

COMPETITION COMMISSION OF INDIA

29th November, 2011

Case No.68/2011

Filed by

M/s VKS Hospitality Pvt. Ltd.
(Through Mr. Vipin Sarna, Director)
B-242, 2nd Floor, Greater Kailash – I,
New Delhi-110048

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Informant

Against

M/s Eros Resorts and Hotels Pvt. Ltd.
S-1, American Plaza, International Trade Tower,
Nehru Place,
New Delhi-110019

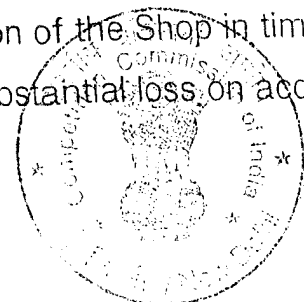
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Opposite Party

ORDER UNDER SECTION 26(2) OF THE ACT

The Informant M/s VKS Hospital (P) Ltd. (hereinafter called VKS) filed an information under section 19(1) of the Competition Act, stating therein that the Informant entered into an agreement with one Mr. Umesh Kumar Gupta who had booked a shop with Opposite Party. Later on, Shri Umesh Kumar Gupta transferred his rights in the shop to the informant and received a sum of Rs.20.00 lakhs. The Informant paid Rs.26,40,800/- to the Opposite Party towards the part balance consideration and entered into a Shop buyer Agreement with the Opposite Party.

It is alleged by the Informant that despite receiving the entire consideration of Rs.1,28,22,000/- in respect to the shop allotted to him, the Opposite Party had not handed over the possession of the Shop in time as per agreement. Thus, the Informant suffered a substantial loss on account of loss in business.

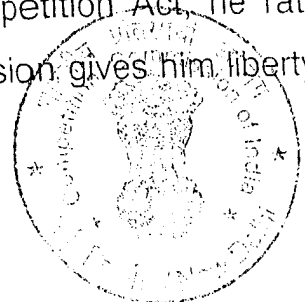


The Informant alleged that the Opposite Party unilaterally changed the shop No. allotted to him from A-124 to B-161, on a different floor without the consent of the Informant. When the informant contacted the Opposite Party, it threatened to cancel the agreement and forfeit the money paid. The informant, aggrieved by the behavior of the Opposite Party, approached the local Police and made complaint against the Opposite Party.

It is submitted by the Informant that it was lured by false and misleading advertisement inserted by OP-1 and OP-1 abused its dominant position and also resorted to anti-competitive actions.

The Informant was asked to appear and address the Commission as to what issues under Competition Acts were involved in the information. The Commission heard the counsel Mr. Rahul Srivastava of the Informant.

A perusal of the information given by the Informant shows that the case of Informant was that of a breach of contract and no issues under Competition Act were involved. It is not even stated in the application as to what was the relevant market, either product wise or geographically, nor it is stated that the Opposite Party was a dominant player in any geographic area in respect of the relevant product. The Commission made enquiry from the counsel as to how the matter was covered under the provisions of the Competition Act. The counsel was unable to explain as to how the matter was covered under the provisions of Competition Act, he rather stated that he would have no issues if the Commission gives him liberty to approach other forums.



After considering the facts stated by the Informant, we find that no issues of an anti-competitive agreement or abuse of dominance, were raised in this information. We find it a fit case to be closed under section 26(2) of the Competition Act. The case is accordingly closed.

Secretary is directed to inform all concerned in the matter.

Sd/-
Member (G)

Sd/-
Member (P)

Sd/-
Member (GG)

Sd/-
Member (AG)

Sd/-
Member (T)

Sd/-
Member (D)

Sd/-
Chairperson

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