



COMPETITION COMMISSION OF INDIA

Case No. 105 of 2015

In Re:

**Ms. Sanyogita Goyal
A-1/24, Eldeco Estate One,
Sector-40, G T Road,
Panipat, Haryana - 132103**

Informant

And

**M/s Ansal Properties & Infrastructure Ltd.
115, Ansal Bhawan,
16, KG Marg, New Delhi - 110001**

Opposite Party

CORAM

**Mr. Ashok Chawla
Chairperson**

**Mr. S. L. Bunker
Member**

**Mr. U. C. Nahta
Member**

**Mr. Augustine Peter
Member**

**Mr. M. S. Sahoo
Member**

**Justice G. P. Mittal
Member**



Order under Section 26(2) of the Competition Act, 2002

1. The present information has been filed by Ms. Sanyogita Goyal (the '**Informant**') under section 19(1)(a) of the Competition Act, 2002 (the '**Act**') against M/s Ansal Properties & Infrastructure Ltd (the '**Opposite Party**') alleging, *inter alia*, contravention of the provisions of section 4 of the Act.
2. As per information, the Opposite Party is a public limited company engaged in the business of development of real estate. The Informant is a buyer of a commercial space in the integrated township project, 'Sushant City', developed by the Opposite Party in the city of Panipat in Haryana.
3. It is stated that the Informant had booked a commercial space in 'Galaxy Court', a four storied commercial project, within the said integrated township project of the Opposite Party. The Informant had booked unit no. GFA-031 on the ground floor with 525 sq. ft. area at the rate of Rs 5500/- per sq. ft. for a total consideration of Rs 28,87,500/- and had paid an initial booking amount of Rs 3,00,000/- in cheque. In this respect, the Informant was issued a receipt dated 20.10.2006 by the Opposite Party for the said booking amount mentioning 'Payment in respect of SHOP No. GFA031'. Subsequently, the Informant received another receipt dated 01.03.2007 against the same payment from the Opposite Party mentioning 'Payment in respect of SHOP No GFA032', indicating a change in the shop number. When the Informant enquired about the change, the Opposite Party informed that shop no. GFA031 had already been allotted to some other allottee.
4. The Informant has averred that the location of the new shop is far inferior compared to the earlier one. It is alleged that in April, 2015 the Informant visited the project site and was informed by the Opposite Party's staff that shop no. GFA031 which was originally assigned to her was vacant till 23.10.2012 and was later allotted to another person at a much lower price of Rs 3600/- per sq. ft. Further, the Opposite Party had promised to hand over the possession of the shop by the end of the year 2009, however the possession



has not been given till date and 92.5% of the total payment *i.e.* Rs 30, 07,733/- has already been made to the Opposite Party.

5. It is also alleged that in 2013, the Opposite Party has arbitrarily increased the super area of the shop from 525 sq. ft. to 588 sq. ft. without increasing the covered area which remained 300 sq. ft. Further, it is stated that the Opposite Party has made significant changes in the original plan such as construction of an additional shop in front of shop no GFA035 which was kept vacant and open in the original plan which caused congestion and fire risk in that section of the 'Galaxy Court'.
6. The Informant has submitted that certain clauses of the Sales Agreement between the Opposite Party and the Informant, as stated below, are discriminatory:
 - i) Clause 1: 'the plans are yet to be sanctioned'. It is averred that the plans were sanctioned in August, 2007 whereas the advance was collected in October 2006 *i.e.* 10 months in advance.
 - ii) Clause 3: if a whole or a part of the project is abandoned then buyers' money will be refunded in full 'without any interest'.
 - iii) Clause 6: the possession would be granted 'as early as possible'. It is alleged that the clause did not include any terms for compensation in case the promoter delayed the possession.
 - iv) Clause 9: the buyer would give his/ her unconditional consent to any additions/ alterations made to the original layout plan.
7. Based on the above, the Informant has filed the instant information seeking investigation into the matter under section 4 of the Act along with various reliefs sought therein.
8. The Commission has perused the information and material available on record. The Informant appears to be aggrieved primarily by the abusive conduct of the Opposite Party, in terms of imposition of unfair terms and



conditions, in allocation of a commercial space in 'Galaxy Court' in 'Sushant City', developed by the Opposite Party in Panipat, Haryana.

9. The allegations in the instant case relate to a commercial space booked by the Informant in the said project of the Opposite Party. The Commission notes that commercial space form a separate relevant product market and is not substitutable with residential space/ apartment or plot of land because, the motive behind buying and factors considered for buying a commercial space are different from buying a residential space or a plot of land. Further, the requirement, scope and prospect of the consumers in buying a commercial space are different from that of a residential space and a plot of land. Thus, taking into account the substitutability, characteristics of services, prices and intended use '*the provision of services for development and sale of commercial space*' may be considered as the relevant product market in this case. In regards to the relevant geographic market, it is observed that the geographic region of Panipat exhibits homogeneous and distinct market conditions compared to its adjacent areas. The buyer of a commercial space in Panipat may not prefer other areas such as Sonapat, Karnal and Gurgaon *etc.* because of the factors such as differences in price of land, commuting facilities, quality of essential services *etc.* Thus, '*the geographic area of Panipat*' may be considered as the relevant geographic market. As such the relevant market in this case may be considered as '*provision of services for development and sale of commercial space in Panipat*'.
10. The Informant has alleged abuse of dominant position by the Opposite Party in contravention of the provisions of section 4 of the Act. Now it is to be seen whether the Opposite Party is in a dominant position in the relevant market or whether the Opposite Party possesses market power which allow it to act independently of the competitive forces and whether such independence afford it to affect the relevant market in its favour. In this regard, it is observed that there are many other major developers like TDI, Parsvanath, Lotus and Eldeco Group *etc.* which are competing with the Opposite Party in the relevant market with projects of varying magnitudes and having



comparable sizes and resources; providing multiple options for the consumers in the relevant market. With the presence of other developers in the relevant market, the Opposite Party does not enjoy a position of strength which would enable it to operate independently of market forces. Therefore, the Opposite Party cannot be considered as a dominant player in the relevant market.

11. In the absence of dominance, the Commission is of the view that, no case of contravention of the provisions of section 4 of the Act is made out against the Opposite Party and the information is ordered to be closed forthwith in terms of the provisions contained in section 26(2) of the Act.

12. The Secretary is directed to inform the parties accordingly.

Sd/-

(Ashok Chawla)
Chairperson

Sd/-

(S. L. Bunker)
Member

Sd/-

(Augustine Peter)
Member

Sd/-

(U. C. Nahta)
Member

Sd/-

(M. S. Sahoo)
Member

Sd/-

(Justice G. P. Mittal)
Member

New Delhi
Date: 06.01.2016