

न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
Justice (Retd.) R. M. Lodha Committee
(पीएसीएल लि. के मामले से संबंधित / in the matter of PACL Ltd.)

संदर्भ सं. जेआरएमएलसी/पीएसीएल/
Ref. No. JRMLC/PACL/

Order on the objection filed by Smt. Lakshamma Padamma & 8 others
SEBI/PACL/OBJ/NS/00147/2024

BEFORE THE RECOVERY OFFICER, SEBI
ATTACHED TO
JUSTICE (RETD.) R.M. LODHA COMMITTEE
(IN THE MATTER OF PACL LIMITED)

File No.	SEBI/PACL/OBJ/NS/00147/2024
Name of the Objector(s)	1. Smt. Lakshamma Padamma 2. M. Nagaraju 3. Gopalaiah M. 4. Sujhata 5. Yashodhama 6. Muniraju CM 7. Anusuyamma 8. Vedavathi M. 9. Krishnamurthy C.M.
MR No.	24703/16

Background:

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) on 22.08.2014 had passed an order against PACL Limited, its promoters and directors, inter alia, holding the schemes run by PACL Ltd. as Collective Investment Scheme (“CIS”) and directing them to refund the amounts collected from the investors within three months from the date of the order. Vide the said order, it was also directed that PACL Ltd. and its promoters/directors shall not alienate or dispose of or sell any of the assets of PACL Ltd. except for the purpose of making refunds as directed in the order.



पता (केवल पत्राचार हेतु) / Address for correspondence only:

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SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400051

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2. The order passed by SEBI was challenged by PACL Ltd. and four of its directors by filing appeals before the Hon'ble Securities Appellate Tribunal ("SAT"). The said appeals were dismissed by the Hon'ble SAT vide its common order dated 12.08.2015, with a direction to the appellants to refund the amounts collected from the investors within three months. Aggrieved by the order dated 12.08.2015 passed by the Hon'ble SAT, PACL Ltd. and its directors had filed appeals before the Hon'ble Supreme Court of India.
3. The Hon'ble Supreme Court did not grant any stay on the aforementioned impugned order dated 12.08.2015 of the Hon'ble SAT, however, PACL Ltd. and its promoters/ directors did not refund the money to the investors. Accordingly, SEBI initiated recovery proceedings under Section 28A of the SEBI Act, 1992 against PACL Ltd. and its promoters/ directors vide recovery certificate no. 832 of 2015 drawn on 11.12.2015 and as a consequence thereof, all bank/ demat accounts and folios of mutual funds of PACL Ltd. and its promoters/ directors were attached by the Recovery Officer vide attachment order dated 11.12.2015.
4. During the hearing on the aforesaid civil appeals filed by PACL Ltd. and its directors (*Civil Appeal No. 13301 of 2015 – Subrata Bhattacharya Vs. SEBI and other connected matters*), the Hon'ble Court vide its order dated 02.02.2016 directed SEBI to constitute a committee under the Chairmanship of Hon'ble Mr. Justice R.M. Lodha, the former Chief Justice of India (hereinafter referred to as "the Committee") for disposing of the land purchased by PACL Ltd. so that the sale proceeds can be paid to the investors, who have invested their funds in PACL Ltd. for purchase of the land. In the said civil appeals, the Hon'ble Supreme Court did not grant any stay on the orders passed by SEBI and the Hon'ble SAT. Therefore, directions for refund and direction regarding restraint on the PACL Ltd. and its promoters



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and directors from disposing, alienating or selling the assets of PACL Ltd., as given in the order, continues till date.

5. The Committee has from time to time requested the authorities for registration and revenue of different states to take necessary steps and issue necessary directions to Land Revenue Officers and Sub-registrar offices, to not effect registration/mutation/sale/transfer, etc. of properties wherein PACL Ltd. and/ or its group or its associates have, in any manner, right of interest.
6. Also, the Hon'ble Supreme Court vide its order dated 25.07.2016 restrained PACL Ltd. and/ or its Directors/Promoters/agents/employees/Group and/or associate companies from, in any manner, selling/transferring/alienating any of the properties wherein PACL Ltd. has, in any manner, a right/interest situated either within or outside India.
7. In the recovery proceedings mentioned in para 3 above, the Recovery Officer issued an attachment order dated 07.09.2016 against 640 associate companies of PACL Ltd. In the said order, *inter alia*, the registration authorities of all States and Union Territories were requested not to act upon any documents purporting to be dealing with transfer of properties by PACL Ltd. and / or the group/ associate entities of PACL Ltd. mentioned in the Annexure to the said attachment order, if presented for registration.
8. The Hon'ble Supreme Court, vide its order dated 15.11.2017, passed in Civil Appeal No. 13301/2015 and connected matters directed that all the grievances/ objections pertaining to the properties of PACL Ltd. would be taken up by Mr. R.S. Virk, Retired District Judge.



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9. On 30.04.2019, in the recovery proceedings initiated against PACL Ltd. and Ors, the Recovery Officer issued a notice of attachment in respect of 25 front companies of PACL Ltd. Thereafter, on 01.03.2021, the Recovery Officer issued another notice of attachment in respect of 32 associate companies of PACL Ltd., which included 25 front companies of PACL Ltd. whose accounts were attached vide order dated 30.04.2019.
10. Vide order dated 08.08.2024 passed in *Civil Appeal No. 13301 of 2015 - Subrata Bhattacharya Vs. SEBI and other connected matters*, the Hon'ble Supreme Court has directed as under:

".....10. Since, we had directed in our order dated 25.07.2024, that no fresh applications or objections shall be filed before or entertained by Shri R.S. Virk, District Judge (Retd.) and that the same shall be filed before the Committee, the Committee may deal with such applications/ objections, if filed before it, and dispose them of as per the provisions contained under Section-28(A) of the SEBI Act....."

11. In compliance with the aforesaid order dated 08.08.2024 passed by the Hon'ble Supreme Court, all objections with respect to properties of PACL Ltd., which were pending before Shri R.S. Virk, Retired District Judge and all new objections, are now to be dealt by the Recovery Officer attached to the Committee.

Present Objection:

12. The instant objection has been filed by Smt. Lakshamma Padamma along with 8 others namely, (i) M. Nagaraju (ii) Gopalaiah M. (iii) Sujhata (iv) Yashodhama (v) Muniraju CM (vi) Anusuyamma (vii) Vedavathi M. (viii) Krishnamurthy C.M. , all residing at Doddabanahalli Village, Kannamangala, Bengaluru, Karnataka - 560067 (hereinafter referred to as the "**Objectors**") through M/s Nuli & Nuli, Advocates, objecting the attachment of properties, having Survey No. 134/2 admeasuring 1 Acre 04 Guntas &

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Survey No. 134/3 admeasuring 24 Guntas situated at Kumbena Agrahara Village and Survey No. 33 admeasuring 22 Guntas situated at Doddabanahalli Village, Bidarahalli Hobli, Bangalore East Taluk, Bangalore, Karnataka (hereinafter referred as the “**impugned properties**”), due to attachment of properties covered in MR No. 24703/16, which stands attached by the Committee.

13. The Objectors in their objection petition have submitted the following flow of title/interest to the Objectors in the impugned properties:

13.1 Impugned properties at Survey No. 134/2 & Survey No. 134/3 situated at Kumbena Agrahara Village:

- a) It is stated that the said impugned properties at Survey nos. 134/2 and 134/3 was initially granted to (i) Shri. Yellappa s/o Shri. Venkataramanappa (1 Acre 03 Guntas) (hereinafter referred as the “**first individual**”), (ii) Shri. Venkataramanappa s/o Shri. Balappa (1 Acre 04 Guntas) (hereinafter referred as the “**second individual**”), (iii) Shri. Muniyappa s/o Shri. Papanna (1 Acre 04 Guntas) (hereinafter referred as the “**third individual**”) and (iv) Shri. Kenchappa s/o Shri. Dasappa (1 Acre 03 Guntas) (hereinafter referred as the “**fourth individual**”) by the Special Deputy Commissioner for Abolition of Inams, Kolar District under the provisions of the Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954.
- b) From the abovementioned individuals, the impugned properties at Survey No. 134/2 & Survey No. 134/3 eventually came to the ownership of one Shri. Marappa, son of the third individual viz. Shri. Muniyappa, in the following manner:



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- (i) The first individual sold a portion of the land admeasuring 08 Guntas to Shri. Marappa s/o Shri. Muniyappa vide a Registered Sale Deed no. 2555/1975-76 dated 23.10.1975.
- (ii) The second individual gifted the land admeasuring 1 Acre 04 Guntas to Shri. Muniyappa vide a Registered Gift Deed dated 28.08.1963, who in turn sold a portion of the said land admeasuring 08 Guntas to Shri. Marappa s/o Shri. Muniyappa vide a Registered Sale Deed no. 2552/1975-76 dated 23.10.1975.
- (iii) The third individual viz. Shri Muniyappa passed away and by way of inheritance the land admeasuring 1 Acre 04 Guntas got transferred to his only son i.e. Shri. Marappa.
- (iv) The fourth individual gifted the land admeasuring 1 Acre 04 Guntas to his daughter Smt. Doddayallamma @ Yallamma out of natural love vide a Registered Gift Deed no. 658/1971-72 dated 24.05.1971, who in turn sold a portion of the land admeasuring 08 Guntas to Shri. Marappa vide a Registered Sale Deed no. 2551/1975-76 dated 23.10.1975.

In the abovementioned manner, Shri. Marappa s/o Shri. Muniyappa had inherited 1 Acre 04 Guntas of the land from his father i.e., the third individual and acquired 24 Guntas of the land from the other three individuals. It is submitted that the land inherited from Shri Muniyappa (1 Acre 04 Guntas) was assigned New Survey No. 134/2 and the land acquired from the other three individuals (24 Guntas) was assigned New Survey No. 134/3 under the Phodi proceedings conducted by the Survey Department.

13.2 Impugned property at Survey No. 33 situated at Doddabanahalli Village:


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- a) The said impugned property admeasuring to an extent of 0-24 Guntas (inclusive of 0-02 Guntas of kharab land) was initially granted to Shri. Marappa s/o Shri. Muniyappa (third individual) by the Land Tribunal, Hoskote Taluk in Case No. LRF (B) D.B 217/75-76 under the provisions of the Karnataka Land Reforms Act, 1961. Thereafter, he was registered as an occupant of the said land by the Tahsildar, Hoskote Taluk and the Khata with respect to the said land bearing was also transferred in the name of Shri Marappa.
- b) The Objectors claim that the land in Survey No. 33, as mentioned in the list of properties of PACL Ltd. available for sale, is actually situated in Doddabanahalli Village and not Kumbena Agrahara Village which is evident from the documents seized and relied upon by PACL Ltd. in support of its claim over the said land.

14. It is submitted by the Objectors that Shri. Marappa s/o Shri. Muniyappa passed away on 06.03.2017 and his wife, Smt. Yallamma passed, away on 18.11.2019. The Objectors in the present petition are their Legal Representatives and jointly inherited 1 Acre 04 Guntas of land at Survey No. 134/2, 24 Guntas of land at Survey No. 134/3 and 24 Guntas of land at Survey No. 33, respectively. It is stated that Smt. Yashodamma d/o late Shri. Marappa had filed a suit before the Hon'ble Court of the II Additional Senior Civil Judge, Bangalore Rural District against the other legal heirs of Late Shri. Marappa seeking partition and separate possession over the joint family properties. However, during the pendency of the suit, the family settled their claim amicably and filed a Compromise Petition before the Hon'ble Trial Court. The said suit was decreed vide order dated 16.03.2023 passed in O.S. No. 827/2018, wherein the Suit Scheduled Properties (*including the impugned properties*) have been partitioned and distributed. Extract of the Suit Scheduled Properties relating to the impugned properties, that have been partitioned and distributed is as follows:



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Division of properties of Late Marappa as per Final Decree in O.S. No. 827/2018				
Sl.No	Party Name	Sy. No.	Extent	Village
1.	Late. Srinivasa Murthy. M's Lrs - Lakshmama, Harish Babu, Ashwini and Kokila	134/2	0-09 G	Kumbena Agrahara
		134/3	0-05 G	Kumbena Agrahara
2.	M. Nagaraju	134/2	0-09 G	Kumbena Agrahara
		134/3	0-04.08 G	Kumbena Agrahara
3.	Gopalaiah M.	134/2	0-09 G	Kumbena Agrahara
		134/3	0-04.08 G	Kumbena Agrahara
4.	Sujatha	33	0-05.08 G	Doddabanahalli
5.	Yashodamma	33	0-05.08 G	Doddabanahalli
6.	Muniraju C.M.	134/2	0-08.08 G	Kumbena Agrahara
		134/3	0-05 G	Kumbena Agrahara
7.	Anusuyamma	33	0-05.08 G	Doddabanahalli
8.	Vedavathi M.	33	0-05.08 G	Doddabanahalli
9.	Krishnamurthy C.M.	134/2	0-08.08 G	Kumbena Agrahara
		134/3	0-05 G	Kumbena Agrahara

15. In view of the above, it is submitted by the Objectors that the impugned properties at Survey No. 134/2 and 134/3 are held in absolute ownership of the Legal Representatives of Shri Marappa s/o Shri Muniyappa i.e. Lakshamma, Harish Babu, Ashwini and Kokila, M. Nagaraju, Gopalaiah M, Muniraju C.M. With respect to the land admeasuring 24 Guntas at Survey No. 33, it is submitted that after Shri Marappa and his wife passed away, all the objectors inherited the property jointly and is held in the names of Legal



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Representatives of Shri Marappa namely Sujhata, Yashodamma, Anusuyamma and Vedavathi M.

16. The Objectors have stated that PACL Ltd. does not have any right, title or interest over the impugned properties and the same has perhaps been listed in the attached properties based on an Unregistered Agreement to Sell dated 28.01.2011 executed by the Objectors in favor of M/s N.S.B Real Estate Pvt. Ltd. (NSB Group) (hereinafter referred to as “Purchaser”), an alleged associate company of PACL Ltd., agreeing to sell the impugned properties for a total sale consideration of Rs. 4,80,00,000/-, for which an advance of Rs. 96,00,000/- was received by the Objectors. The deal was finalized through one Shri. M.G. Umesh Acharaya, who was the confirming party under the said Agreement. Further, it is specifically submitted by the Objectors that as mentioned at Page 6 of the said Agreement, a period of 3-6 months from the date of signing the agreement was agreed upon between the parties to the agreement to pay the balance amount of Rs. 3,84,00,000/- towards full and final amount of consideration and accordingly, a deed of conveyance was to be executed for completion of sale. However, it is the case of the Objectors that NSB Group neither paid the balance sale consideration nor came forward to execute the Sale Deed within the stipulated period. Hence, after lapse of about 8 months, the Objectors had issued a Notice dated 18.09.2011 calling upon NSB Group to complete the sale within a period of 15 days, failing which the Agreement shall stand cancelled. Despite the said notice, the NSB Group did not come forward to pay the balance sale consideration and execute the Sale Deed. It is, therefore, submitted by the Objectors that the Unregistered Agreement to Sell has terminated by efflux of time as well as by revocation.

17. The Objectors, therefore, have filed the said petition seeking No Objection Certificate in respect of the impugned properties and to delist the said impugned properties from the list of properties of PACL Ltd. available for sale as per the relevant records.

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18. The Objectors were provided an opportunity of hearing on January 27, 2025. On the said date, the ARs appeared on behalf of the Objectors and reiterated the submissions made by them in the objection petition. The ARs submitted that an 'Agreement to Sell' (unregistered) was entered into between the Objectors and Mr. M.G. Umesh Acharaya, M/s NBS Real Estate Pvt. Ltd. on 28.01.2011 for land parcel measuring 3.275 Acres at Survey Nos. 134/2, 134/3, 141/2, 142/2 and 33 for an agreed sale consideration of Rs. 4,80,00,000/- and a part payment of Rs. 96,00,000/- was paid *via* cheques bearing no. 077270 to 077275 dated 02.02.2011 by NSB Group to the Objectors. Thereafter, the ARs drew specific reference to the agreement between the parties to pay the balance sale consideration of Rs. 3,84,00,000/- on or before a period of 3-6 months from the date of the agreement, which was never paid by the purchaser even after lapse of the agreed upon time period and a notice for paying the balance amount of sale consideration was even issued to the Purchaser by the Objectors.
19. The AR confirmed that no further correspondence was made between the parties post September 2011. Upon specific inquiry, the ARs also confirmed that the Objection Petition has been filed for release of properties at Survey Nos. 134/2, 134/3 and 33 only even though the said Agreement to Sell dated 28.01.2011 mentions land parcels situated at two more Survey Nos. viz. 141/2 and 142/2. Considering that the agreement could not be executed further, in order to release the properties from litigation, the ARs made a specific submission which has also been made in the Objection Petition at para no. 25(G) that the Objectors are willing to forfeit and deposit an amount of Rs. 96,00,000/- received towards part consideration from the purchaser viz. NSB Group on 02.02.2011 along with reasonable interest, with the PACL Committee in order to show their *bonafides*.



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न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
Justice (Retd.) R. M. Lodha Committee
(पीएसीएल लि. के मामले से संबंधित / in the matter of PACL Ltd.)

संदर्भ सं. जेआरएमएलसी/पीएसीएल/
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SEBI/PACL/OBJ/NS/00147/2024

20. As submitted by the Objectors and on perusal of the Agreement to sale dated 28.01.2011 between the Objectors and the PACL Ltd. associate Company i.e. M/s N.S.B Real Estates Pvt. Ltd., it is noted that indeed there was an agreement executed between the Objectors and the NSB Group to sell the impugned properties. However, it is noted that the said document i.e. the Agreement to Sell executed between them is not a registered document. It is a well settled position of law that in terms of Section 54 of the Transfer of Property Act, 1882 (TPA), "sale" is defined as a transfer of ownership in exchange for a price paid or promised or part-paid or part-promised. 'Contract for sale' of immovable property is a contract that a sale of such property shall take place on the terms settled between the parties. Para 2 of Section 54 of TPA, however, provides that for tangible immovable property worth Rs. 100 or more, the transfer must be made through a registered instrument, while for property valued less than Rs. 100, the transfer can be made either by a registered instrument or by delivery of possession; essentially meaning that a sale of significant value requires a registered document, to be legally valid. Therefore, an agreement to sell, even though executed between the Objectors and Purchaser viz. M/s N.S.B. Real Estate Pvt. Ltd., cannot by itself create any interest in or charge on such property in the absence of a registered sale deed.

21. Having said this, reference may be made to Section 53A of the TPA, which provides as under:

"53A. Part performance. - Where any person contracts to transfer for consideration any immoveable property by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty, and the transferee has in part performance of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract, and the transferee has performed or is willing to perform his part of the contract,



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then, notwithstanding that, or, where there is an instrument of transfer, that the transfer has not been completed in the manner prescribed therefor by the law for the time being in force, the transferor or any person claiming under him shall be debarred from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continued in possession, other than a right expressly provided by the terms of the contract:

Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof."

22. A plain reading of the said provision under the TPA shows that the said section protects the transferees, who have taken possession of the property on the basis of an agreement, by way of debarring the transferor or any person claiming under him from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continues to be in possession, other than a right expressly provided by the terms of the contract. However, following are the elements of the Doctrine of Part performance:

22.1 Existence of an Agreement, which is valid and enforceable under law

22.2 Payment of consideration

22.3 Taking possession or making improvements to the property

23. In the instant case, it is noted that the Objectors and the Purchaser have executed an Agreement to Sell dated 28.01.2011 which shows existence of an agreement. Further, it is noted from the Agreement to sell and as claimed by the Objectors in their petition that as part payment towards consideration, a payment of Rs. 96,00,000/- was made by the Purchaser to the Objectors through cheques. However, it is noted that the Agreement to sell dated 28.01.2011 is an 'unregistered' agreement which cannot be enforceable. In addition, even after execution of the said agreement, it is observed that the Objectors are still in possession of the impugned properties and the Purchaser is not in possession of



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them which is in contrast to the elements required for claiming protection under Section 53A of the TPA. In the absence of the key elements to claim protection under the aforementioned provision of law, it is viewed that the Purchaser i.e. NSB Group cannot claim the protection under Section 53A of the TPA and therefore, the said provision cannot be invoked by the associate company of PACL Ltd. in the light thereof.

24. In support of the above, reliance is placed on a recent judgement passed by the Hon'ble Supreme Court in the case of *Giriyappa & Anr Vs. Kamalamma & Ors. (SLP (Civil) No. 30804 of 2024 [Diary No(s). 56304/2024]*) wherein the Apex Court with regard to protection sought by the transferee/s under Section 53A of the TPA observed that the doctrine of part performance under Section 53A could not be invoked in the absence of a valid and enforceable agreement.
25. In addition, from the submissions made by the Objectors in the petition and as mentioned hereinabove, even after execution of the Agreement to Sell dated 28.01.2011 (*unregistered*), the Objectors are still in possession of the impugned properties even today. Therefore, in the absence of a registered sale deed being executed in respect of sale of the impugned properties, the ownership rights cannot be said to have transferred to the Purchaser who is a PACL associate company. In sale, there is an actual transfer of ownership in exchange for a consideration whereas, in a Contract of sale, there is only a contract between the parties that the sale will take place on the agreed terms on a later date. A transfer of immoveable property by way of sale can only be by a deed of conveyance (*sale deed*). In the absence of a deed of conveyance (*duly stamped and registered as required by law*), no right, title or interest in an immoveable property can be transferred.



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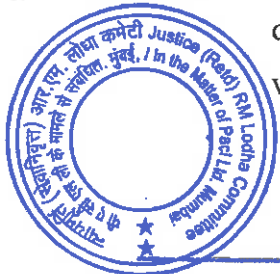
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26. In this regard, reliance is placed on the judgment passed by the Hon'ble Supreme Court in *Suraj Lamp and Industries Pvt. Ltd Vs. State of Haryana & Anr (2012) 1 SCC 656* wherein the Hon'ble Supreme Court has observed as under:

..... 16. *We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of 'GPA sales' or 'SA/GPA/WILL transfers' do not convey title and do not amount to transfer, nor can they be recognized or valid mode of transfer of immoveable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property....."*

27. Having said that, on the basis of the said Agreement to sell, the parties to the agreement had a right to seek specific performance of such agreement under Section 16 of the Specific Relief Act, 1964. However, as sated above, despite making a payment of Rs. 96,00,000/- towards part-consideration for purchase of the impugned properties and even after issuance of a notice by the Objectors requesting the Purchaser Company to make the balance payment of consideration and execute a sale deed, the purchaser has not made any further payment and / or executed any sale deed. The same in itself shows that the Purchaser is not willing to execute any sale deed in respect of the said impugned properties. However, as no suit seeking specific performance was filed by them, the same is barred by limitation.

28. From the foregoing, it is noted that vide Agreement to sell dated 28.01.2011, the impugned properties were agreed to be transferred to M/s N.S.B. Real Estate Pvt. Ltd. and an advance of Rs. 96,00,000/- was received as part payment towards the sale consideration. However, as has been already established in the preceding paragraphs, considering that no registered deed of conveyance was executed between the parties i.e. the Objectors and the Purchaser viz. NBS Group (PACL associate Company), the impugned properties cannot be said to be



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that of PACL and/ or of the associate company of PACL as no ownership rights were transferred to the purchaser by way of entering into an Agreement to Sell (*unregistered*).

29. Notwithstanding the above, it is noteworthy to mention here that the Agreement to Sell dated 28.01.2011 was seized by CBI from the possession of PACL Ltd. and therefore, has been attached by the Committee. At this juncture, reference can be made to the order dated 28.08.2014 passed by SEBI, wherein observations with respect to the modus operandi adopted by PACL Ltd. have been made which are as under:

".....At this stage, I note from the details submitted during the course of investigation that PACL had mobilized funds from its customers to the tune of ₹ 44,736 crores till March 31, 2012. Further by its own admission, it has collected ₹ 4364,78,08,345 from 39,97,357 customers during the period of February 26, 2013 to June 15, 2014. The total amount mobilized comes to a whopping 49,100 crore. This figure could have been even more if PACL would have provided the details of the funds mobilized during the period of April 01, 2012 to February 25, 2013. The collection of such huge funds suggests that PACL has many more customers than the stated 1.22 crore. In this regard, I also refer to the proposal of PACL and its directors as forwarded to SEBI through their advocates and note that it has 4,63,13,342 customers to whom the land has not yet been allotted. Thus, a quick calculation of the total number of the customer of PACL comes to around 5.85 crore which includes the customers who said to have been allotted land and who are yet to be allotted the land....." (at pp. 71-72)

".....From the above, it is noted that PACL has very limited stock of lands in its name and that most of the lands are held through General Power of Attorney/through Agreement to Sale/through associate companies. PACL in its reply has informed that the said associate companies are controlled by its friends and nears and dears of the management of PACL. I observe that PACL enters into an MoU with the associate companies for the purchase of land. The MoU inter-alia, states that as PACL is unable to purchase the land in its own name beyond certain limits due to the land laws and other applicable laws of the land in different States



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of the country, PACL has nominated the associate company to purchase the land for PACL and get the sale deed executed in the name of associate company.....” (at p. 80)

30. Thus, from the above, it can be inferred that PACL Ltd. through its associate company viz. M/s N.S.B. Real Estate Pvt. Ltd., which was controlled by its friends and nears and dears of the management of PACL Ltd., was transacting in the impugned properties as it was unable to own lands in its own name beyond certain limits due to the land laws of the country and if, the conveyance deed would have been executed and registered between the parties for the said impugned properties, the actual beneficial owner of the said impugned properties would have been PACL Ltd. However, as mentioned above, in the absence of a registered sale deed, the Purchaser would not have any ownership rights in the impugned properties.

31. Thus, it can be said that the Objector still continues to be the owner of the impugned properties. However, the Purchaser, being an associate company of PACL Ltd. had paid an amount of Rs. 96,00,000/- towards part consideration at the time of execution of the Agreement to Sell dated 28.01.2011 to the Objectors. As mentioned in the Agreement to Sell (Page Nos. 4 and 5) the said amount was paid by the Purchaser to the Objectors on 02.02.2011 and the details of payments made by the Purchaser in favor of the Objectors are as under:

- (a) Rs. 10,00,000 through cheque no. 077270.
- (b) Rs. 17,20,000 through cheque no. 077271.
- (c) Rs. 17,20,000 through cheque no. 077272.
- (d) Rs. 17,20,000 through cheque no. 077273.
- (e) Rs. 17,20,000 through cheque no. 077274.
- (f) Rs. 17,20,000 through cheque no. 077275.



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32. As submitted by the Objectors, the said amount of Rs. 96,00,000/- has not been refunded to M/s N.S.B. Real Estate Pvt. Ltd., associate company of PACL Ltd., even after the Agreement to Sell dated 28.01.2021 stands revoked due to efflux of time and non-fulfillment of the terms and conditions of the contract. Considering that the amount paid by the associate company of PACL Ltd. i.e. the Purchaser can be presumed to be out of the monies collected by PACL Ltd. from its customers, the said amount now belongs to the PACL Committee. Therefore, before the Objector can be allowed to reap benefit, due to Agreement to Sell standing determined by efflux of time, the Objector must return the benefit taken under the said Agreement to Sell.
33. In view of the same, in lines with the powers conferred upon the Recovery Officers under Section 28A of the SEBI Act, 1992 read with Section 220(2) of the Income Tax Act, 1961, the Objectors are liable for direction to refund the amount of Rs. 96,00,000/- (Rupees Ninety-Six Lakhs Only) received by them from M/s N.S.B. Real Estate Pvt. Ltd., associate company of PACL Ltd. along with simple interest at the rate of 12% per annum or part thereof from the date of receipt of the said amount i.e. 02.02.2011 till the date of actual payment to the PACL Committee.

ORDER:

34. Given the above facts, the objection raised by the Objector is allowed subject to payment of Rs. 96,00,000/- (Rupees Ninety-Six Lakhs Only) along with simple interest at the rate of 1% per month or part thereof, from 02.02.2011 till the date of actual payment, to the PACL Committee within a period of 30 days from the date of receipt of this order, failing which, the attachment on the impugned properties shall continue without being affected by any observations made in this Order. Further, if the Objectors fail to pay the amount, as



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aforesaid, PACL Committee shall be free to undertake auction of the impugned properties for realizing the aforesaid amount and to return the balance to the Objectors.

Place: Mumbai

Date: April 08, 2025



RECOVERY OFFICER

रेश्मा गोयल / RESHMA GOEL

उप महाप्रबंधक एवं वसूली अधिकारी
Deputy General Manager & Recovery Officer
न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
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