

DLF isn't dominant player in Delhi in presence of developers like DDA, Ansal and API

Summary – The Competition Commission of India in a recent case of DLF Universal Ltd (the Assessee) held that where there were many real estate developers in relevant market of provision of services relating to development and sale of residential apartment in Delhi, DLF was not dominant in relevant market

Facts

- The Informants had booked an apartment in the residential project DLF Capital Greens, New Delhi developed by DLF. The Informants claimed to have made bookings of the said apartments in September 2010 on the basis of various representations made by DLF and its strong sales network of authorised dealers. DLF promised that the project would be delivered in 33 months.
- The Informant filed information against OP-DLF alleging, *inter alia*, contravention of the provisions of sections 3 and 4. It was alleged that DLF sent demand notices to the Informants on monthly basis immediately after the bookings were made and a penal charges were levied on the Informant for making delayed payments
- It was alleged that despite being fully aware that the project would not be delivered on time, DLF regularly raised demand notices and levied delayed charges so as to ensure that the apartment allottees kept on paying money in accordance with its terms and conditions. It was also alleged that the apartment buyers such as the Informants were compelled to sign a one-sided and unfair Apartment Buyers Agreement under the threat of forfeiture of the money already deposited.
- On 1-3-2013, *i.e.*, just 3 months prior to the scheduled delivery of possession, DLF wrote a letter to the Informants stating that it received approvals for the building plan from the competent authorities only on 15-2-2013. As such, it would not be able to meet the delivery schedule promised earlier. Thereafter, on 27-10-2014, DLF stated that the compensation for delay in delivering possession of the apartment at the rate of Rs. 10 per square feet per month would be given. This, according to the Informants, was unreasonable since apartment buyers were made to pay penal interest at the rate of 18 per cent per annum for any delay in making payments.
- Based on the foregoing, the Informants had alleged that the conducts of DLF were in contravention of the provisions of section 4.

Held

- Considering the facts of the present case, the relevant product market would be the market of 'provision of services relating to development and sale of residential apartment'. This is so because the Informant was willing to purchase a residential apartment and approached DLF for purchasing the same. Further, in accordance with the provisions of section 19(7), no other product(s), such as services relating to development and sale of commercial/industrial properties and residential plots may be considered as substitutable/interchangeable with provision of services relating to

development and sale of residential apartment. With regard to the relevant geographic market, it is noted that Informants were looking for an apartment in Delhi. The conditions of competition in the market of provision of services relating to development and sale of residential apartment in Delhi is homogeneous and can be distinguished from the adjacent regions of Delhi such as Noida, Gurgaon, Ghaziabad, etc. Therefore, the relevant geographic market in instant case would be the territory of 'Delhi'. Thus, the market of 'provision of services relating to development and sale of residential apartment in Delhi' is considered as the relevant market in the instant case.

- In regards to dominance of DLF in the relevant market, it is noted that in the geographic region of Delhi, DLF is just one of the real estate developers engaged in the provision of services relating to development and sale of residential apartment. There are many other real estate developers operating in Delhi who are engaged in the provision of services relating to the development and sale of similar residential dwelling units. Some of such developers include Delhi Development Authority, Ansal API, Umang Realtech, Emaar Group, CGHS Group, Parsvnath, etc. These developers appear to pose competitive constraints to DLF in the relevant market. Also, presence of these real estate developers in the relevant market indicates that the Informants were not dependent upon DLF for purchasing residential apartments.
- In view of the foregoing, it is opined that DLF *prima facie* does not appear to be dominant in the relevant market defined *supra*. Since DLF is not found to be in a dominant position, the question of its conduct being abusive does not arise. Accordingly, no *prima facie* case of contravention of the provisions of section 4 is made out against DLF and the matter is closed under the provisions of section 26(2).