

**DEJEE SINGH & ORS. V SANA REALTORS PVT. LTD.**

**Case No. 06 of 2019.**

**Decision Date:** 23.04.2019

**Keywords:** Real Estate, Delay in Possession, Abuse of Dominance.

**Rule:** s 4(2)(a) of the Competition Act, 2002.

The Informants are purchasers or allottees in the real estate project launched by the OP in Gurugram. The real estate project is essentially a project of SOHO (Small Office Home Office) units. These units are modern architectural units that serve as a home as well as an office. It takes care of all the basic needs so that one can work from the comfort of a home. The OP was required to deliver possession of the units to the Informants and other similarly placed customers by 2013. The Informants, however faced enormous delay in delivery of their respective units. Moreover, they have also been levied exorbitant charges with respect to external development charges, infrastructure development charges, parking and maintenance charges, etc.

**ALLEGATIONS**

s 4(2)(a) Imposition of Unfair Conditions and Prices: The OP entered into one-sided agreement with the Informants and demanded exorbitant payments from them and included arbitrary and unfair clauses in the agreement that allowed them to delay the delivery of possession of residential units, which amounts to abuse of Dominance.

**ANALYSIS**

**Relevant Market Analysis:** The market for commercial units for office space in Gurugram

- **Relevant Product Market:** The Commission noted that the OP has advertised the SOHO model as “small and affordable office space to ensure beauty and comfort catering to the needs of the corporate, small and medium enterprises”. The Commission, therefore, was of the view that the primary use of the space, therefore, relates to office use only. Furthermore, the particulars of the place are marked as office in the Agreement as well. The only distinguishing feature of the project for office space

offered by the OP is the unit for a bedroom in the proposal, allowing the comfort of a home office.

- The Commission noted that such an additional feature can be added by the consumer on his own in any office space he/ she prefers, as it is upto the discretion of the consumer to style his/ her office space in the way he/ she desires, subject however to any limitations under the contract or any law. The said feature, therefore, is not sufficient to qualify the product as a separate relevant product market altogether. The Commission, therefore, is of the opinion that the relevant market in the present case may be defined as “market for commercial units for office space”.
- **Relevant Geographic Market:** Choice of a consumer for office space depends on various factors such as development of the region, supply of land, location of business establishment, etc. A buyer of office space is likely to take into account all these factors while exercising his choice, and therefore a buyer desirous of setting office in Gurugram may not be willing to establish office in areas other than Gurugram, as market conditions that exist in Gurugram can be distinguished from the conditions prevailing in the neighbouring areas. This may be due to factors like proximity of his/ her customers, better connectivity/ transport facilities/ infrastructure, etc. to name a few. Thus, geographical area of Gurugram region has to be taken as the relevant geographic market in the instant case.

#### **Analysis of OP’s Position in the Relevant Market**

There have been many established and bigger organised real estate companies such as DLF Limited, Omaxe, etc. offering their projects in the relevant market at the relevant time. The Commission notes that the presence of other players in the relevant market indicates that competing products are available to consumers in the relevant market and the OP, therefore, doesn’t appear to be dominant in the relevant market as delineated above.

#### **HOLDING**

In the absence of dominance, OP’s conduct cannot be examined under the provisions of Section 4 of the Act. The Commission further notes that no facts, evidence, or even appropriate provisions of Section 3 of the Act are set out in the Information. Thus, no case of contravention of Section 3 of the Act is also made out in the present case.

Therefore, no case of contravention of the provisions of the Act is made out against the OP and the matter is ordered to be closed.