

NEWSALERT

COMPETITION LAW: DLF PENALIZED FOR ABUSE OF DOMINANCE

Competition Commission of India (CCI) in its latest judgment under Competition Act, 2002, has imposed a penalty of US\$ 140 million (INR 630 Crores) on DLF Limited (DLF), one of the largest real estate Developers in India for abuse of dominance and unfair trade practices.

In addition to the monetary penalty, CCI has ordered DLF to cease and desist from imposing and formulating such unfair conditions. Further, DLF has also been ordered to modify such conditions within 3 months.

CCI while deciding in favour of consumers (allottees of the apartments), Belaire Owner's Association, held that DLF by placing discriminatory and abusive clauses in the Apartment Agreements is guilty of abusing its dominant position. The Apartment Agreements impose conditions unfair and to the detriment of the consumers and which are altered or included unilaterally by DLF for its own benefit and to the detriment of the allottees.

Earlier, the CCI in its Order dated 20th May, 2010, had concluded that a prima facie case existed against DLF and had ordered the investigation into the matter by Director General (DG). After due investigation and submission of report by DG and hearing all the parties in the matter, the final order holding DLF liable under the Competition Act, 2002 for abusing its dominance was passed by CCI.

The consumers/allottees of apartments had approached CCI when DLF extended the deadline by which the possession of the apartments was to be given to the consumers. Further, DLF also increased the number of proposed floors to be constructed in the apartment complex from 19 to 29. The consumers/allottees of the apartment were aggrieved by the increased number of floors as it would affect their use and enjoyment of the common facilities which would now be utilized by more flat owners. The allottees claimed that DLF includes and imposes unfair and discriminatory conditions in the apartment agreements which unilaterally favor DLF to the detriment of the allottees.

As per the Competition Act, 2002, DLF has 60 days from the date of an order to file an appeal against the order of CCI before Competition Appellate Tribunal.