



**COMPETITION COMMISSION OF INDIA**

(Case No. 46 of 2013)

In Re:

Lt. Col. Anjani Kumar Singh

Informant

And

City Corporation Ltd.

Opposite Party

CORAM:

Ashok Chawla  
Chairperson

Geeta Gouri  
Member

Anurag Goel  
Member

M.L.Tayal  
Member

Justice (Retd.) S.N. Dhingra  
Member

S.L. Bunker  
Member

Present: Informant in person.

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

1. The informant Lt. Col. Anjani Kumar Singh booked a 2 BHK flat in Amanora Park Town, Hadapsar Kharadi bypass, Pune, a project developed by City Corporation Ltd.('OP'). The



informant made a payment of Rs. 1,00,000/- on 14.12.2010 as booking amount and was allotted Unit no. 011-01-01, in Tower no. 011. The informant subsequently made a payment of Rs. 3,66,000/-.

1.1 After booking the flat, the informant enquired about the agreement to lease from the OP's customer care executive and was informed that the same was under preparation. He then pursued one Mr. Vikrant Talukdar, Marketing Executive of Amanora Park Town, who kept dilly dallying the issue on one pretext or the other and later stopped taking the informant's calls. The informant then wrote emails on various dates (14.10.2011, 23.10.2011, 09.01.2011) asking about the agreement to lease. The informant received a response from Mr. Talukdar on 10.01.2012 that there was delay due to new township rules and regulations and signing of registration agreement would begin in February 2012.

1.2 The informant submitted that he received demand letter dated 05.05.2012 on 23.07.2012 from OP raising demand for 15% of the agreement value, documentation charge, VAT @ 1%, stamp duty and registration charges. It was further submitted that the informant wrote to OP on 23.07.2012 asking for the draft copy of the agreement to lease before he makes further payment. In response, the informant received the agreement through email on 24.07.2012. After studying the agreement, the informant conveyed his concerns on the clauses of the draft agreement to lease through email on 15.08.2012. The informant in his email



stated that certain documents said to be part of the draft agreement were left blank and the same should be disclosed (copy of mutation entry, permission for disposal and transfer of units, permission for development granted by Collector, floor plans etc.). Further, the sanctioned master layout was not disclosed, carpet and built up area, one time lease premium etc. were not mentioned (Para A, B, D, E, F, H, I, J, L, M and N of the draft agreement). Furthermore, the informant raised objections against the clauses in para 3.4, para 4.1, 5.1, 5.2, sections 6(ii), 6(v), 6(viii), 6(vii), 6(ix), 6(xii), sections 7, 9, 10, 11, 12, 13, 14, 15, 16, 17.2, 18.2, 19.2, 20.1, 20.2, 20.4, 20.5, 20.9, 20.10, 21.1, 24.1, 24.2, 24.3, 20.9, and section 30 of the draft agreement to lease.

1.3 The OP responded *vide* email dated 05.09.2012 wherein it was stated that the draft agreement of lease was a standard agreement for all citizens/ buyers and it was not possible to make any changes to the same. The informant travelled to Pune on 10.12.2012 to meet the representatives of OP and he raised his concerns on the draft agreement and also said that if his concerns could not be addressed, the booking amount might be refunded with interest. The OP's representative promised to discuss his case with higher authorities and intimate the outcome at the earliest through email. However, the informant did not receive any response till date.

1.4 It was also submitted that *vide* letter dated 28.01.2013, OP made it clear that no alterations would be made to the agreement to lease and if the agreement to lease was not signed, executed



and registered in 7 days, the booking would be cancelled and an amount of Rs. 1,00,000/- would be deducted from the total amount paid.

2. On basis of above, the informant alleged that the anti-competitive agreement was thrust upon him and OP abused its dominant position by not addressing the objections raised against the anti-competitive clauses of the draft agreement to lease. The informant had combined the relief and interim relief and prayed that the booking amount be refunded, compensation at the market rate with 24% interest per annum may be given to him, compensation for loss of opportunity, compensation for legal and administrative expenses incurred by him and lastly, the compensation for mental and physical agony may be awarded to him.
3. The informant was called for preliminary hearing to make his submissions in the matter. The informant submitted that OP abused its dominant position by preparing one sided buyer's agreement containing abusive clauses and it showed the agreement after very long time of buying the apartment. Further, OP used a standard buyer's agreement which was not subject to any changes. It was stated that OP held huge resources and was constructing a separate township making him the biggest developer in Pune. Further, it was stated that there weren't many developers competing with OP.
4. The Commission considered the information with all relevant record and arguments put forward by the informant.



5. In order to attract the provisions of Section 4 of the Act, first the relevant market needs to be defined. The product transacted in this case is 'development and sale of residential flats'. The relevant product market, therefore, would be 'the provision of services for development and sale of residential flats'. The relevant geographic market would be the geographic area of Pune as the conditions of competition for supply of the provision of services or demand of services are distinctly homogeneous and can be distinguished from the conditions prevailing in the neighbouring areas. As such the relevant market would be 'the provision of services for development and sale of residential flats in Pune'. As per the information available in public domain, there are several upcoming residential projects in the relevant geographic market from different developers such as, Lodha Group, Rama Group, DSKulkarni Developers Ltd., Rohan Developers, Paranjape Developers, PRA Realty, Mantri etc. Many developers in the relevant market were much bigger in size and resources than OP. The presence of other well known developers in the relevant market *prima facie* negates the possibility of the informant being dependent on OP or OP being dominant. There was nothing on record or otherwise to show that OP could operate independent of the market forces in the relevant market.
6. In view of above, it is found that OP was *prima facie* not a dominant player in the relevant market defined above. Since OP does not appear to be in a dominant position in the relevant



market, the issue of abuse of dominant position in that market by OP may not arise under Section 4 of the Act.

7. For reasons stated above, the matter deserves to be closed under section 26(2) of the Act. The Secretary is directed to inform the parties accordingly.

New Delhi  
Date: 04/09/2013

Sd/-  
(Ashok Chawla)  
Chairperson

Sd/-  
(Geeta Gouri)  
Member

Sd/-  
(Anurag Goel)  
Member

Sd/-  
(M.L.Tayal)  
Member

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(Justice (Retd.) S.N. Dhingra)  
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