Before Shri R.S. Virk, District Judge (Retd.)
In the matter of PACL Ltd.

File no. 660

Objector : Atma Singh s/o Late Sri Gajjan Singh

Argued by : Shri R.K. Sharma, Advocate (Enrolment No.UK-373/2016)

Order :

1. (a) 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.

   (b) 2nd Status Report (Volume-I) of the Justice (Retd.) R.M. Lodha Committee (in the matter of PACL Ltd) submitted before the Hon'ble Supreme Court, had at page 77 thereof, proposed as under :-

   > "It would be in the interest of the investors of the Company, that all objections based on documents purportedly executed after 02-02-2016 be scrutinized and then heard and disposed of by a retired Judicial Officer(s) assisted by requisite number of Advocates, appointed by the Committee."

   (c) The aforesaid proposal of committee was accepted by the Hon'ble Supreme Court.

2. (a) Subsequent thereto, I have been appointed by the said committee to hear objections/representations against attachments of various properties in the matter of PACL Ltd which appointment has been duly notified in SEBI Press release no. 66 dated 08/12/2017.

   (b) My said appointment is also duly mentioned in the order dated 15/11/2017 (to be read with orders dated 13/04/2018, 02/07/2018 and 07/12/2018) of the Hon'ble Supreme Court in civil appeal no. 13301/2015 Subrata Bhattacharya Vs SEBI.

3. The objector above named has averred that after negotiations with PACL Ltd as the developer, he was issued an allotment letter with customer code no. A0001 whereafter

he had made the requisite payments totalling Rs. 37,85,100/- as the allotment was construction linked payment plan and subsequent thereto flat buyers agreement dated 18/07/2012 (Annexure-2) was executed in his favour by PGF Ltd and on the basis whereof sale deed no. 6375 dated 29/10/2015 (Annexure-3) was executed by the above named company in his favour in respect of flat no. A5-404 situated in Pearls Paradise, Dehradun at village Dhoran Khas, Pargana Parwa Doon, District Dehradun, Uttrakhand and possession thereof was also delivered and duly taken on 30/06/2016. It is contended that he now wants to sell the aforesaid flat but has learnt that transfer of this property is prohibited under orders of this committee. He thus seeks permission to sell the aforesaid flat A5-404.

4. I have heard the learned counsel for the objector above named and have gone through the file. It may be noticed at the outset that the sale deed relied upon by the objector as having been executed in his favour by PGF Ltd as the 'seller' and PACL Ltd as the 'developer' is dated 29/10/2015 prior to which date Shri Prashant Saran, Whole Time Member, Securities and Exchange Board of India had passed an order dated 22/08/2014 under sections 11 and 11B of the Securities and Exchange Board of India Act, 1992, read with Regulation 65 of the Securities and Exchange Board of India (collective investment scheme) Regulations, 1999 inter-alia prohibiting PACL Ltd, including its Directors, from alienating or disposing off or selling any of the assets of PACL Ltd except for the purposes of making refunds to its investors. Subsequent thereto, the properties of PACL Ltd have been ordered by the Hon'ble Supreme Court to be sold as per its order dated 02/02/2016, passed in civil appeal no. 13301/2015 bearing the title Subarata Bhattacharaya Versus Securities & Exchange Board of India.

5. The acceptance of instalment payments from the objector were conducted on behalf of PACL Ltd by Pearls Infrastructure Projects Ltd which company is an associate entity of PACL Ltd as so held by Shri Mohammad Atif Alvi, DGM and Recovery Officer, SEBI vide his order dated 22/11/2017 wherein after taking into consideration the various circumstances/documents detailed therein, it was concluded by him that PACL Ltd holds 94.82 % shareholding of PIPL directly and indirectly, through its associate subsidiary companies.

6. No doubt PGF Ltd is described as 'seller' and PACL Ltd as the 'developer' in the said sale deed but the fact cannot be lost sight of that all the receipts in respect of instalments paid by the objector have been issued by PACL Ltd. In any case, the properties of PGF Ltd also have been ordered by the Hon'ble Supreme Court to be sold as per its order dated 12/03/2013 passed in Civil Appeal No. 6572 of 2004 bearing the title PGF Ltd Versus Union of India reported in 2015 (13 SCC 50).

7. In view of the foregoing discussion, the execution of sale deed no. 6375 dated 29/10/2015 (Annexure-3) by PGF Ltd as 'seller' and by PACL Ltd as 'developer' is rendered inconsequential and resultantly the objection petition in hand is held liable to be and is hereby dismissed.

Date : 26/04/2019

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 :26/04/2019

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