



**COMPETITION COMMISSION OF INDIA**

**Case No. 78 of 2014**

**In Re:**

**1. Shri Siddhartha Upadhyaya  
148 Sigma, Greater Noida - 201306**

**2. Shri M. S. Negi/ Shri Devender Negi  
C-207, Sector 20, Noida**

**Informants**

**And**

**Shri Sushil Ansal and Shri Pranav Ansal  
M/s Ansal Proprieties & Industries Ltd.  
Ansal Bhawan, 16 KG Marg, New Delhi**

**Opposite Party**

**CORAM**

**Mr. Ashok Chawla  
Chairperson**

**Mr. S. L. Bunker  
Member**

**Mr. Sudhir Mital  
Member**

**Mr. U. C. Nahta  
Member**

**Appearances:** Shri Siddhartha Upadhyaya and Shri Devender Negi, the  
Informants.



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

1. The present information has been filed by Shri Siddhartha Upadhyaya and Shri M. S. Negi/ Shri Devender Negi (hereinafter, the '**Informants**') under section 19(1) (a) of the Competition Act, 2002 (hereinafter, the '**Act**') against Shri Sushil Ansal and Shri Pranav Ansal of M/s Ansal Proprieties & Industries Ltd. (hereinafter, the '**Opposite Party**') alleging *inter alia* contravention of the provisions of section 4 of the Act.
2. Facts, as gathered from the information, may be briefly noted:
3. The Informants are stated to be the owners of shop Nos. GF 73 and GF 75 at Ansal Plaza Mall, Greater Noida (hereinafter, the '**Project**'), developed by the Opposite Party. The Opposite Party is a company engaged in the business of construction of residential and commercial/retail properties in different parts of Delhi, U. P., Haryana, Punjab, Rajasthan, *etc.*
4. As per the information, both the Informants had booked two shops/commercial spaces on the ground floor of the said project of the Opposite Party. However, through RTI, later they got to know that they were allotted shops on the first floor instead of the ground floor as agreed between them. Further, the Informants have stated that one of the said shops was in the name of Dr. Seema Kumar wife of Mr. Anil Kumar, one of the directors of the Opposite Party. It is alleged that the Opposite Party hold the shops in the name of their family members, relatives and friends and benefit indirectly by selling such shops at premium prices.
5. The Informants have alleged that the Opposite Party committed a serious fraud and breach of trust against the cherished norms of business by selling shops in the name of 'ground floor' and giving possession of the same to the buyers on the first floor, after naming the 'first floor' as 'ground floor'. Further, by



adding an entirely new commercial floor below the 'ground floor' in the name of '*Atrium Floor*', the Opposite Party cheated the Informants and others who had purchased shop on the 'ground floor' and above. As per the Informants, the Opposite Party was never disclosed the same to them at any point of time during the selling of the shops and also not mentioned in the allotment letter. It is alleged that the Opposite Party deliberately used confusing terminologies in naming the floors such as '*Atrium Floor*' to cheat the shop buyers.

6. It has been alleged that the Opposite Party, with a view to get more profit, sold the shops on a floor twice; initially in the name of 'ground floor' and then the same shops were sold to the customers who invested later in the project in the name of '*Atrium Floor*'. It is further averred that the Opposite Party changed the shop number, size and location without the consent of the Informants. As per the Informants, the said act of the Opposite Party is unlawful, fraud and deceit.
7. The Informants have stated that the Opposite Party never submitted the original drawings and maps to the Greater Noida Industrial Development Authority ('**GNIDA**') which were used to sell the shops in the project. It is alleged that the Opposite Party showcased the initial and original project plan to the shop buyers only to lure them but in actual it had a mala-fide intention and ulterior motive of making the changes later in the original project plan to make money.
8. It is averred that the service apartment/hotel in the name of 'Savoy Suites' on the top of the Ansal Plaza Mall building structure was not part of the initial plan of the project. However, the Opposite Party later added the same and changed the entire layout and accordingly calculated the super area. It is alleged that because of its dominant position, through fraudulent manipulations, the Opposite Party erected the hotel/service apartment at the cost of the Informants' and other investors' hard earned money.



9. The Informants have further stated that the mall was designed with two floors of reserved parking to support a purely retail oriented shopping complex as per GNIDA bi-laws but in due course the service apartment/hotel and multiplex parking was also included in the Mall's parking. It has been alleged that the Opposite Party and GNIDA are in connivance with each other in this regard. As per the Informants, the Opposite Party indulged in willful, unauthorized, unapproved, and illegal activities and made changes to the approved layout of the mall building without taking mandatory approvals from GNIDA and the consent of the stakeholders in the said mall.
10. The allegations of the Informants against the Opposite Party also include encroachment of parking space and leasing them out to others, charging of irrational maintenance cost for the closed shops; shifting the shops from first to second floor to accommodate other investors; illegal, unauthorized and dangerous changes in the building plan to accommodate a hyper mart at the basement; compromise on fire exits; extortion of money from the shop owners in the name of common areas maintenance; giving low electricity bill to benefit select shop owners at the cost of others; removal of the existing toilets to use the space for its benefits; permanently closing some of the entry and exit points of the Mall which were in the approved plan; causing financial loss and mental harassment to the Informants, *etc.*
11. Aggrieved by the above said alleged abusive conduct of the Opposite Party, the Informants have prayed before the Commission to investigate the matter.
12. The Commission has perused the material available on record besides hearing the Informants who appeared in person.
13. It appears that Informants are aggrieved by the alleged abusive conduct of the Opposite Party in management of the commercial spaces/shops in Ansal Plaza Mall at Greater Noida in violation of the provisions of section 4 of the Act. The Informants came to know about the alleged activities of the Opposite



Party such as allocation of wrong floors, change in layout of the building, sharing of parking spaces with a hotel *etc.*, while doing file inspection of the Mall and through RTI application.

14. From the facts of the matter the relevant product market in the instant case appears to be ‘the market for the services of development and sale of commercial space in shopping malls’. It is observed that physical characteristics and consumer preference for the commercial space in shopping malls is distinct from the physical characteristics and consumer preference for commercial space other than in shopping malls. Facilities such as centralized air condition, escalators, lifts, furniture *etc.* are available in the shopping malls whereas all such facilities may not be there in other commercial space. Moreover, shopping malls act as hubs of leisure for the end consumers as it offers shopping, movies, food, games *etc.*, at one place. With regard to the relevant geographic market, it is observed that while investing in such commercial space a buyer may consider various factors such as development of the region, location of business establishment, transport facilities, *etc.* The market conditions for the relevant product in Noida and Greater Noida regions appear to be homogenous because of the factors such as less distance between the two regions, no much price differentiation, *etc.* Since nothing on record reflects heterogeneity in the conditions of competition with respect to the relevant product in Noida and Greater Noida regions, it is to be assumed that the conditions of competition for market of commercial space in shopping malls are homogenous throughout Noida and Greater Noida. Accordingly, “the market for the services of development of commercial space in shopping malls in the Noida and Greater Noida” may be considered as the relevant market in the instant case.

15. As per the information available on public domain, the Opposite Party has only one commercial/retail project in the Greater Noida region and there are several other real estate companies operating in the same geographic region with more than one project and similar services. It is noted that real estate



companies like Omaxe, Supertech Limited, Jaypee Group, *etc.* have bigger presence in the relevant market in comparison to the Opposite Party. For instance, Omaxe has projects like India Trade Centre, Omaxe Connaught Place, NRI City Centre, Omaxe Arcade and Omaxe Palm Court in the relevant geographic market. The presence of large number of players in the relevant market itself indicates that the commercial shop buyers have choice and are not solely dependent on the Opposite Party. Based on the above, *prima facie*, the Opposite Party does not appear to be dominant in the relevant market.

16. As the Opposite Party does not appear to be in a dominant position in the relevant market, the question of abuse of dominant position by it does not arise. As such, no case of contravention of the provisions of section 4 of the Act is made out against the Opposite Party and the information is ordered to be closed forthwith in terms of the provisions contained in 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/-**  
**(U. C. Nahta)**  
**Member**

**New Delhi**  
**Date: 23-12-2014**