



COMPETITION COMMISSION OF INDIA

Case No. 14 of 2015

In Re:

Mr. Ravinder Pal Singh

Flat No. 305, Orion Tower, Omaxe Heights,

Sector-86, Faridabad, Haryana

Informant

And

BPTP Limited & Others

M-11, Middle Circle, Connaught Circus,

New Delhi

Opposite Party

CORAM

**Mr. Ashok Chawla
Chairperson**

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

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**

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

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

1. The present information has been filed by Mr. Ravinder Pal Singh (hereinafter referred to as the “**Informant**”) under section 19(1) (a) of the Competition Act, 2002



(hereinafter referred to as “**the Act**”) against BPTP Limited & Others (hereinafter referred to as “**Opposite Party/OP**”), alleging, *inter alia*, contravention of the provisions of section 4 of the Act.

2. As per the information, OP is a real estate developer in Faridabad. Based on the presentations made by OP, the Informant booked a 250 yards ‘expendable’ flat on 26.05.2009 in the Park Elite Floor Project, Faridabad, (hereinafter referred to as the ‘Project’) being developed by OP. While submitting the application and earnest money the Informant is stated to have clearly mentioned his requirements for “expendable floor”. On 24.12.2009, OP allotted a flat to the Informant in the said Project assuring that all the requirements mentioned by the Informant are duly met including that of an ‘expendable flat’.
3. It was further stated in the information that OP failed to obtain necessary approvals or clearances to use/allot the land. On enquiry by the Informant, OP is stated to have clarified that due to some technical reasons (which was never explained to the Informant), it could not get approvals. Thereafter, on 03.04.2010, the Informant was asked to sign a Builder-Buyer Agreement (hereinafter referred to as the ‘Agreement’) along with an Affidavit and Undertaking, under the threat of forfeiting the already paid money i.e. earnest money, brokerage and other administrative charges etc. for the said flat. It was averred that the Agreement and other documents were totally favouring OP and were one-sided. The Informant has also pointed out various clauses of the Agreement to be unfair and abusive which are not reproduced herein for the sake of brevity.
4. Further it was asserted that the Informant insisted for some amendments in the documents but the OP refused the same. It has been alleged that the Informant was asked to either sign the Agreement or otherwise let the OP forfeit the money already paid by him. Therefore, the Informant claims to have signed the Agreement under protest on 03.04.2010.



5. The Informant further highlighted in the information various instances of how OP's conduct amounted to abuse of dominant position. It was alleged that in spite of paying a higher amount than that mentioned in the advertisement and the Agreement, Informant has not been offered the possession of the flat till the date of filing of this information.
6. It was further stated that until 26.11.2014, Informant was under a belief that the flat allotted to him is an expendable unit whereas for the very first time in the written submissions filed by OP in response to the complaint made by the Informant in the Dispute Redressal Commission, New Delhi, it was admitted by OP that the flat allotted to the Informant is not expendable. That Informant further alleged that the flat allotted to him by OP was not as per the map attached with the Agreement.
7. Based on the above stated allegations, the Informant prayed that an inquiry against the unfair trade practice carried out by OP shall be investigated and if found guilty, the Agreement should be declared as void being an instrument of unjust, loot, extortion and fraud.
8. The Commission has perused the Information in detail. The facts of the present case indicate that the Informant is aggrieved primarily by the alleged imposition of unfair terms and conditions in the Agreement by OP. Since such conduct of OP needs to be analysed under section 4 of the Act, the Commission deems it appropriate to determine the relevant market first. Having regard to the facts of the case, the relevant product market in the present case appears to be market for "*provision of services for development and sale of residential apartments*" as the Informant was looking for a residential apartment for which he availed the services of OP.
9. With regard to the geographic market, it may be noted that the consumers looking for a residential apartment in Faridabad may not prefer other neighbouring areas. Various factors like proximity to workplace, regional or personal preference,



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transport connectivity etc. play a decisive role in a potential buyers's decision making process while choosing a residential property in a particular area. Based on the foregoing, it appears that the relevant market in the present case would be the market for "provision of services for development and sale of residential apartments in Faridabad".

10. Since a case under section 4 of the Act depends primarily on the position of dominance of OP, it is pertinent to assess OP's dominance/position. Having regard to the information available in the public domain, OP does not appear to be a dominant player. In the relevant market of 'services for development and sale of residential apartments in Faridabad', there seem to be many real estate developers such as SRS Group, Omaxe, Rise Developers, MG Housing Pvt. Ltd., Ansal Buildwell Ltd., Puris Constructions Pvt. Ltd., RPS Infrastructure Ltd., ORS Infrastructure etc.; operating and competing with each other. Though OP is one of the known builders/developers in the relevant market, this fact alone is not decisive for establishing dominance.
11. In Case no. 42/2010 (In re: against M/s BPTP Ltd.) as well as Case No. 33 of 2013 (Mr. Rajiv Kumar Chauhan and M/s BPTP Ltd.), the Commission had the occasion to assess the dominance of OP during the same time period which is the matter of examination under the present case. The Commission in those cases held that M/s BPTP Ltd. (OP) was not in a dominant position in the relevant market as defined above. Since no change in circumstances seems to have occurred since then, the Commission is of the view that *prima facie* OP is not dominant in the relevant market determined above.
12. Since OP, *prima facie*, does not appear to be in a dominant position in the relevant market, there seems to be no question of abuse of its dominant position within the meaning of the provisions of Section 4 of the Act.



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13. In the light of the above analysis, the Commission is of the *prima facie* view that no case of contravention of the provisions of Section 4 of the Act is made out against OP. Accordingly the matter is closed under the provisions of Section 26(2) of the Act.
14. The Secretary is directed to inform all concerned accordingly.

Sd/-

**(Ashok Chawla)
Chairperson**

Sd/-

**(S .L. Bunker)
Member**

Sd/-

**(Sudhir Mital)
Member**

Sd/-

**(Augustine Peter)
Member**

Sd/-

**(U. C. Nahta)
Member**

New Delhi

Date: 24/04/2015