

**Competition Commission of India**

**Case No. 15/2011**

5<sup>th</sup> July, 2011

**Balabhadra Residency Flat Owners Welfare Association, Hyderabad**

***Informant***

**A.V. Ravindranath Rao, Prop M/s Bhargravarama Constructions,  
Hyderabad**

***Opposite Party***

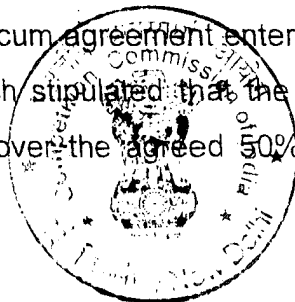
**Order under Section 26(2) of the Competition Act, 2002**

The present matter has been considered by the Commission on the basis of information dated 08.04.2011, received under Section 19 of the Competition Act, 2002 (hereinafter referred to as "the Act") from Balabhadra Residency Flat Owners Welfare Association, Hyderabad (hereinafter referred to as "Informant") against A.V. Ravindranath Rao, Prop M/s Bhargravarama Constructions, Hyderabad (hereinafter referred to as "Opposite Party") alleging that the said opposite party is indulging in certain unfair trade practices.

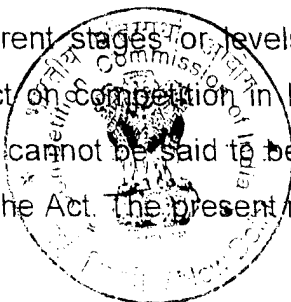


1. The facts of the case and allegations in the matter in brief, are as under:

- 2.1. The Informant is a registered flat owner's welfare association under the Andhra Pradesh Societies Registration Act, 2001. The Opposite Party is a construction company engaged in development of multistoried residential complex in Hyderabad, Andhra Pradesh.
- 2.2. It is submitted by the Informant that the Opposite Party has taken two plots of land of the Informant (comprising of seven legal heirs) having two structures in it admeasuring 300 sq.yds and 200 sq.yds located at Plot No. 55/A and Plot No. 61/1 respectively at New Nallakunta, Hyderabad for development of a multistoried residential complex. In turn, the Opposite Party has assured the Informant that they will get 50% of total built up area in the multistoried residential complex.
- 2.3. As per the Informant, the Opposite Party has assured the legal heirs of each of the said plots that they will get more constructed area than the present structure. Further, the Opposite Party assured the Informant that it will pay Rs. 10,000/- per month to each of the legal heirs as compensation for house rent till the date of handing over the constructed area. Accordingly, both the Informant and the Opposite Party entered into an agreement-cum-GPA on 24.01.2008 in this regard and thereafter a sale deed was executed in favour of the Opposite Party on 25.02.2010.
- 2.4. It is alleged by the Informant that the Opposite Party, in compliance of the assurance, paid Rs. 10,000/- per month to each of the members of the Informant till March, 2010 only. It has stopped the payment thereafter to the Informant which is contrary to the GPA cum agreement entered into between the Informant and the Opposite Party which stipulated that the compensation for house rent was to be paid till handing over the agreed 50% built up area in the building constructed on the said land.



2. The Commission considered the present matter in the meetings held on 27/04/2011, 10/05/2011, 24/05/2011 & 21/06/2011. The issue for consideration before the Commission in the present matter is to examine whether the alleged conduct of the Opposite Party is in violation of any provisions of the Act.
3. The Commission has carefully considered the facts of the case and has examined the relevant material available on record. It is noted by the Commission that the Informant is acting under ignorance of the provisions of the Act. The violation of Section 36D (1) ["powers which may be exercised by the Commission inquiring into an unfair trade practice"] as quoted by the Informant in the information is in fact related to the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act) which after its repeal has no force.
4. Notwithstanding above, the Commission has examined all the allegations levelled by the Informant with regard to violation of provisions of Section 3 and Section 4 of the Act based on the material and evidence available on record.
5. The Commission is of the view that the matter is not covered under the provisions of Section 3 of the Act. For applicability of any provisions of Section 3 (3) of the Act, it is required that there must be an agreement entered into between parties who are competitors and are engaged in identical or similar trade of goods or provision of services so as to cause appreciable adverse effect on competition in India. However, in the present matter, allegation is against a party who is not a competitor and is not engaged in identical or similar trade of goods or provision of services. The GPA cum agreement between the Informant and the Opposite Party cannot be treated as an agreement for the purposes of the provisions of Section 3(3) of the Act. Further, for applicability of Section 3(4) of the Act it is required that there should be an agreement between parties who are at different stages or levels of the production chain which causes appreciable adverse effect on competition in India. In the present matter, the Informant and the Opposite Party cannot be said to be the part of the same production chain, in terms of Section 3(4) of the Act. The present matter between the Informant and



the Opposite Party relates to a dispute between two parties which do not raise any competition concern.

6. The Commission is also of the view that the Section 4 of the Act will also not applicable in this matter since there is no material to substantiate that the Opposite Party is a dominant enterprise in the relevant market of development of multistoried residential complex in Hyderabad and further that it has abused its position of dominance in terms of the provisions of the Act.
7. The Commission after thorough perusal of the entire record/material available before it, came to the conclusion that there does not exist a *prima facie* case in the matter and therefore, there is no need to order an investigation under Section 26 (1) of the Act. Hence, the matter is closed under Section 26(2) of the Act.
8. The Secretary is directed to inform the Informant accordingly.

Sd/-  
Member (T)

Sd/-  
Member (P)

Sd/-  
Member (AG)

Sd/-  
Member (GG)

Sd/-  
Member (G)

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