

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

**appointed to hear objections/representations in the matter of PACL Ltd.
as so 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 and
duly notified in SEBI Press release no. 66 dated 08/12/2017.**

File No. 69

Applicant: Mohali Plot Owners Association (The Pinnacle Self Supporting Cooperative Welfare House building Society Ltd.)

Present : Sh. D. K. Singal, President for the applicant

Order

1. The objectors herein are members of "Pinnacle Self Supporting Cooperative Welfare Housebuilding Society Ltd." which was earlier got registered in the name of "Pinnacle Cooperative Welfare Housebuilding Society Ltd, Mohali", with the registrar of cooperative societies as per the provisions of the Cooperative Society Act, 2006 and had entered into a memorandum of understanding (MOU) dated 13/08/2011 with PACL Ltd which had agreed to sell an area measuring 5 Acres comprised in group housing site no. 3, sec. 104, developed by it as Pearls City Mohali, Punjab @Rs7.5 crore per Acre out of which Rs. 3.75 crore was paid at the time of execution of the said MOU whereas the balance was to be paid later on and up to the period ending by 22/08/2014, and amount of Rs. 15 crores, in addition to yet another amount of Rs. 10 lakhs stands paid by it against receipt. It is claimed that the MOU clearly stated that the scheduled plot had been earmarked for development of group housing residential complex as per the lay out plan approved by GMADA for township and the society the vendee therein would develop only a group housing residential complex thereon after obtaining requisite approvals and permissions form the competent authorities. It is claimed that after engaging its architect it had got prepared the building plans which were submitted to GMADA for approval / sanction and in the mean while they had commenced construction of a boundary wall which was however objected to by the owner of the land abutting the allotted site. It is also contended that applicant society had incurred an amount of Rs. 1.20 crores obtaining building approvals from GMADA, NOC dated 06/09/2013 from Airport authority of India, environmental clearance certificate dated 26/08/2014 and 20/04/2015, permission dated 14/08/2014 from Punjab pollution board and municipal corporation dated 26/05/2014, besides payment of consultancy / statutory fees but yet it has not

R. Virk
14/3/18

been able to commence construction in view of the set back area being inadequate and even the demarcation of land is not as per layout plan of the allotted site as approved by GMADA. It may be added here that as copy of the letter dated 18/12/2015 (existing at page 218 of the petition in hand issued by PACL Ltd to the applicant herein whereby MOU dated 13/08/2011 was extended). The existence of a dispute regarding construction of boundary wall was acknowledged therein and PACL had assured to resolve the same with the help of revenue authorities. Even the remaining developments works have not statedly been carried out by PACL Ltd. It is argued inter alia that in view of non development of the site for the last several years, the same is merely useable as agriculture of land at the moment for which only collector rate of agricultural land should be charged.

2. It is averred in para 21 of the application dated 14/05/2016 that the society had recently learnt that the reins of the company had been taken over and are being supervised by a committee constituted by Hon'ble Supreme Court of India. Thus, it has now been realized that since the company has not been functioning and lost its existence, the same is not in a position to resolve the above said issues and there is no likelihood of the same being taken care of ever in future also. Therefore, the necessity has arisen to file the present representation seeking the under mentioned reliefs:
 - i. Refund an amount of Rs. 16,07,49,472/- crore (Rs. 15.10 crore towards the part of sale consideration of the allotted site and an amount of Rs. 97,49,472/- spent by the society of taking approvals and incurred on various incidental and society expenses as detailed herein before) alongwith interest @18% p.a. from the date of its deposit with the company and concerned authorities to the date of the actual payment or the said amount of interest accruing may be adjusted in the balance sale consideration payable;

OR IN ALTERNATIVE

- ii. Reduce the cost of allotted land to Rs. 2,07,98,000/- (two crores seven lakhs and ninety eight thousand out of which Rs. 90,00,000/- is the collector rate of the land and Rs. 1,17,98,000/- is the conversion charges per acre) on as is where is basis and incidental steps may be taken care of accordingly as detailed in para no. 42 & 43 of the petition read with the subsequent representation dated 22/01/2018.
- iii. Complete and clear physical possession of the allotted site be provided to the society and registration of sale deed for part of the allotted land to be got done.

RSU
14/3/18

- iv. Thereafter, clear time frame of four years be given to the society for completion of construction of the residential flats without charging any interest etc. throughout.
3. I heard the president of the society appearing in person today and have gone through the file. None of the prayers contained above can be granted by the committee keeping in view the fact 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. The said mandate of the Hon'ble Supreme Court cannot be considered to extend to grant reliefs to the extent as prayed for and reproduced in para 2 above more so when it is borne in mind that as per SEBI press release no. 66/2017 dated 08/12/2012 issued in the light of order of Supreme Court dated 15/11/2017 in the above noted civil appeal no. 13301/2015, I have only been authorised to hear objections / representations in respect of the work being undertaken by the PACL committee which as mentioned above is specific to attachment and sale of properties of PACL for payment of sale proceeds thus derived to the investors who have invested their funds in the company for purchase of land.

The president above named has pleaded interalia that the applicant society consist of 141 members who are all distraught with the development arising out of nonfulfillment of its obligations by PACL but the said factor though unfortunate cannot change the outcome of the order in view of the circumstances detailed above.

Date : 14/03/2018


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.

Date : 14/03/2018


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