

Before Shri R.S. Virk, District Judge (Retd.)

**appointed to hear objections/representations in the matter of PACL Ltd.
(as referred to in the orders dated 15/11/2017 , 13/04/2018 and 02/07/2018 of
the Hon'ble Supreme Court passed in civil appeal no. 13301/2015 titled Subrata
Bhattacharya Vs SEBI, and also duly notified in SEBI Press release no. 66 dated
08/12/2017).**

File no. 459

MR NO. 24960-16

Objectors :

1. M/s Golden Estate-II through Partners
 - (i) Rajeev Gupta S/o Joginder Singh Gupta
 - (ii) Jaspreet Singh S/o Late Gurdeep Singh
 - (iii) Rajeev Gupta S/o Surinder Kumar
 - (iv) Baldev Singh S/o Chanan Singh
 - (v) Dilbagh Singh S/o Ajaib Singh
 - (vi) Harpreet Singh S/o Late Gurdeep Singh
 - (vii) Rakesh Mohindroo S/o Sh. B K Mohindroo
2. Manju w/o Sohan Singh
3. Geeta Rawat w/o Naresh Kumar
4. Shanti Devi w/o Amar Pal
5. Vinod Singh S/o Rajesh Singh
6. Baby w/o Som Pal
7. Kamlesh Kumar S/o Amresh Kumar
8. Mahendra Singh S/o Jaspal Singh
9. Sandhya w/o Satish
10. Vikash S/o Balbir Singh
11. Naresh Kumar S/o Baburam
12. Deepal Kumar
13. Neelma W/o Manoj
14. Bimla Devi W/o Mohan Chander
15. Nandi Devi W/o Devi Dutt
16. Bhawna Devi W/o Tara Dutt
17. Ram Dutt S/o Prem Ballabh
18. Vandana W/o Sunil Dutta
19. Suresh Kumar

Present : Priyanka Garg, Advocate, Delhi
(Enrolment No. D/3968/2015).

RVK
16/7/18

Order :

1. It may be noticed at the outset that vide order dated 02/02/2016, passed in civil appeal no. 13301/2015 bearing the title Subarata Bhattacharaya Versus Securities & Exchange Board Of India, the Hon'ble supreme court had directed constitution of a committee by SEBI to be headed by Hon'ble Mr. Justice R.M. Lodha former Chief Justice of India as its Chairman for disposing of the land purchased by PACL so that the sale proceeds recovered there from can be paid to the investors who have invested their funds in the company for purchase of the land.
2. The objectors herein seek delisting of Khasra Nos. 746(4-0), 747(4-0), 748(4-0), 749, (4-0), 750/1(1-0), 750/2(3-0), 751/1(3-0) and 751/2(1-0) measuring 24 Bighas, 00 Biswas situated at village Gholu Majra (N.A.C. Lalru), Teh Dera Bassi, Distt.- S.A.S. Nagar, Mohali, Punjab which stand attached under orders of the Committee against entry with reference to M.R. No. 24960-16 with the averments that the said land was purchased in pursuance of agreement of sale dated 01/01/2013 from M/s Castle Infraestates Pvt Ltd by M/s Golden Estates –II, Village Gholu Majra through its partner Mr. Rajeev Gupta vide three separately registered sale deeds as detailed here under:-

Sr.No.	Sale Deed Dated	Area	Amount
1.	20/01/2014	03 Bigha, 00 Biswa	62,25,000/-*
2.	20/06/2014	02 Bigha, 08 Biswa	50,00,000/-**
3.	13/10/2014	18 Bigha, 11 Biswa, 16 Biswansi	3,85,75,000/-***

* Cash

** 50% through cheque and 50% in cash.

*** Rs.62,25,000/- Cash and Rs.3,23,50,000/- vide DD No.990666 dated 13/10/2014, SBoP, Dera Bassi.

3. It is claimed that the aforesaid land was purchased with clear and proper title which existed in favour of M/s Castle Infraestates Private Limited as per Jamabandi for the year 2012-13 whereafter the objectors got the same mutated in their name vide mutation nos. 2293 dated 30/01/2014, 2599 dated 04/07/2014 and 3213 dated 01/07/2015 and developed the said land as a colony named "Green Valley" comprising of units measuring 100, 200 and 71 Sq. Yr. in accordance with the plan got sanctioned by them from the competent authority and had thereafter sold the same to as many as 140 individuals vide separately registered sale deeds in whose favour mutations were duly entered.

*Recd
16/7/18*

4. Photostat copy of registered sale deed dated 08/04/2011 has been produced on record which reveals that the land detailed in para 2 of this order above was earlier owned by Om Prakash and Mahipal sons of Amidutt who had sold the same in favour of M/s Ashtam Builders Pvt. Ltd in whose favour mutation no. 1374 was duly sanctioned in this context. Thereafter Ashtam Builders sold this very land in favour of M/s Castle Infraestates Pvt Ltd vide registered sale deed dated 03/02/2012 and mutation no. 1476 in this context was also duly sanctioned.
5. They contend that M/s Castle Infraestates Pvt Ltd has nothing to do with PACL Ltd and its status shown on the website of the Ministry of Corporate Affairs states that “no charges exist for company” and therefore there is no connection whatsoever between the objectors and PACL Ltd pertaining to the property in question which therefore needs to be removed from the list of properties attached by the committee.
6. It may be noticed that M/s Golden Estates had **applied on 07/10/2013** to the Deputy Director, Local Government cum Competent Authority, Patiala for issuance of “**regularization certificate**” in respect of an area measuring 11.69 Acres (56600 Sq. Yrds.), **which was so granted on 07/04/2014**, in respect of land comprised in Khewat/Khatoni No. 18/22 Khasra No. 1191/263/2(2-0)1193/264/2(2-0)1195/265/2(2-0)1197/266/2(1-12) Khewat/Khatoni No 18/22 Khasra No. 1191/263/2(2-0) 1193/264/2(2-0) 1195/265/2 (2-0) 1197/266/2(1-12) Khewat Khatoni No. 38/94 Khasra No. 752 (4-0) 1106/753 (2-0) 755 (3-16) 756 (4-0) 757 (4-0) 758 (4-0) 759 (4-0) 760 (3-16) 763 (2-16) 1164/764 (4-14) 765 (4-4) Khatoni No 38/95 Khasra No. 1163/764 (0-18) Khatoni No. 8/10 Khasra No. 750/1 (1-0) 750/2 (3-0) 751/1 (3-0) 751/2 (1-0) 749 (4-0) 748 (4-0) 747 (4-0) 746 (4-0).
7. The aforesaid application by M/s Golden Estates dated 07/10/2013 was filed before the Deputy Director, Local Government cum Competent Authority, Patiala in the light of agreement of sale dated 01/01/2013 as evident from column 4 of Annexure-A (at page 47) of the said certificate because the three sale deeds in pursuance of the said agreement pertaining to the Khasra Nos. 746(4-0), 747(4-0), 748(4-0), 749, (4-0), 750/1(1-0), 750/2(3-0), 751/1(3-0) and 751/2(1-0) measuring 24 Bighas, 00 Biswas came to be executed and registered on 20/01/2014, 20/06/2014 and 13/10/2014 respectively. Nonetheless, the sale was ultimately concluded in the light of said agreement of sale. Reference may at this stage be made to observations of the Hon’ble Supreme Court in the case bearing the title Kaliaperumal Versus Rajagopal & Anr. (civil appeal no. 5800 of 2002) wherein it was observed, in para 8 thereof, as under :-

R. N. N. N.
16/7/18

“Sale is defined as being a transfer of ownership for a price. In a sale there is an absolute transfer of all rights in the properties sold. No rights are left in the transferor. The price is fixed by the contract antecedent to the conveyance. Price is the essence of a contract of sale. There is only one mode of transfer by sale in regard to immovable property of the value of Rs.100/- or more and that is by a registered instrument. It is now well settled that payment of entire price is not a condition precedent for completion of the sale by passing of title, as Section 54 of Transfer of Property Act, 1982 (‘Act’ for short) defines ‘sale’ as a transfer of ownership in exchange for a price paid or promised or part paid and part promised. If the intention of parties was that title should pass on execution and registration, title would pass to the purchaser even if the sale price or part thereof is not paid. In the event of non-payment of price (or balance price as the case may be) thereafter, the remedy of the vendor is only to sue for the balance price. He cannot avoid the sale. He is, however, entitled to a charge upon the property for the unpaid part of the sale price where the ownership of the property has passed to the buyer before payment of the entire price, under section 55(4)(b) of the Act. Normally, ownership and title to the property will pass to the purchaser on registration of the sale deed with effect from the date of execution of the sale deed. But this is not an invariable rule, as the true test of passing of property is the intention of parties. Though registration is prima facie proof of an intention to transfer the property, it is not proof of operative transfer if payment of consideration (price) is a condition precedent for passing of the property. The answer to the question whether the parties intended that transfer of the ownership should be merely by execution and registration of the deed or whether they intended the transfer of the property to take place, only after receipt of the entire consideration, would depend on the intention of the parties. Such intention is primarily to be gathered and determined from the recitals of the sale deed. When the recitals are insufficient or ambiguous the surrounding circumstances and conduct of parties can be looked into for ascertaining the intention, subject to the limitations placed by Section 92 of Evidence Act.”

Similar view has been expressed by the Hon’ble Supreme Court in the case bearing the title Vidhyadhar Versus Manikrao & Anr. reported in AIR 1999 SC1441.

R. G. Rao
16/5/18

8. In view of the foregoing discussion, the objector above named is held to be a bona fide purchaser for value of the property in question and the same is therefore liable to be removed from the list of properties attached by the committee as per www.auctionpacl.com. The petition is accordingly accepted.

Date : 16/07/2018


R. S. Virk
Distt. Judge (Retd.)

Note:

Two copies of this order are being signed simultaneously, one of which shall be retained on this file whereas the other one, also duly signed, shall be delivered to the objector as and when requested /applied for. No certified copies are being issued by this office. However, the orders passed by me can be downloaded from official website of SEBI at www.sebi.gov.in/PACL.html.

Date :16/07/2018


R. S. Virk
Distt. Judge (Retd.)