

Competition Commission of India
Case No. 27/2012

Date: 19th July, 2012

(i) Smt. Raj Rani Chandhok Informants
(ii) Shree Puneet Chandhok

Vs.

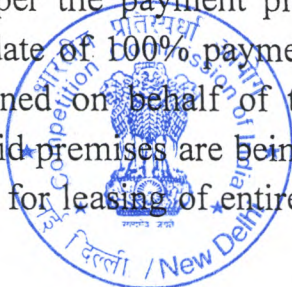
(i) Senior Builders Limited Opposite Parties
(ii) Pacific Greens Infracon Pvt. Limited
(iii) Mr. Amar Singh

Order under Section 26 (2) of Competition Act 2002

The instant information has been filed by Smt. Raj Rani Chandhok & Shree Puneet Chandhok (Informants) u/s 19(1) (a) of the Competition Act, 2002 ('the Act') against Senior Builders Limited & Others (Opposite Parties) alleging *inter alia* contravention of provisions of sections 3 & 4 of the Act.

2. Briefly stated, the informants purchased a small commercial unit/shop no. F-32 admeasuring 629.70 square feet on the First Floor in "Senior Destination Mall" located on MG Road, Gurgaon in Haryana. The OP No-1 was the developer of the said mall and the OP No-2 was a company registered under the Companies Act which entered into a joint venture with OP No-1 for the selling of the shops and arranging the funds. OP No-3 was the owner of the land on which the said mall was to be constructed.

3. It is submitted by the informants that they entered into a buyer's agreement dated 21-06-2008 with OPs who jointly represented themselves as developer and promoters of Senior Destination Mall. As per the payment plan informants had to pay rent amount to the allottee from the date of 100% payment and a separate confirmation letter dated 21-06-2008 was signed on behalf of the informants wherein it was specifically mentioned that the said premises are being leased out to M/S India Bulls as per the MOU dated 1-02-2008 for leasing of entire mall and the rent was fixed as rupees 59821/-.



4. Further, vide letter dated 21-06-2008, the OP No-2 assured the informants that on payment of the entire outstanding, the OPs will start paying the rent to the informants till the possession of the shop/property was handed over to the proposed lessee (India Bulls) under the Lease Agreement dated 1-02-2008.

5. The informants have alleged that after payment of entire amount, the OPs paid the agreed rent of rupees 59,821/- to the informants only for three months and stopped the payment from December 2008. Despite the number of representations by informants, the OPs did not start paying rent to them. OP No-2 sent a letter dated 23-05-2009 to the informants stating that the joint venture agreement with OP No-1 had been terminated and the informants were advised to establish direct contact with OP No-1.

6. It is further submitted by the informants that FIRs were lodged by buyers of similar units against OPs. The informants also filed a suit for Permanent and Mandatory Injunction against OP No- 1 & 2 in the District Court, Gurgaon, Haryana in 2009. The suit was compromised and under the deed of settlement filed by OPs in Court on 1-05-2010, OP No-1 had undertaken to hand over the possession of shop/unit to the informants by 31-03-2012 and OP No-1 also undertook to pay rent for the shop as the rate of rupees 75 square feet per month. But the OPs have neither given possession nor paid the rent of any month till date.

7. The informants have alleged that the Opposite Parties gave misleading information to buyers and abused their dominant position vis-à-vis the consumers by entering into an agreement in respect of the commercial space in Senior Destination Mall and by not abiding by the terms of agreement. The Opposite Parties violated the terms of section 4 of the Competition Act as they had taken unfair advantage of the position of the informants and other similarly placed consumers by denying them the monthly rent as agreed and by denying possession of the commercial space and thereby unjustly enriching themselves.

8. It is apparent from the facts disclosed by the informants that the informants had no grievance about any specific clause of the agreement nor have^{they} alleged that any specific clause of the agreement was anti competitive. It has also not been stated by the informants as to how the Op^s were dominant players in the market of providing commercial space. There are many builders and real estate developers who are constructing malls, shopping complexes, office blocks in Gurgaon and the market of commercial space is quite competitive. The purchasers have wide options of purchasing commercial space in any of the projects. Under these circumstances, unless and until it is shown that Senior Builders Limited and Pacific Greens Infracon



had a substantial market share or strength in the market of providing commercial space, it cannot be said that Ops were in a dominant position. The informants and consumers have already exploited other judicial forums for their grievance and filed FIRs and suits before District Court, Gurgaon. Informants had entered into a compromise with Ops in the suit filed by them. The dispute between the informants and the Ops does not concern the Competition Act neither the informant_s have been able to show how the provisions of the Competition Act were attracted in this case.

9. We find that the information given by the informants does not raise any competition concerns nor the Ops were in a dominant position in the relevant market of providing commercial space within the geographic area of Gurgaon. No prima facie case is made out of the violation of any provisions of the Competition Act. The matter deserves to be closed and is hereby closed.

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

Sd/-
Member (G)

Sd/-
Member (R)

Sd/-
Member (AG)

Sd/-
Member (GG)

Sd/-
Member (T)

Sd/-
Member (D)

Sd/-
Chairperson

Certified True Copy



P. Gahlaut
29/07/2012
P. GAHLAUT
ASSISTANT DIRECTOR
Competition Commission of India
New Delhi