



(Case No. 77/2013)

(i) **Mr. Naresh Bansal**  
WZ-2351/A, Raja Park,  
Delhi-110034

(ii) **Mr. Gagan Deep Goel**  
Plot-90(GF), Pocket 28,  
Sector 24  
Delhi-110085

....Informants

And

**M/s Omaxe Limited**  
7LSC Kalkaji  
New Delhi –110019

...Opposite Party

**CORAM:**

Mr. Ashok Chawla  
Chairperson

Dr. Geeta Gouri  
Member

Mr. Anurag Goel  
Member

Mr. M. L. Tayal  
Member

Mr. S. L. Bunker  
Member

Present: Mr. Sanjeev Pathak, Advocate for the Informants

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

The information in the present case has been filed under Section 19(1)(a) of the Competition Act, 2002, (“Act”)alleging violation of the provisions of the Act, more specifically Section 4, by the Opposite Party (“OP”) with regard to development of a real estate project.



2. The Informants alleged that OP had made a representation to the public at large regarding a real estate project without specifying the details and identity of the property. The Informants paid a sum of INR 2,16,000/- vide cheque dated 23.07.2004 and got enrolled in the registrants list. The registration form mentioned that it had reference to a future commercial/residential project in and around National Capital Region. The Informants stated that OP vide letter dated 21.09.2005 demanded another sum of INR 2,16,000/- with an option for preferential location at a specified cost. Believing OP, the Informants paid INR 2,16,000/- and also paid INR 2,50,000/- in order to avail the proposed preferential location.

3. It is stated that the Informants had asked OP to specify the location and sought allotment of plot or in the alternative refund of amount paid by the Informants with interest. Informants contended that OP did not consider their request and raised a demand of INR 2,88,000/- vide letter dated 28.01.2006 for issuance of allotment letter. Thereafter, vide letter dated 01.02.2006, OP allotted a plot bearing no. 1343 in Omaxe city project at Sonapat, Haryana and informed the Informants that the detailed allotment letter/agreement for the said allotment would be sent in a short while.

4. The Informants pleaded that EDC charges were realised from them @ Rs. 1100/- per sq. yard, instead of charges calculated at actuals. It was stated that OP had cancelled its earlier allotment and re-allotted a plot bearing no. 1886 in the same project vide letters dated 10.06.2006 and 14.06.2006.

5. The Informants stated that when they asked for the 'buyer agreement', they got an agreement dated 29.09.2006 for sale/purchase of plot to be executed with OP. It was alleged that certain clauses of this agreement were one sided and anti-competitive. Further, under this agreement, there was no exit route to buyers of plots in case of violation of terms on part of OP and no consequence for such violation on the part of OP.

6. The Informants had sent various letters to OP seeking possession of plot, specifying that the remaining payment would be made on offer of possession. OP



however issued various demand letters on account of increased EDC, instalment dues, interest on the defaulted amount, etc. Finally, on 20.12.2012, OP issued cancellation letter to the Informants citing default in payment as the reason. Based on the above facts, the Informants alleged that the conduct of the OP was in violation of provisions of the Act, more specifically Section 4 of the Act.

7. The Commission considered the information, facts and data placed on record by the Informants and heard the counsel of the Informants. It is clear from the averments made in the information that the relevant product market in the present case would be the market “*of services for development of residential plots*”. The relevant geographical market in the instant case would be Sonapat district of Haryana. 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. The conditions of competition for development of residential plots in Sonapat are different from other adjacent cities of Haryana and National Capital Region. The conditions of competition for development of residential plots or demand of this service is homogenous within the area of Sonapat. Therefore, the relevant market in the instant case would be the market “*of services for development of residential plots in Sonapat district of Haryana.*”

8. Based on the information available in the public domain, it is evident that the market for service for development of residential plots in Sonapat district of Haryana is very broad and highly competitive. The presence of real estate players namely TDI Ltd., Ansal Developers, Parshavnath Developers, Tulip Developers, Jindal Realty, etc. in the relevant market makes it a competitive market. The Informants have alleged that OP was a dominant enterprise but have not provided any information regarding the position of strength of OP in the relevant market. There is no information on record and available in the public domain which shows a position of strength of OP enabling it to operate independent of competitive forces prevailing in the relevant market. Keeping in view the provisions of explanation (a) to Section 4 and the factors mentioned under Section



19(4) of the Act it cannot be said that OP was a dominant player in the relevant market.

9. Since OP was not in a dominant position in the relevant market, the issue of abuse of dominance by OP in the relevant market would not arise.

10. With respect to violation of Section 3, the agreement between the Informants and OP is not in the nature of an agreement prohibited under sections 3(3) or 3(4) of the Act. The Informants being the end consumer are not the part of production chain or distribution chain envisaged under the Act.

11. As such the Commission finds that no *prima facie* case is made out for directing Director General to carry out investigation into the matter under Section 26(1) of the Act. However Informants are free to explore other remedies for their grievances.

12. For the reasons mentioned above, the Commission is of the opinion that there arises no competition concern actionable under Sections 3 or 4 of the Act and the case deserves to be closed under Section 26(2) of the Act. The case is therefore, hereby closed under Section 26(2) the Act.

13. The Secretary is directed to inform the Informants accordingly.

New Delhi  
Date: 22.01.2014

Sd/-  
(Ashok Chawla)  
Chairperson

Sd/-  
(GeetaGouri)  
Member

Sd/-  
(AnuragGoel)  
Member

Sd/-  
(M.L. Tayal)  
Member

Sd/-  
(S.L. Bunker)  
Member