



COMPETITION COMMISSION OF INDIA

Case No. 37 of 2017

In Re:

**Capt. Deepak Shrikrishnarao Satam
C/309 Andheri Jumbo CHS Ltd.
Koldongri Road #2, Andheri (E)
Mumbai-400069, Maharashtra**

Informant

And

**Tata Housing Development Co. Ltd.
Times Tower, 12th Floor
Kamla Mills Compound
Senapati Bapat Marg
Lower Parel (W)
Mumbai -400013, Maharashtra**

Opposite Party

CORAM

**Mr. S. L. Bunker
Member**

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**

**Mr. U. C. Nahta
Member**

**Mr. Justice G. P. Mittal
Member**

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

1. The present information has been filed under Section 19(1) (a) of the Competition Act, 2002 ('the Act') by Capt. Deepak Shrikrishnarao Satam ('the Informant') against Tata Housing Development Co. Ltd. ('OP'/ 'THDCL') alleging contravention of the provisions of Section 4 of the Act.



2. The Informant purchased a 2BHK flat in Pune, Maharashtra on 26.02.2010, built/ developed by the OP. It is stated in the information that the OP is a wholly owned subsidiary of the TATA Group, a leading builder/ developer in the country enjoying high position of strength in India.
3. The OP has already collected INR 5, 48,072/- which is over 21% of the cost of the flat even before the drawings and plans were approved and Commencement Certificate issued. Further, on 20.10.2010, *vide* an allotment letter the price of the flat was arbitrarily increased by over INR 90,000/-. Thereafter, Buyers Agreement was signed on 04.12.2010, pursuant to which an incomplete and defective flat was handed over to the Informant on 24.06.2014 in spite of the OP promising to deliver the possession by 31.10.2012.
4. It is alleged that the buyers were manipulated and tricked into signing an unread agreement of sale with unfair and unacceptable terms and conditions. The Informant has challenged various clauses of the Buyers Agreement with regard to the price of flat, sale of car parking, betterment charges/ bribes paid for approval of drawings and plans, area of flat, *etc.* as being one sided, ambiguous and uncertain. It is further alleged that no interest is payable by the OP on the deposits and advances of over INR 10 crores collected from the buyers (even from punitive penalties), and the OP holds the unilateral right to decrease super area and project area to be conveyed and the Buyers Agreement gives no exit option for 6 months from date of agreement (15 months from date of booking) to the buyers.
5. The Informant is also aggrieved by the condition of the house handed over where no regular supply of water is available and the Lifts, Water Treatment Plant (WTP) and Sewage Treatment Plant (STP) have failed to work. There is design defect in sewage lines in toilets and water inlets, excess maintenance charges/ deposits, exorbitant water and electricity



सत्यमेव जयते



charges *etc.*, leaving the house uninhabitable due to such unlivable conditions.

6. It is also alleged that the OP refused to refund deposits and other illegally collected amounts and has not even provided the final Occupation Certificate (OC) to the buyers resulting in financial losses to the Informant and other buyers. It is alleged that such conduct amounts to unfair trade practice, and abuse of dominant position by the OP.
7. Subsequently, to get issues resolved, the Informant sought meeting with Shri Cyrus Mistry, Chairman TATA Group and the Consumer Guidance Society of India, for mediation, but of no avail. A consumer case with State Consumer Disputes Redressal Commission, Maharashtra, filed by the Informant on 08.06.2016 is also stated to be pending.
8. Based on the above averments and allegations, the Informant has filed the instant information against the OP alleging contravention of the provisions of Section 4 of the Act.
9. The Commission has perused the information and the documents filed therewith.
10. The Informant had purchased a residential flat in a project "Inora Park" developed by the OP in Pune, Maharashtra. The flat was purchased for a consideration of about Rs. 29,59,460/- and the buyers agreement was executed on 04.12.2010.
11. The Informant is aggrieved of the various terms of the agreement and the conduct of the OP which are alleged to be unfair. The abusive conduct has been detailed in the factual matrix of the case as set out in the beginning.



सत्यमेव जयते



12. The Commission notes that the flat in question is located in Pune and the same market also came up for consideration before the Commission in the case of *Shri Rajeev Nohwar v. Lodha Group*, Case No. 109 of 2015 decided on 08.03.2017 wherein the Commission defined the relevant market as “*the market for provision of services relating to development and sale of residential flats in Pune city*”. In the present case also, the same may be taken as the relevant market as the property is situated in Pune.
13. While closing the aforesaid case at *prima facie* stage itself, the Commission examined the real estate market in Pune city to ascertain the dominance of the Opposite Party (Lodha Group) in the said relevant market. While holding the Opposite Party to not be in a position of strength which can enable it to operate independently of the competitive forces, the Commission observed that:

... [t]he relevant market in the present case would, therefore, be “market for the provision of services relating to development and sale of residential flats in Pune city”.

Based on the data/ information available in public domain, it is observed that there are several other major real estate developers like Life Republic (450 acres, 2526 units) Kotle Patil, Blue Ridge (138 acres, 3900 units) Paranjape Schemes, DSK, Nyati Group, KUL Ecoloch, Megapolis Xrbia etc., apart from many other small real estate developers operating in the aforesaid relevant market, who are engaged in the provision of services relating to the development and sale of residential units/flats. Presence of such players with comparable projects in the relevant market indicates that buyers have various options while buying residential units/flats and that they are not dependent on the Opposite Party alone for the same. The services offered by these developers, thus, pose competitive constraints upon the Opposite Party in the relevant market. Further, it is noted that no information is available on record or in the public domain indicating the position



of strength of the Opposite Party, which enables it to operate independently of the competitive forces prevailing in the relevant market.

14. In view of the market analysis undertaken by the Commission in the aforesaid case, the Commission is of opinion that the Opposite Party herein faces sufficient competitive constraints from various other builders in the said market and as such is not in a dominant position in the relevant market, as defined *supra*. Hence, the issue of alleged abuse of dominant position against the OP does not survive.
15. In view of the above, the Commission is of the opinion that no case of contravention of the provisions of the Act is made out against the Opposite Party and the information is ordered to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.
16. The Secretary is directed to communicate to the Informant, accordingly.

**Sd/-
(S. L. Bunker)
Member**

**Sd/-
(Sudhir Mital)
Member**

**Sd/-
(Augustine Peter)
Member**

**Sd/-
(U. C. Nahta)
Member**

**Sd/-
(Justice G. P. Mittal)
Member**

New Delhi
Date: 10/08/2017