



**COMPETITION COMMISSION OF INDIA**

**Case No. 67 of 2015**

**In Re**

**Shri Navin K Trivedy  
E-19, Phase-1, New Palam Vihar,  
Near St. Soldier Public School,  
Gurgaon, Haryana**

**Informant**

**And**

**M. R. Proview Realtech Pvt. Ltd.  
B-66, Sector 63, Noida, UP**

**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.] G.P. Mittal**  
**Member**

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

1. The present Informant has been filed by Mr. Navin K Trivedy (hereinafter referred to as the '**Informant**') under section 19(1)(a) of the Competition Act, 2002 (hereinafter referred to as the '**Act**') against M. R. Proview Realtech Pvt. Ltd. (hereinafter referred to as '**OP**') alleging, *inter alia*, violation of the provisions of section 4 of the Act.
2. The brief facts, as averred in the information, are as hereunder:
3. It is submitted that OP is a leading Delhi based Real Estate Company and is engaged in the business of construction work. As per the Information, the Informant had booked a flat in "Shalimar City" being developed by OP in Ghaziabad (hereinafter referred to as the "Project"), and had paid Rs.7,35,000 towards booking amount. The project is stated to have covered an area of 65 acres of land with approximately 7000 flats.
4. OP, *vide* allotment letter dated 29.05.2012, provided the details of the flat booked including the total cost of the said flat *i.e.*, Rs.48,95,982/-. It is stated that OP had allotted flat no. 601 in tower 'Coral A' to the Informant in the project. It is submitted that the Informant had opted for construction link plan (CLP) which included free park and road facing, free covered car parking and club



membership *etc.* and OP had assured to give the lawful possession of the flat to him by December 2013.

5. It is submitted that the Informant paid an amount of Rs.47,46,779/- till 12.10.2013 out of which a sum of Rs.39,16,000/- was raised through home loan. As per the payment plan opted by the Informant, the last instalment of 5% of the total sale consideration was required to be paid at the time of the handing over of possession of the flat to the Informant.
6. It is averred that OP, *vide* letter dated 30.01.2015, demanded final balance amount of Rs.4,74,603/- even before handing over the possession of the flat. It is alleged that the entire calculation towards the total sale consideration of the flat shown by OP in its final statement of accounts was wrong and unjustified. Further, it is stated that another demand letter dated 31.01.2015 was issued by OP for an amount of Rs.2,98,968/- including Rs.49,140/- towards Interest Free Maintenance Charge (IFMS) which allegedly was already paid by the Informant. It is alleged that the conduct of OP indicates that it indulged in unfair practices by misusing its dominant position in the market.
7. It is alleged that the abovesaid letter dated 30.01.2015 showed an amount of Rs.41,959/- towards interest which was levied for the delayed payments on the part of the Informant. However, the Informant claims to have never delayed payment of any instalment towards the total cost of the flat. The Informant has also submitted that OP had unfairly/arbitrarily demanded an additional amount of Rs.60,000/- towards electricity connection and meter charges whereas, as per the allotment letter, OP had committed to provide free electricity connection and power back-up limit upto 01 KVA (Kilovolt-ampere).
8. The Informant is stated to have clarified the abovementioned issues with OP but no positive response was received from it. Thereafter, the Informant sought



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information from Ghaziabad Development Authority (GDA) under Right to Information Act regarding the then current status of the completion certificate of the project. GDA had informed that neither the completion nor the occupancy certificate had been issued in respect of the project.

9. OP is stated to have raised a demand, *vide* letter dated 17.07.2015, for an amount of Rs.4,99,686/- without complying with the mandatory basic norms of the construction. It is alleged that OP has abused its dominant position by demanding full payment without obtaining necessary certificates in respect of the project from the competent authority. It is further alleged that OP is directly/indirectly imposing unfair and discriminatory conditions such as levy of 18% per annum for delayed payments by the buyer. Thus, the conduct of OP is alleged to have contravened the provisions of section 4(2)(a) of the Act.
10. Based on the above allegations in the information, 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 the initiation of an inquiry under the Act.
11. The Commission perused the information and other materials on record.
12. In the instant case, the Informant appears to be aggrieved primarily by the conduct of OP for demanding full and final payment towards the sale consideration of the said flat without obtaining necessary certificates in respect of the Project from the competent authority and imposing unfair terms and conditions in its allotment letter.
13. As stated in the information, the Informant had booked a flat in the project being developed by OP in Ghaziabad. Therefore, considering the issues in the present matter, it appears that the relevant product market would be the “*services of*



*development and sale of residential flats*”. With regard to the relevant geographic market, it may be noted that the consumers, looking for a residential apartment in Ghaziabad, may not prefer other areas. Various factors like distance to locations frequently commuted, regional or personal preferences, transport connectivity *etc.* play a decisive role in a potential buyer’s decision making process while choosing a residential flat in a particular area. The Commission is of the view that the relevant geographic market would be “*Ghaziabad*”. Thus, the relevant market would be the “*services of development and sale of residential flats in Ghaziabad*”.

14. With regard to the allegations under section 4 of the Act, the Commission notes that, based on the information available in public domain, apart from OP, there are many other large real estate developers operating in the relevant market such as Amarpali Group, Anjara, Value Infra, Techman Buildwell Pvt. Ltd, Shree Energy Group, SCC Builders, Quantum, Krishna Assets Developers Pvt. Ltd., Vidur Developwell, A R Buildtech Private Limited, Dwarikaraj, SVP Group, Himalaya *etc.* (Source: <http://www.rajnagarextn.com/> and individual websites of real estate developers). The presence of other builders in the relevant market indicates that OP is not enjoying dominant position in the relevant market.
15. Another factor for determination of dominance is the dependence of consumers on the enterprise. All the real estate developers are competing with each other in the relevant market with projects of varying magnitudes and having comparable size and resources. Presence of other players with comparable projects in the relevant market indicates that the buyers had options to buy flats from other developers in the relevant geographic market. The buyer did not seem to be dependent on OP.
16. Further, it is observed that no information is available on record or in the public domain, which indicates the position of strength of OP and enables it to operate independently of competitive forces prevailing in the relevant market. The



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Informant has also not placed before the Commission any cogent material to show the dominance of OP. 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.

17. 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 present case. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

18. 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**  
**Date: 29.09.2015**