

**Before Shri R.S. Virk, District Judge (RETD.)**  
**appointed to hear objections/representations in the matter of PACL Ltd.**  
**as referred to in the order dated 15/11/2017, of the Hon'ble Supreme Court**  
**passed in civil appeal no. 13301/2015 titled Subrata Bhattacharya vs SEBI.**

**File no. 358**

**MR NO. 32774-16**

**Objector** : Mrs. Arti Thakur & Mr. Rajiv Thakur

**Present** : Objector Mr. Rajiv Thakur with  
Mr. Somesh Arora, Advocate (Enrolment No. D942/90)  
With Sh. Deepak Narayan, Advocate

**Order** :

1. 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. The said committee was asked to collect relevant record including title sale deeds from the CBI (Central Bureau of Investigation) if it is in possession of any documents. The committee on its part has put up various properties including the property forming the subject matter of the present objection petition for auction sale on its website [www.auctionpacl.com](http://www.auctionpacl.com).
2. The above named objectors seeks removal from the list of properties put up for auction / sale at [www.auctionpacl.com](http://www.auctionpacl.com) flat no. 604, situated on 6<sup>th</sup> floor of building no. 4 known as "Sejal Tower" constructed by Sejal Construction Pvt. Ltd. on land bearing survey no. 161 (part) and now bearing CTS No. 1073 and 1074 situated in village Pahadi, Goregaon (west) in Greater Mumbai. The aforesaid flat having carpet area of 786.27 sq.ft was earlier purchased by PACL through registered agreement of sale dated 04/12/2008 for an amount of Rs. 53,10,000/- (fifty three lakhs and ten thousand) at pre-construction stage and after completion thereof, possession was delivered to it on 08/03/2010 after the developers having obtained occupation permission of the building no. 4 comprising this flat and other flats therein.

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3. PACL after obtaining NOC from the above named builder viz Sejal Construction Pvt. Ltd on 28/04/2011 entered into registered agreement of sale dated 31/12/2011, with the objectors herein against a sale consideration of Rs. 76,25,000/- (seventy six lakhs and twenty five thousand) which amount was paid by the objectors between January and March 2012 after securing loan from ICICI Bank to the tune of Rs. 35,00,000/- (thirty five lakhs). Upon receipt of the aforesaid amount and no objection certificate issued by the builder above named for securing loan against mortgage of the said flat, PACL delivered possession of the said flat on to the objectors herein 19/03/2012.
4. The objectors thus claim that they are bona fide purchasers of the above described flat against due consideration and therefore the said property should be removed from the list of properties put up for auction / sale at [www.auctionpacl.com](http://www.auctionpacl.com).
5. a) I have heard the arguments of the learned counsel for the objectors and have gone through the documents on record as also the orders dated 02/02/2016, 04/08/2017 and 15/11/2017 of the Hon'ble Supreme Court in civil appeal no. 13301/2015 bearing the title Subarata Bhattacharaya versus SEBI as relied upon by the counsel for the objectors.  
b) It is argued with reference to aforesaid order dated 02/02/2016 that the property in question is a "flat" and not "land" referred to as such in para 3 thereof for selling the same so that the sale proceeds can be paid to the investors who have invested their funds in PACL for purchase of "land". This argument has no merit because the same order in para 13 thereof specifies that the decision of the committee with regard to sale of "property" of PACL shall not be interfered with by any court.  
c) It is further argued with the reference to SEBI Press Release dated 04/05/2017 that the committee is authorised to effect sales of the properties wherein PACL Ltd. has interest / right, directly or indirectly, but in the case in hand PACL has no subsisting right pursuant to delivery of possession of the flat in question on 19/03/2012 upon receipt of an amount of Rs. 76,25,000/- (seventy six lakhs and twenty five thousand) in the light of agreement of sale dated 31/12/2011.  
d) It is also argued that the order dated 04/08/2017 of the Supreme Court clearly mentions in para 2 thereof that PACL was called upon to furnish details of properties that are still owned by PACL directly or indirectly meaning thereby that PACL has no subsisting right upon receipt of entire agreed amount of Rs. 76,25,000/- (seventy six lakhs and twenty five thousand). It is also pointed out that para 3(c) of the aforesaid order dated 04/08/2017 clearly mentions that any amount received after February 2017 by PACL was required to be recovered and deposited.

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e) The last mentioned three contentions do carry weight because possession of the flat in question was duly delivered by PACL to the objectors above named on 19/03/2012 which is thus duly protected under section 53 A of the TP Act, read in the light of the observation of the Hon'ble Supreme Court in the case titled Suraj Lamp and Industries Pvt Ltd versus state of Haryana reported in 2009 (7) SCC 363. Furthermore, PACL having received the entire sale consideration of Rs. 76,25,000/- (seventy six lakhs and twenty five thousand) at the time of execution of the registered agreement of sale dated 31/12/2011, it had no right, title or interest whatsoever left in this property.

6. In view of the foregoing discussion, the objection petition in hand is hereby accepted holding that the above described property is liable to be removed from the list of properties put up for auction / sale on [www.auctionpacl.com](http://www.auctionpacl.com).

**Date : 02/02/2018**

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