

CCI Alters Realty Agreements

Government to Act as a Watchdog over Clinical Trials

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India's antitrust regulator, the Competition Commission of India ("CCI") is proactively exercising its powers to gain its due and relevant place in the affairs of the world's largest democracy. The CCI has recently taken a step forward towards protecting the interests of the property buyers by modifying the terms of the agreement executed between one of India's largest real estate player and the apartment buyers for two different real estate projects. The provisions of the Apartment Buyers Agreement have apparently been modified to make the agreements more equitable and fair to the property buyers.

The CCI has reportedly modified approximately 16 (sixteen) sub-clauses which were deemed abusive and unreasonable to the buyer, as also required modifications in view of the laws applicable to the development of group housing projects in the state of Haryana. CCI has, inter alia, also commented that:

- the builders should adhere to the compensation promised to the buyers in case of delay in construction or delivery of flats;
- the group housing projects must be constructed in line with the layout plans, floor plans and specifications; and
- the builder will no longer have the sole ownership of open spaces within the residential project area not sold to the allottee and has thus suggested joint ownership mechanisms among the owners for such open spaces.

The CCI has initiated the move of amending the property buyer's agreement post directions from the Competition Appellate Tribunal, where DLF challenged the penalty of INR 630 crores imposed upon DLF by the CCI on hearing the complaints filed by the Flat Buyer's Association of two different DLF projects in the national capital region, as reported in our newsletter of August 23, 2011.

The modified DLF agreement is expected to work as the model framework for commercial agreements between real estate developers and property buyers and thus serves as a benchmark for the real estate industry.

Reportedly, the CCI is also carrying on investigation in to the affairs of approximately 70 real estate developers across India pursuant to allegations of arm twisting the property buyers and of executing one-sided agreements with them.

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The Supreme Court of India ("SC") while hearing the PIL filed by an NGO Swasthya Adhikar Manch expressed its concern over illegal clinical trials of drugs being allegedly conducted on humans by the multinational companies in India.

The SC further mentioned that the Government being under an obligation to protect the health of the citizens of the country, all the clinical trials should be conducted under the supervision of the Union Health Secretary. The SC has also directed the Government to take stringent action against any multina-

tional companies engaged in conducting illegal clinical trials in India.

The observations of the SC and the order passed by its is expected to be of major concern to the clinical trial industry and also to affect the drug development process in India and abroad.

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