

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 191 of 2018

IN THE MATTER OF:

1. Aegis Value Homes Ltd. & Anr.

Having its registered office at
EF-10, 2nd Floor, Inderpuri
Delhi – 110012.

2. Divey Dhamija,

EF-10, 2nd Floor, Inderpuri
Delhi – 110012.

...Appellants

Vs

1. Raj Kumar Juneja & Ors.

s/o Late Sh. Gian Chand
R/o E-35, Ward no.2, Hospital Area,
Nilokheri, Haryana.

2. Mr. Karan Kumar Juneja

s/o Raj Kumar Juneja
R/o E-35, Ward no. 2, Hospital Area,
Nilokheri, Haryana.

3. Mr. Tarun Kumar Juneja

s/o Raj Kumar Juneja
R/o E-35, Ward no. 2, Hospital Area,
Nilokheri, Haryana.

4. JD Universal Infra Limited

Regd. Office: 35, Basement
Community Center, Vasant Vihar,
Delhi – 110057.

5. Mr. Inderjit Dhamija,

S/o Sh. Shanti Lal
R/o House No. 1008, Urban Estate,
Sector-13, Karnal, Haryana.

6. Mr. Ashwani Kumar,

S/o Sh. Shanti Lal
R/o House No. 34, Krishan Colony,
Kunjpura Road, Karnal, Haryana

7. Mrs. Raj Dhamija,
W/o Sh. Inderjit Dhamija,
R/o House No. 1008, Urban Estate,
Sector-13, Karnal, Haryana.

8. Mr. Puneet Ahuja
s/o Sh. Ramsaran Ahuja,
EF-10, 2nd Floor, Inderpuri
Delhi – 110012.

9. Registrar of Companies, Delhi & Haryana
IFCI Tower, 61, Nehru Place,
New Delhi.

....Respondents

Present:

For Appellants: Mr. Jayant Mehta, Mr. Ankur Sood, Ms. Romila Mndal, Mr. Sajal Jain and Mr. Shubhankar, Advocates.

For Respondents: Mr. Ashish Meda, Advocate for R-1 to 3.

ORDER

22.06.2018. Heard learned counsel for the Appellants and advocate Shri Ashish Meda for Respondent No. 1 to 3 - Original Petitioners. The learned counsel for the Appellant is submitting that the learned NCLT was moved by the Appellant - Original Respondent no. 4 by filing an application C.A. No. 148 of 2018 in C.P. No. 328(ND) of 2017 copy of which has been filed at page 353 of this petition seeking permission for sale of flats. The learned counsel submits that there was another application C.A. No. 284 of 2017 also pending before NCLT which was filed by the Appellant – Original Respondent no. 4 for variation of the interim order dated 16th October, 2017. Copy of the same is at page 332. The counsel submits that when C.A. No. 148 of 2018 was taken up, the learned NCLT passed impugned order dated 25th May, 2018 seeking information. The submission of the learned counsel is that the information sought could not have been sought to be brought on record by the original petitioners as the original

petitioners have no locus in the Respondent no. 4 company. The original petitioners had also not prayed for bringing on record such information which relates to the business of Respondent no. 4. Learned counsel for the Appellants submits that although there was grave urgency as the business of Respondent no. 4 who is dealing with the flats built on property which it has purchased was suffering losses, still the learned NCLT did not deal with the application to decide the same expeditiously and left the matter to come up on 31st May, 2018. The learned counsel submits that on 31st May, 2018 the bench did not assemble and the matter was adjourned to 2nd July, 2018 and because of this the appellant was required to move Appeal before this Tribunal. The learned counsel submits that at present there is vacation in NCLT and no vacation bench is available. Learned counsel for Respondents also does not say that Vacation Bench is available, in the days left.

2. The impugned order reads as under:

“ ORDER

The petitioner holds 20% equity in the Respondent no.1 Company. His grievance borders around allegation of having disposed off the fixed assets of the Company by R-2, R-3 and R-4, a deal vitiated being a related party transaction and effected in violation of Secretarial Standards.

The respondents on the other hand submit that the petitioner was a party to the Board Resolution and the related Directors refrained from voting on the decision to transfer the assets to Respondent no.4. It is in this background that this

Bench was of the opinion that while the business of Respondent no.4 should not be halted, prior permission of the Bench be taken before selling any further units as that could lead to multiplicity of litigation, should the petitioner have any merit in the present petition.

Vide the present application, the applicant/Respondent no.4 has prayed for permission to sell further units of flats. One of the projects being developed is in respect of affordable housing approved by the government.

The applicant submits that on account of the bad publicity created by the petitioners in the social media they have had a number of cancellations and have to refund the money. Further there are mounting liabilities and the business operation of respondent/applicant company no.4 is being greatly hampered.

Since the Respondent no.4 applicant presses urgency before permitting any further sale of a unit, the applicant is directed to produce the registered agreements for sale, the license received for development of these lands for residential units, sanction of the project, the relevant documents being date of commencement of construction, details of all the flats booked and the consideration received, part payments received against each booking supported by the Bank statements, the alleged cancellation of the bookings and the amounts returned or to be returned by them.

It is submitted on behalf of respondent no.1 that the entire grievance alleged by the petitioner is basically on account of a legal notice dated 14.10.2014 issued to him whereby they have asked for details of the moneys collected from customers of R-1 which still remain unaccounted for.

Another application has been filed by the petitioner under Sections 118 &119. Notice of this applicant is accepted by the learned counsel for respondent no.1.

To come up on 31st of May, 2018 at 3:30 PM for meeting.

Copy of the order be given.”

3. The above order shows that when the Appellant moved the application, NCLT sought information and no decision as such has yet been taken by learned NCLT. It would not be appropriate for me to take the decision which NCLT needs to first take. The learned counsel for the Appellant is submitting that before 30.06.2018, the Appellant original Respondent No.4 needs to make payment to the banks regarding the installments which are to be paid, which is not possible unless the Appellant is able to take directions of the NCLT to dispose flats. According to him because of this urgency, the matter is required to be heard before 30.06.2018.

4. Considering the impugned order which relates to only interim stage directions before hearing of the application, as no final decision as such has been taken by the learned NCLT, it would not be proper for me take the decision. It would be appropriate that the Appellants move before the Hon'ble President of

NCLT for urgent listing of the matter before appropriate bench in vacation. The learned counsel for respondent no. 1 to 3 submits that they will render necessary cooperation to the Appellant for hearing of the matter by NCLT.

5. The appellants are at liberty to pray to Hon'ble President, NCLT for urgent listing of the concerned I.A. 284 of 2017 and C.A. 148 of 2018 expeditiously in vacation.

6. Dasti of this order may be issued today.

7. The counsel for the Appellant undertakes to give prior information to learned counsel for Respondent no. 1 to 3 in writing the date and time when the Appellants would move before the Hon'ble President of the NCLT for urgent listing of the matter in vacation.

8. The Appeal is disposed off with these directions with no orders as to costs.

(Justice A.I.S. Cheema)
Member (Judicial)
(Vacation Sitting)

am/nn