

**COMPETITION COMMISSION OF INDIA**

**January 12, 2012**

**Case No. 80 of 2011**

*In re:*

Ravi Suri

Informant

v.

M/s Today Homes and Infrastructure Pvt. Ltd.

Opposite Party

with

**Case No. 81 of 2011**

*In re:*

1. Ravi Suri
2. Sudershan Sahni
3. Davinder Arora

Informant No.1

Informant No.2

Informant No.3

v.

M/s Today Homes and Infrastructure Pvt. Ltd.

Opposite Party

with

**Case No. 82 of 2011**

*In re:*

Anju Suri

Informant

v.

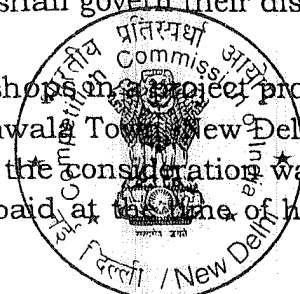
M/s Today Homes and Infrastructure Pvt. Ltd.

Opposite Party

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

Vide separate order of even date, the Commission has directed clubbing of all the above informations. Hence, this common order shall govern their disposal.

2. Briefly stated, the informants booked different shops on a project promoted by the opposite party at North Gate-Orbit Plaza, Gujrawala Town, New Delhi vide separate agreements for considerations. Major part of the consideration was paid during the construction and a small part was to be paid at the time of handing



over possession of the shops concerned. It is alleged by the informants that despite payments made by the informants, the opposite party failed to give possession of the shops to the informants, which was to be delivered on or before 30.09.2007. On visiting the site, the informants found the actual condition at site shocking and the shops were not ready for possession. Building was found to be incomplete. Approach road was in shabby condition. Civil work was also incomplete. The completion certificate was not issued by MCD and the same has not been issued till the date of filing the present information.

3. On these averments and other allegations, the informants alleged that the opposite party had not only adopted unfair trade practices but also indulged in illegal trade practices by taking major part of consideration and still not getting the sale deed registered as also by not handing over the actual physical possession of the shops in terms of the agreements. Accordingly, the informants made following prayers to the Commission:

- a) the opposite party be directed to get the sale deeds registered in favour of informants in respect of shops at North Gate-Orbit Plaza, Gujrawala Town, New Delhi.
- b) the opposite party be further directed to hand over the actual physical possession of shops after completion of development work and after obtaining the completion certificate.
- c) the opposite party be further directed to pay the compensation @ Rs.110-130 per sq. feet per month from the date of booking till the actual, physical possession is handed over, which is the prevalent rate of rent in the area, with cost of the present information/complaint, in the interest of justice.

4. The above matters were considered by the Commission in its ordinary meeting held on 22.12.2011 and the informants were heard by the Commission through authorised representatives on 12.01.2012.

5. The informants had premised the present information on the basis of the order passed by the Commission on 12.08.2011 in *Belaire Owners Association v. DLF*, Case No. 19 of 2010. However, the very basis of the premise, i.e., dominant position of the opposite party, is completely missing in the present information. No allegation or averment has been made to plead the dominant position of the opposite party, leave alone the abuse thereof. Further, from the prayers made, it is evident that the informants have made the prayers which are beyond the scope of the Act, specially in absence of any specific challenge to the agreements as anti-competitive and further in absence of any act being in abuse of dominant position.

6. There could have been a case for examination under the provisions of section 4 of the Act, if *prima facie*, there had been some evidence about the dominance of the opposite party in terms of market share and other factors mentioned in section 19(4) of the Act in the relevant market of provision of



services for development of commercial properties' in Delhi. However, the information in public domain reveals that there were a number of developers e.g. DLF etc. having a large number of projects in commercial segment of real estate in Delhi. In size and resources also, other players appear to be superior in size and strength as compared to the opposite party. Therefore, *prima facie*, based upon facts of the case, the opposite party does not appear to be dominant in the relevant market. Once the opposite party is *prima facie* not dominant, question of abuse under section 4 of the Act also does not arise.

7. From the averments and allegations, it is evident that the above three cases involve largely contractual or consumer disputes and no competition issues are raised. No *prima facie* case of contravention of the provisions of sections 3 or 4 of the Act is made out. The matters deserve to be closed forthwith in terms of the provisions contained in section 26(2) of the Act leaving the informants to pursue their remedies before the appropriate forum, if so advised. It is ordered accordingly.

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

Sd/-  
Member (G)

Sd/-  
Member (R)

Sd/-  
Member (T)

Sd/-  
Member (D)

Sd/-  
Chairperson

Certified True Copy

