

COMPETITION COMMISSION OF INDIA

Case No 65/2010

Date: 11.01.2011

Against: M/s. SRS Real Estate Limited.

ORDER UNDER SECTION 26(2) OF COMPETITION ACT, 2002

The present information has been filed under section 19 of the Competition Act against M/s. SRS Real Estate Ltd., which is engaged in the business of Developing Residential Apartments.

2. The facts of the case, in brief, as provided in the information, are as follows:

2.1 The information provider along with 28 other persons had collectively applied for the allotment of 29 independent floors / flats in "SRS Pearl", a project launched by M/s. SRS Real Estate Ltd. at Sector 87, Greater Faridabad, Haryana, in July 2009 through an agent M/s Modern Build tech (P) Ltd. and out of these 28 applicants, 25 are employed in the Reserve Bank of India.

2.2 As per the information provider, M/s. SRS Real Estate Ltd., vide letter dated 01.07.2009 had confirmed the bookings in SRS Pearl Floors. The information provider, along with other 28 persons, paid the booking amount of Rs. one lac each to M/s. SRS Real Estate Ltd. It has been stated that M/s. SRS Real Estate Ltd. was to demand remaining installments after submission of necessary documents i.e. license for project, sanctioned layout plan and allotment letter etc.

2.3 It has been alleged by the information provider that contrary to the said arrangement M/s. SRS Real Estate Ltd., after one year three months, sent a cheque of Rs. 1 lac as refund amount to each applicant vide its letter dated 10.11.2010 stating that they will not be able to provide the residential unit.

2.4 It is alleged by the information provider that the pre-launching of the project is considered illegal by the State Government as per the news item published in the

various newspapers and M/s. SRS Real Estate had not obtained the necessary approvals from the State Government before launching its project. It had also been alleged that M/s. SRS Real Estate Ltd. has acted arbitrarily and fraudulently by unilaterally cancelling the bookings of information provider and other applicants.

- 2.5 The information provider submits that M/s. SRS Real Estate Ltd. is liable to be prosecuted for abusing its dominance position in relevant geographic market in violation of Section 4 of the Act
3. The Commission considered all the relevant material placed on the record and heard the learned counsel for the informant in the ordinary meeting of the Commission held on 11.01.2011.
4. On thorough perusal of the information and having considered the submissions made on behalf of the information provider, it is noted that the main grievance of information provider is that the pre launching of the project is illegal as M/s. SRS Real Estate Ltd. did not have any approval from the concerned State Government.
5. It is further noted that M/s. SRS Real Estate Ltd., on its inability to provide residential units, has refunded the amount taken by it to the applicants.
6. As per the information available on public domain, it is seen that there are many known players, in the same line of business, who are of the size of M/s. SRS Real Estate Ltd. in the geographical area of Faridabad. Therefore it cannot be held that M/s/ SRS Real Estate Ltd. enjoys that position of strength by which it can operate independently of the competitive forces prevailing in the market or to affect the competitors or consumers or the relevant market in its favour. There is nothing on record to show that M/s SRS Real Estate Ltd. is holding a dominant position, in the relevant market. The information provider has also not been able to place any credible or cogent evidence/material to show or establish the infringement of section 3 or 4 of the Act in this case and hence the allegations made by the information provider have remained unsubstantiated and uncorroborated.

7. *Prima facie* it does not appear to possess sufficient market position in terms of explanation (a) to Section 4 of the Act. Therefore, *prima facie* there is no contravention of Section 4 of the Act in this case.
8. In view of the above and after considering the entire material and submissions of authorized representative of the information provider, the Commission is of the opinion that the allegations as made in the information and the reliefs as prayed by the information provider do not fall within the ambit of Act. On examination of the facts and circumstances of the present case, the Commission is also of the view that the case on these facts appears to be not a case of abuse of dominant position. The Commission, therefore, is of the view that no *prima facie* case is made out for making a reference to the Director General for conducting investigation into this matter under section 26 (1) of the Act and the proceedings relating to this information are required to be closed forthwith.
9. In view of the above, the matter relating to this information is hereby closed under section 26(2) of the Competition Act.
10. Secretary is directed to inform the information provider accordingly.

Certified copy.
Mukesh
03/02/2011
MUKESH KUMAR
Assistant Director (C.S.)
Competition Commission of India
Govt. of India, New Delhi