



COMPETITION COMMISSION OF INDIA

Case No. 27 of 2014

In Re:

**Shri Sunil Chowdhary
305, Sector 1, Type-3
Sadiq Nagar
New Delhi**

Informant

And

**M/s TDI Infrastructure Ltd.
UG Floor, Vandana Building,
11, Tolstoy Marg, New Delhi**

Opposite Party No. 1

**Shri D N Taneja,
Chairman,
TDI Infrastructure Ltd.,
UG Floor, Vandana Building,
11, Tolstoy Marg, New Delhi**

Opposite Party No. 2

CORAM

**Mr. Ashok Chawla
Chairperson**

**Mr. M. L. Tayal
Member**



Mr. S. L Bunker

Member

Mr. Sudhir Mital

Member

Mr. Augustine Peter

Member

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

1. Shri Sunil Chowdhary (the “**Informant**”) has filed the instant information under section 19(1) (a) of the Competition Act, 2002 (the “**Act**”) against M/s TDI Infrastructure Ltd. and its Chairman alleging, *inter alia*, contravention of the provisions of Section 4 of the Act in the matter.
2. Facts of the case, as stated in the information, may be briefly noted:
 - 2.1 The Opposite Party No. 1, M/s TDI Infrastructure Ltd., is a public limited company engaged in the business development of real estate. The Opposite Party No. 2, is Chairman of the Opposite Party No.1. The Informant is a buyer of residential flat in the integrated township project (“**the Project**”) developed by the Opposite Party No. 1 at Kundli in the Sonapat district of Haryana.
 - 2.2 In the said project, the father of the Informant booked a residential flat for which he had paid Rs.5,50,000/- towards part payment of the total consideration. After the death of the Informant’s father, the said flat was transferred in favour of the



Informant for which he paid Rs.20,00,000/-. Also, it is alleged that after having taken substantial amount, the Opposite Party No. 1 compelled the Informant to sign erroneous agreement with exploitative terms. It is alleged that the Opposite Party No.1 dubiously changed the sale price of the said flat from Rs.1,650/- per sq. ft. to Rs.1,750/- per sq. ft. It is the case of the Informant that Opposite Party No. 1 had raised an unreasonable additional demand of Rs.5,36,368/-.

2.3 It is further averred in the information that the Opposite Party No. 1 had threatened the Informant to pay the additional amount as per the demand letter failing which the sale price of the said flat would be increased or the said allotment would be cancelled. Also, it is alleged that the buyers' agreement had unreasonable and exploitative terms and loaded heavily in favour of the Opposite Parties. The buyers have no exit option because of high switching cost as they have already paid huge amount of money to the Opposite Party No. 1.

2.4 It is alleged that the Opposite Parties abused their dominant position by imposing discriminatory and unfair prices of the flats and indulging in practices which result in denial of market access to other players. It is averred that the Opposite Parties enjoy dominant position in the relevant market and are operating independently.

2.5 Accordingly, the Informant has alleged that the conduct of the Opposite Parties is unfair and discriminatory in terms of the provisions of section 4 of the Act.

2.6 Based on the above averments and allegations, the Informant has made, *inter alia*, following prayers before the Commission:

- (i) to institute inquiry and to hold the Opposite Parties guilty under section 4 of the Act;



(ii) to direct the Opposite Parties to fix basic sale price of the said flat as Rs.1,650/- per sq. ft.; and

(iii) to give the possession of the said flat.

3. The Commission perused the material available on record including the information, additional information, facts and data placed on record by the Informant. Facts of the case reveal that the grievances of the Informant primarily pertain to the alleged abusive conduct of the Opposite Party No. 1 in allocation of residential flat to the Informant in the integrated township project developed by it at Kundli in the Sonapat district of Haryana, which is alleged to be in contravention of the provisions of section 4 of the Act.
4. For examination of the alleged abusive conduct of the Opposite Party No. 1, it is required first to delineate the relevant market where the Opposite Party No. 1 is operating and then to assess the position of dominance of the Opposite Party No. 1 in the relevant market so delineated and finally, examination of the conduct in case it is found to be in a dominant position in the relevant market.
5. The Informant had not proposed any relevant market in the information. It may be observed that customers make buying decisions keeping in mind various factors such as intended use, surrounding areas, transportation facilities, connectivity with major areas, proximity to various amenities like schools, universities, hospitals and vistas of entertainment and leisure like malls and restaurants, distance from workplace, potential rate of return among others. Residential units form a separate relevant market since the motive of buying and factors considered are different from commercial units of real estate, although they feed of each other to a certain extent but they do not present themselves as substitutes for buyers. The concept of integrated townships have become popular where all facilities are provided within one township but even in those cases, ordinarily the



market would be of residential units. The services of development and sale of residential apartments appear to be a distinct product. Thus, the market of “*services of development and sale of residential apartments*” appears to be the relevant product market in the instant case.

6. Further, the relevant geographic market would be the geographic area of Sonapat as it offers unique investment opportunities as compared to other real estate markets in Delhi/ NCR region. Also, given its proximity to North Delhi and various upcoming infrastructural, the significant price rise in this market may not shift consumers to well developed markets like NOIDA, Gurgaon. Further, the other areas of Haryana like Gurgaon, Faridabad, Bahadurgarh, *etc.* cannot form the part of the relevant geographical market because of difference in price of land, availability of quality essential services, distance and commutation facilities from the national capital of Delhi, *etc.* Although other areas like Rohtak, Rewari, Jhajjar, Panipat, Alwar, Bulandsheher, Baghpat are also a part of NCR region as per Delhi Master Plan 2021, they also do not present as an alternative investment opportunity to Sonapat as the latter offers greater potential of return on investment and these areas are yet to see comparable infrastructural development. Other projects in Sonapat may be substitutes for buyers as distance is negligible.
7. Accordingly, “*the market of the services for the development and sale of residential apartments in Sonapat District of Haryana*” is considered as the relevant market in the instant case.
8. The Informant, on the basis of land holding and undergoing projects in Kundli and Sonapat area, has contended that the Opposite Party No. 1 hold a dominant position in the relevant market and is capable of operating independently in the market. In this regard, it is observed that even though these factors establish that the Opposite Party No. 1 is a major player in the relevant market, but it cannot be said to be in a dominant position in the relevant market. Large land bank gives the



Opposite Party No. 1 the opportunity to push more supply into the market but buying behaviour in real estate is not only influenced by the size of the project but also because of several other factors. Higher prices of a project belonging to a developer may also not translate into dominance.

9. Further, apart from the Opposite Party No. 1, other large developers like Ansal, Parshavnath Developer, Tulip Developer, Jindal Realty, *etc.* are competing with each other in the relevant market with projects of varying magnitudes and having comparable size and resources than that of the Opposite Party No. 1. Presence of such players with comparable projects in the relevant market indicates that the buyers have the option to switch to other developers in the relevant geographic market.
10. Since there is no information available on record and on the public domain to show the position of strength of the Opposite Party No. 1 which enables it to operate independently of competitive forces prevailing in the relevant market, *prima facie*, the Opposite Party No. 1 does not appear to be in a dominant position in the relevant market. In the absence of dominance of the Opposite Party No. 1 in the relevant market, its conduct cannot be examined under the provisions of section 4 of the Act.
11. In the light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of section 4 of the Act is made out against the Opposite Parties in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.
12. The Secretary is directed to inform all concerned accordingly.



Sd/-

(Ashok Chawla)

Chairperson

Sd/-

(M. L. Tayal)

Member

Sd/-

(S .L. Bunker)

Member

Sd/-

(Sudhir Mital)

Member

Sd/-

(Augustine Peter)

Member

New Delhi

Date: 23.09.2014