

COMPETITION COMMISSION OF INDIA

CASE NO 55/2010

Date: 14-11-2011

Information filed by:

M/s. Mili Marketing Private Limited
H-108, Connaught Circus,
New Delhi

Information Against:

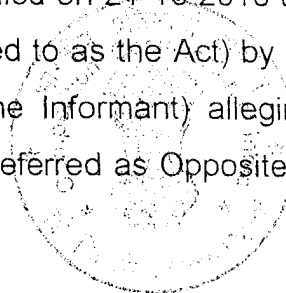
1. M/s. DLF Limited
DLF Centre, SansadMarg
New Delhi-110001

2. State of Haryana
Through the Department of Town & Country Planning,
Chandigarh

3. Haryana Urban Development Authority (HUDA),
Gurgaon (Haryana)

Final Order

This order will dispose of an information filed on 21-10-2010 under section 19 of the Competition Act, 2002 (hereinafter referred to as the Act) by M/s Mili Marketing Pvt. Ltd., Delhi (hereinafter referred to as the Informant) alleging abuse of dominant position by the DLF Limited (hereinafter referred as Opposite Party No. 1), State of



Haryana through the Department of Town and Country Planning and Haryana Urban Development Authority, Gurgaon (hereinafter referred to as Opposite Parties No. 2 and 3 respectively).

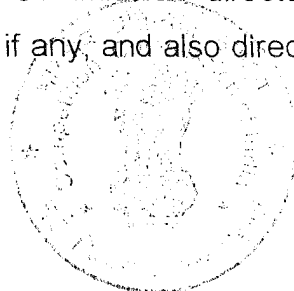
2. The allegations in the information relate to a residential project namely "The Belaire" at Gurgaon developed by the Opposite Party-1. It has been alleged that by abusing the dominant position, OP-1 has imposed arbitrary, unfair and unreasonable conditions on the apartment allottees. It has also been alleged that the OP-1 has not taken prior necessary approvals, permissions and consent of the concerned government agencies i.e. the Opposite parties No. 2 & 3, for the said project and has thus violated the provisions of various statutes of the said government agencies.

3. The Commission, after taking a prima facie view under section 26(1) of the Act, vide its order dated 9.11.2010, directed the DG to investigate into the matter and submit his investigation report.

4. The DG, after receiving the directions for the Commission, investigated the matter and submitted his investigation report dated 15.03.2011 to the Commission. The Commission considered the investigation report of DG in its meeting held on 05.04.2011 and decided to seek the comments/ objections of the parties on the same.

5. Before this case, upon directions of the Commission, DG had also carried out investigation in Case No. 19 of 2010 filed by Belaire Owners's Association and submitted his report. Since the allegations in the case no. 19 of 2010 and in the instant case were the same, the proceedings of the case were kept pending on the request of the parties on various dates till order in the case No.19/2010 was passed. The order of the Commission was passed in Case No. 19 of 2010 on 12.08.2010. Subsequently, on 13.09.2011, the Commission directed the parties to file their replies/ objections to the DG report, if any, and also directed the parties to appear, if they so desire, on 11.10.2011.

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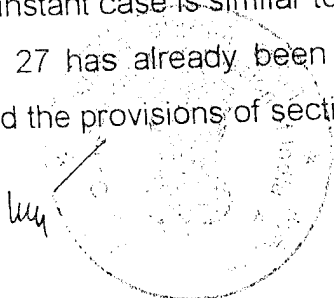


6. The counsel for the Opposite Party No.1, Shri Rajan Narain, vide his letter dated 27.09.2011 submitted that the instant case relates to an apartment in the project namely 'The Belaire', in respect of which the Commission has already passed order in Case No.19/2010 dated 12.08.2011. The directions contained in the said order would equally apply to the Informant in the instant case. As such, no separate directions need be given in this case again. On the basis of above, counsel for the Informant requested to close the proceedings of the case in hand.

7. The Commission has carefully gone through the facts and averments advanced in the information. The Commission has also scrutinized the report of DG in depth and observed that during the course of investigation also the Informant had requested the DG to club the instant case with case No. 19/2010 as the Informant was an allottee of same apartment which was in question in case No.19/2010.

8. The DG in his investigation report has also brought out that the case of the Informant was covered in the investigation report of case No.19/2010. It has also been brought out that the Opposite Party-1 has requested not to conduct separate investigation in the case since the relevant issues have already been investigated and replies have also been filed in Case No. 19 of 2010. It has also been observed by the DG in his investigation report that since the Informant also happens to be a member of the Belaire Association and the informant in case No.19/2010 happens to be Belaire Association and therefore any order /decision of the Commission in case no.19/2010, will have bearing upon the Informant also. After considering all the aspects of the case, the DG the recommended in his investigation report that this case may be clubbed with caseNo.19/2010 in which the report investigation has already been submitted.

9. On a careful consideration of the entire material available on record, the Commission observes that the instant case is similar to the case No.19/2010, in case which an order under Section 27 has already been passed, after Opposite Party No.1 was found to have violated the provisions of section 4 of the Act .



10. Based upon above, the Commission observes that since the facts of the instant case are identical with case No.19/2010 which has already been decided by the Commission vide its order^{by} dated 12.08.2011 and the Informant is a member of the same association which was the Informant in case No.19/2010 there is no need to pass any separate order in this case.

11. The instant case is disposed of accordingly. As determined in case No. 19/2010, the Opposite Parties No.2 and 3 are, however, not found guilty of contravention of any of the provisions of the Act.

12. The Secretary is directed to send a copy of the order to the parties in terms of the relevant provisions of the Act and the Regulations made thereunder.

Sd/-
Member (R)


Sd/-
Member (GG)

Sd/-
Member (AC)

Sd/-
Member (T)

Sd/-
Member (C)

Certified True Copy


Sd/-
S. P. GAHLAN
ASSISTANT DIRECTOR
Competition Commission of India
New Delhi