



**COMPETITION COMMISSION OF INDIA**

Case No. 46 of 2012

**In Re:**

Dinesh Trehan

Informant

And

M/s DLF Ltd.

Opposite Party

**CORAM:**

**Mr. Ashok Chawla**  
**Chairperson**

**Dr. Geeta Gouri**  
**Member**

**Mr. Anurag Goel**  
**Member**

**Mr. M. L. Tayal**  
**Member**

**Mr. Justice (retd.) S.N. Dhingra**  
**Member**



**Present:** Shri Pramod Gupta, advocate for the informant.

Shri R. Narain with Ms. Kanika Gombar and Ms. Nimita Kaul, advocates for the opposite party.

### **Order under Section 27 of the Competition Act, 2002**

1. The present information has been filed by Shri Dinesh Trehan ('the informant') under section 19(1)(a) of the Competition Act, 2002 ('the Act') against M/s DLF Ltd. ('the opposite party'/ DLF) alleging *inter alia* contravention of the provisions of section 4 of the Act.

2. Shorn of details, facts, the informant booked an apartment in the project *The Belaire* launched by the opposite party in Gurgaon (Haryana). The opposite party subsequently cancelled the allotment forfeiting an amount of Rs.87 lakhs deposited by the informant with the opposite party. Feeling aggrieved thereby and dissatisfied therewith, the informant has filed the instant information alleging abuse of dominant position by the opposite party. The informant has also challenged various clauses in the Apartment Buyer's Agreement entered into between it and DLF as anti-competitive and in contravention of the provisions of the Act.

3. The matter was considered by the Commission in its ordinary meeting held on 19.09.2012 when the counsel for the informant made oral submissions in support of the allegations made in the information. The Commission by its order of even date observed that the facts of the instant case were similar to the facts in Case No. 19 of 2010 (*Belaire Owners' Association v. DLF Limited, HUDA & Ors.*). Accordingly, the Commission directed the DG to cause an investigation to be made into the matter.

4. In terms of the aforesaid order of the Commission, an investigation was conducted by the DG and an investigation report was submitted to the Commission on 18.01.2013. The DG report was considered by the



Commission in its ordinary meeting held on 13.02.2013. The Commission *vide* its order of even date decided to forward copies of the report of the DG to the informant and the opposite party for filing their replies/ objections thereto, if any. The parties were also granted opportunity of oral hearing, if so desired. Accordingly, the counsel appearing for the parties made oral submissions before the Commission on 21.03.2013. No written submissions were filed by the parties. After hearing the submissions, the Commission decided to pass appropriate order in due course.

5. It may be observed that the DG made a detailed comparison of the issues projected in the present matter with the issues decided in *Belaire Owners' Association v. DLF Limited, HUDA & Ors.*, Case No. 19 of 2010 and opined that there were no dissimilarities on the facts and issues in the present case *vis-à-vis* the earlier Case No. 19 of 2010. It was noted that both the cases related to the same project *i.e. The Belaire*. In fact, the opposite party in its submissions dated 09.11.2012 before the DG stated that there is no dissimilarity between the two cases in reference. It was also noted by the DG that the same issues have been dealt with in the investigation reports submitted in Case Nos.43 of 2011 and 44 of 2011 which were for the same project *i.e. The Belaire* against the opposite party.

6. The Commission has carefully perused the report of the DG. Admittedly, the apartment in question falls in *The Belaire* project of the opposite party which was subject matter of order passed by the Commission in *Belaire Owners' Association v. DLF Limited, HUDA & Ors.*, Case No. 19 of 2010. In the said case, the Commission delineated the relevant market as the market for services of developer/ builder in respect of high-end residential properties in Gurgaon. In the said relevant market, the opposite party was found to be in a dominant position. Further, the Commission concluded that DLF was in contravention of provisions of section 4 (2) (a) (i) of the Act in imposing unfair conditions on the sale of its services to consumers. Accordingly, the Commission directed DLF and its group companies offering services of building/ developing to cease and desist from formulating and imposing such unfair conditions in its agreements with buyers in Gurgaon.



Besides, the Commission also ordered DLF to suitably modify unfair conditions imposed on its buyers as referred to in the said order. A penalty of Rs.630 crores was also imposed.

7. The Commission observes that the apartment in question in the present matter falls in *The Belaire* project of the opposite party which was subject matter of order passed by the Commission in *Belaire Owners' Association v. DLF Limited, HUDA & Ors.*, Case No. 19 of 2010. As held by the DG, the various issues raised in the present case are similar in nature with the issues involved in *The Belaire* case. This aspect has not been denied or disputed by any of the parties. In fact, the opposite party in its submissions dated 09.11.2012 before the DG admitted that there is no dissimilarity between the two cases in reference.

8. In this connection, it may be noted that in *Haravtar Singh v. M/s DLF Ltd.*, Case No. 43 of 2011 and *Gurjit Kaur Arora v. M/s DLF Ltd.*, Case No. 44 of 2011, the informations pertained to *The Belaire* project of DLF and involved similar issues which were already investigated in *Belaire Owners' Association v. DLF Limited, HUDA & Ors.*, Case No. 19 of 2010. Accordingly, the Commission held that the order dated 12.08.2011 passed in Case No. 19 of 2010 squarely covered the facts and issues of these cases as well. In this view of the matter, the Commission made cease and desist order passed in Case No. 19 of 2010 applicable to cover these two cases as well. However, no penalty was imposed upon DLF in these cases as the Commission impose penalty in Case No. 19 of 2010.

9. Adopting the same course, the Commission orders that cease and desist order passed in Case No. 19 of 2010 would apply to the present case as well. Since penalty has already been imposed upon DLF in Case No. 19 of 2010, the Commission does not deem it appropriate to impose penalty in this case also.

10. With the aforesaid observations and directions, the information stands disposed of.



11. The Secretary is directed to inform the parties accordingly.

Sd/-  
**(Ashok Chawla)**  
**Chairperson**

Sd/-  
**(Geeta Gouri)**  
**Member**

Sd/-  
**(Anurag Goel)**  
**Member**

Sd/-  
**(M. L. Tayal)**  
**Member**

Sd/-  
**(S.N. Dhingra)**  
**Member**

**New Delhi**

**Date: 01 July 2013**