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Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Case No. 52 of 2015

In Re:

**Shri Deepak Khandelwal
G-101, Vivekanand CGHS,
Plot No.2, Sector-5, Dwarka,
New Delhi**

Informant

And

**Ireo Grace Realtech Pvt. Ltd.
304, Kanchan House,
Karampura Commercial Complex,
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**



Mr. M. S. Sahoo
Member

Justice (Retd.)Mr. G.P. Mittal
Member

Appearances:

For the Informant: Shri Udayan Khandelwal, Advocate.

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

1. The present information has been filed under section 19(1)(a) of the Competition Act, 2002 (hereinafter referred to as the ‘Act’) by Shri Deepak Khandelwal (hereinafter referred to as the ‘Informant’) against Ireo Grace Realtech Pvt. Ltd. (hereinafter referred to as ‘OP’) alleging, *inter alia*, contravention of the provisions of section 4 of the Act.
2. As per the Information, the Informant had booked a flat at the rate of Rs.8,750/- per square feet in “The Corridors” (hereinafter referred to as the “Project”), developed by OP in Gurgaon. It is submitted that the Informant had paid Rs.15,00,000 [*i.e.* 10% of the Basic Sale Price (BSP)] as booking amount.
3. The Informant has submitted that at the time of booking, OP had assured that BSP for the said flat will be Rs.8,750/- per sq. feet. No particular unit was stated to be allotted to the Informant at the time of booking of the said flat.



4. It is stated that OP, *vide* letter dated 14.04.2013, demanded a sum of Rs.18,46,912/- from the Informant quoting Rs.9,400 per sq. feet as BSP for the said flat. OP did not pay any heed to the objections raised by the Informant as regards fluctuation in the rate of BSP. The Informant has alleged that the amenities, which were earlier promised free of cost were made chargeable by OP.
5. The Informant has averred that the allotment of the flat was done arbitrarily by OP without the consent of the Informant. It was also informed that the said allotment was final and changes were not acceptable.
6. Aggrieved by the conduct of OP, the Informant decided to cancel the provisional allotment and sought refund of the booking amount of Rs.15,00,000/- from OP. It is alleged that OP forfeited the booking amount citing reasons that there is no provision for cancellation of provisional allotment. OP, *vide* its letter dated 20.04.2015, is stated to have admitted that there were many other buyers who were placed in the similar position as that of the Informant.
7. It is alleged that the conduct of OP indicates an abuse of its dominant position in terms of section 4 of the Act. It is further alleged that OP has contravened the provisions of the section 4 of Act by imposing unfair terms and conditions in its booking application form as well as in the Flat Buyer's Agreement ('FBA').
8. The Informant is stated to have filed a complaint also before the District Consumer Forum in Delhi for refund of his booking amount from OP.



9. Based on the above allegations, the Informant has alleged that the conduct of OP is in contravention of the provisions of section 4 of the Act. Thus, the Informant has prayed, *inter alia*, for initiating an inquiry under the Act.
10. The Commission has perused the information and heard the counsel on behalf of the Informant on 11.08.2015.
11. Facts of the case reveal that the Informant is primarily aggrieved by the conduct of OP for allegedly imposing unfair terms in the booking application form as well as in FBA in contravention of the provisions of section 4 of the Act.
12. The Commission notes that similar issues have been dealt in previous cases also. With regard to delineation of the relevant market in the present matter, it would be the market for “*provision of services for development and sale of residential apartments in Gurgaon*”.
13. The Commission observes that there are many other bigger and established players in the relevant market of residential apartments in Gurgaon like DLF Homes, Emaar MGF, BPTP, Unitech, Godrej Properties, Ansal, Supertech *etc.* which are engaged in similar services of developing and selling residential apartments as that of OP. From the website of OP, it is noted that OP is developing only three projects in Gurgaon. In addition, the Commission has also taken note of the fact that there are various residential apartment projects which are being developed at the same time in the relevant market of Gurgaon. Further, the residential apartments being



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developed by other major players are substitutable and provide multiple options for the consumers in the relevant market.

14. Thus, *prima facie*, OP does not appear to be in a dominant position in the relevant market. In the absence of dominance of OP, its conduct need not be examined under the provisions of section 4 of the Act.

16. In 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 OP in the instant case. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

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

Sd/-

(Ashok Chawla)
Chairperson

Sd/-

(S. L. Bunker)
Member

Sd/-

(Sudhir Mital)
Member

Sd/-

(Augustine Peter)
Member



Sd/-

(U. C. Nahta)
Member

Sd/-

(M. S. Sahoo)
Member

Sd/-

(Justice (Retd.) G.P. Mittal)
Member

New Delhi
Dated: 25.08.2015