “Amara Adhya”. Therefore, from the e-mails, it is clear that the appellants have been in regular conversation with the respondent with regard to “Amara Adhya”, getting Floor Plan and Roof Slab Beam detail drawings after sending the WhatsApp message on 20.02.2023. This will establish that the appellants have shifted their booking from “Amara

Amethyst” to “Amara Adhya” on 20.02.2023. Only after cancelling the booking by the appellants in respect of “Amara Amethyst”, the respondent sold the Flat in “Amara Amethyst” to S.Shanthi in April 2023.

19.Left with no other option, the respondent was constrained to file a complaint in C.No.10 of 2025 before the TNRERA seeking for a direction to deposit the amounts received from HDFC Bank. By order dated 02.04.2025, the TNRERA directed the respondent to deposit the outstanding amount with HDFC Bank. In compliance of the order passed by the TNRERA, the respondent deposited a sum of Rs.7,01,61,201/- on 07.05.2025. Apart from paying the said amount to HDFC Bank, though the appellants are not entitled, the respondent also calculated and paid interest as a good-will, amounting to Rs.36,26,563/- on 29.07.2025 in accordance with TNRERA Regulations.

20.As per Section 18 of the Real Estate (Regulation and Development) Act, if the promoter fails to complete or is unable to give possession of an apartment, plot or building, they shall be liable to pay compensation to the allottees, in case the allottees wish to withdraw from the project, without prejudice to any other remedy available to return the amount received by them in respect of the apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf, including compensation in the manner as provided under the Act. Section 18 makes it clear that only if the promoter fails to complete or is unable to give possession of an Apartment, they are liable to pay compensation and interest to the allottees. In the case on hand, the WhatsApp message dated

20.02.2023 and e-mail dated 13.02.2024 makes it clear that the appellants have unilaterally cancelled the booking without attributing any fault on the side of the respondent/promoter. The appellants have cancelled the booking citing their family issues in arranging the funds even before the due date of handing over possession.

21.It is also pertinent to note that the appellants filed the present complaint in C.C.P.No.26 of 2025 only after the respondent initiated proceedings in C.No.10 of 2025 for depositing the amount.

22.As per Rule 19(2) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017, where termination is as per the Agreement, refund becomes due only simultaneous to the execution of a Cancellation Agreement and registration, if required. If the defaulting party fails to come forward for execution of Registration Agreement, the authority shall have the right to execute such Agreement on behalf of the defaulting party. In the case on hand, the appellants failed to execute the Cancellation Deed, thereby, committed breach of statutory and contractual obligations.

23.Inspite of repeated e-mails to get refund of the amount, subject to deduction of cancellation charges and execution of Cancellation Deed, the appellants did not respond to the respondent.

24.The documents produced by the parties would clearly establish that there has been no default, delay or misconduct on the part of the respondent. On the contrary, the appellants have unilaterally cancelled the booking twice, citing their

Appeal No.45 of 2026

family issues, for which they cannot claim compensation from the respondent/promoter. When the appellants/allottees have cancelled their booking solely because of their family issues on their own, they cannot claim compensation from the respondent/promoter.

25.The Adjudicating Officer, taking into consideration all these aspects, rightly dismissed the complaint. We do not find any ground to interfere with the order passed by the Adjudicating Officer. The appeal is devoid of merits and the same is dismissed. The Miscellaneous Application in M.A.No.165 of 2026 is also dismissed.

Sd/- xxxx
JUSTICE M.DURAIWAMY
CHAIRPERSON
12.08.2026

Sd/- xxxx
K.BABU
JUDICIAL MEMBER
12.08.2026

Copy to

1. The Adjudicating Officer, TNRERA
- 2.M/s.A.R.Foundations (P) Ltd.,
rep. by its Authorized Signatory
D.Vidya Sagar Reddy
Having Office at
ACROPOLIS, Ground Floor,
No.148, Dr.Radhakrishnan Road,
Mylapore, Chennai - 600 004.

