

State Consumer Disputes Redressal Commission

U.T., Chandigarh.

**EA/66/2017
(U/s 27 of CP.Act)**

Devki Nandan Kapoor

Vs BCL Homes Ltd. & Ors.

BEFORE:

**JUSTICE JASBIR SINGH [RETD.], PRESIDENT
PADMA PANDEY, MEMBER
RAJESH K. ARYA, MEMBER**

PRESENT:

Sh. Dhawal P.S.Ahluwalia, Advocate, proxy for Sh. Ravinder Pal Singh, Advocate for the decree holder.

Sh. Paras Money Goyal & Sh. Hitesh Verma, Advocates for Judgment Debtor No.2 (Sh. Baldev Chand Bansal, Managing Director of BCL Homes Limited).

Dated: 08/04/2019

ORDER

Today, in Court, Inspector Paramjit Kaur Sekhon (Belt No.481) accompanied by Head Constable Ashok (1179/CP), Head Constable Balwinder (1728/CP) and Head Constable Om Parkash (3102/CP) has produced before us Sh. Baldev Chand Bansal, Managing Director of BCL Homes Ltd.

We appreciate the action taken by the police officer, as referred to above.

Sh. Paras Money Goyal, Advocate has put in appearance on behalf of Sh. Baldev Chand Bansal, Managing Director of the Company by filing his Vakalatnama, which is taken on record.

On request made by Inspector Paramjit Kaur Sekhon (Belt No.481), Incharge, PO & Summons Cell, Chandigarh, following 28 execution applications, which are listed on 10.04.2019, are preponed and taken up today for passing necessary order:-

1	EA/66/2017	Devki Nandan Kapoor	Vs	BCL Homes Ltd.
2	EA/67/2017	Daljit Singh Sandhu	Vs	BCL Homes Ltd.
3	EA/68/2017	Kiranjeet Sandhu	Vs	BCL Homes Ltd.
4	EA/103/2017	Sudesh Moudgil	Vs	BCL Homes Ltd.
5	EA/104/2017	Anoop Jethwani	Vs	BCL Homes Ltd.
6	EA/105/2017	Mrs. Vidhu Sharma	Vs	BCL Homes Ltd.
7	EA/106/2017	Puneet Sharma	Vs	BCL Homes Ltd.
8	EA/107/2017	Hansraj Sharda	Vs	BCL Homes Ltd.

9	EA/108/2017	Vikrant Mahajan	Vs	BCL Homes Ltd.
10	EA/111/2017	Sh. Sarbjot Singh Sandhu	Vs	BCL Homes Ltd.
11	EA/112/2017	Dev Bala Salwan	Vs	BCL Homes Ltd.
12	EA/113/2017	Mrs. Harvinder Kaur	Vs	BCL Homes Ltd.
13	EA/114/2017	Raju Bhardwaj	Vs	BCL Homes Ltd.
14	EA/142/2017	Raj Kumar Arora	Vs	BCL Homes Ltd.
15	EA/143/2017	Col. T.S.Bajwa	Vs	BCL Homes Ltd.
16	EA/144/2017	Dr. Bhoop Singh	Vs	BCL Homes Ltd.
17	EA/145/2017	Gopal Krishan Pathak	Vs	BCL Homes Ltd.
18	EA/146/2017	Dr. Neelam Bhardwaj	Vs	BCL Homes Ltd.
19	EA/147/2017	Anita Jain	Vs	BCL Homes Ltd.
20	EA/148/2017	Sh. Sunil Sharma	Vs	BCL Homes Ltd.
21	EA/149/2017	Chand Berry	Vs	BCL Homes Ltd,
22	EA/150/2017	Sunita Dubey	Vs	BCL Homes Ltd.
23	EA/162/2017	Nalin Sethi	Vs	BCL Homes Ltd.
24	EA/163/2017	Nitin Sood	Vs	BCL Homes Ltd.
25	EA/164/2017	Rajesh Kumar Nagpal	Vs	BCL Homes Ltd.
26	EA/356/2017	Sunny Mittal	Vs	BCL Homes Ltd.
27	EA/35/2018	Lt. Col. Harpreet Singh Sidhu	Vs	BCL Homes Ltd.
28	EA/246/2018	Neeraj Garg	Vs	BCL Homes Ltd.

It is apparent on record that the matter is pending before us whereof 02.03.2017, on which date, on noting that the judgment passed under execution dated 14.09.2016 has become final and the present execution application has been filed for non compliance of the order and to impose requisite punishment upon the judgment debtors, in terms of the provisions of Section 27 of the Consumer Protection Act, 1986, following show cause notice was issued to Sh.Baldev Chand Bansal, Managing Director of BCL Homes Limited:-

“Counsel for the decree holders states that the name of Judgment Debtor No.4 be deleted from the array of the parties.

Ordered accordingly.

The Execution Application be registered.

Notice be issued to Judgment Debtors No.1 to 3 only.

Vide order dated 14.09.2016 passed by this Commission in Complaint Case No.231 of 2016, following directions were issued to the Opposite Parties (BCL Homes Ltd.):-

“22. For the reasons recorded above, this complaint is partly accepted, with costs. The opposite parties, jointly and severally, are directed as under:-

- i. To refund the amount of Rs.50.50 lacs to the complainants, alongwith simple interest @12% per annum, from the respective dates of deposits onwards.
 - ii. To pay compensation, in the sum of Rs.2 lacs, for causing mental agony and physical harassment, to the complainants, as also escalation in prices.
 - iii. To pay cost of litigation, to the tune of Rs.50,000/- to the complainants.
 - iv. The aforesaid awarded amounts, in the manner mentioned in clauses (i) to (iii), shall be paid by the opposite parties, to the complainants, within a period of 2 months, from the date of receipt of a certified copy of this order, failing which, the amount mentioned in clause (i) shall carry penal interest @15% per annum instead of 12% per annum, from the respective dates of deposits till realization and the amounts mentioned in clauses (ii) and (iii) shall carry interest @15% per annum, from the date of filing of this complaint, till realization.
23. However, it is made clear that, in case, the complainants, have availed loan facility from any banking/financial institution(s), it shall have the first charge of the amount payable, to the extent, the same is due to be paid by them (complainants).”

When no compliance was shown to the aforesaid order, this application to execute the said order has been filed. There is nothing on record to show that operation of the judgment/decree passed has been stayed.

In such circumstances, show cause notices in terms of Section 262 Cr.P.C read with Chapter XX and Section 251 Cr.P.C. 1973, are issued to Sh. Baldev Chand Bansal, Managing Director of BCL Homes Limited, to come present before this Commission, in person, to put up his defence, to state whether he is ready to comply with the order passed, as referred to above, or to plead guilty of non-compliance. If he wishes to place, on record, any evidence/material, on the basis of which, the judgment/decree passed on 14.09.2016 can be defeated, it be so placed, on record, within 10 days from today. If personal appearance is not made on the next date of hearing, then, it will be presumed that the aforesaid Judgment Debtor has nothing to say in his defence. The aforesaid Judgment Debtor(s) will be deemed to be guilty of non-compliance and in that event, necessary action will be taken in terms of provisions of Section 27 of the Consumer Protection Act, 1986.

To come up on 14.03.2017.

Certified copies of this order be sent to the aforesaid Judgment Debtor(s) immediately.”

In this case, the order, referred to above, has become final and no appeal against that order is pending.

It is not only in this case, about 27 more cases are pending before us, in which, liability has been imposed upon the Company and its Director(s). It has come on record that the project was sold without the requisite permissions and furthermore, the entire property on which project was to be raised

was lying mortgaged. The matters are pending before Debt. Recovery Tribunal (DRT) against the Company and its Directors. The purchasers, also fearing that in those proceedings, the flats allotted to them may not be taken away by the Banks/financial institutions, became party before the DRT.

The matter was adjourned from time to time umpteen number of times. Sh. Hitesh Verma, Advocate appeared on behalf of Sh. Baldev Chand Bansal on 3-4 dates. However, thereafter, he vanished from the Court. The judgment debtors also failed to come present in Court to discharge their liability and/or to raise their defence if any. Copies of the orders were also sent through email IDs maintained by the Company. Taking note that deliberately the matters are being delayed in pending more than 25 execution applications. On 23.05.2017, one common order was passed. It was noticed that despite service, the judgment debtors i.e. the Company and its Directors have failed to put in appearance. Bailable warrants of arrest were issued against them. On that date, none appeared on behalf of the judgment debtors in this case. Police officials failed to arrest them and on 28.06.2017, non-bailable warrants of arrest were issued. In some cases, on 28.07.2017, Sh. Hitesh Verma, Advocate put in appearance on behalf of Sh. Baldev Chand Bansal Managing Director of the Company and he specifically stated that the judgment debtors are not in a position to discharge their liability as they are in financial crises. Sh. Hitesh Verma, Advocate did not appear for the Company.

The above fact clearly shows that the judgment debtors had no defence to oppose the judgment under execution. Again non-bailable warrants of arrest were issued to secure the presence of Sh. Baldev Chand Bansal, Managing Director of the Company. The matter was adjourned to 17.08.2017. Again warrants were issued against Sh. Baldev Chand Bansal and the matter was adjourned to 11.09.2017. None appeared for the judgment debtors.

It is necessary to mention here that the name of

judgment debtor No.4 i.e. Sh. Rajeev Kumar, authorized representative of the Company was deleted from the array of the parties on 02.03.2017. The Police officials failed to arrest Sh. Baldev Chand Bansal and on 17.10.2017, 21.11.2017, 12.01.2018, 08.03.2018, 18.04.2018 and then 24.05.2018, on which date, even request was sent to Director General of Police, Chandigarh to look into the matter, so that, culprits can be arrested and brought before the Court. Non-bailable warrants of arrest were issued again. The matter was adjourned to 06.07.2018 and the process of issuance of non-bailable warrants of arrest was repeated on 10.08.2018, 21.09.2018, 01.11.2018, 14.12.2018, 30.01.2019, 12.02.2019 and on 26.02.2019 warrants were issued returnable on 10.04.2019.

It is also necessary to mention here that in cases filed under Section 25 of Consumer Protection Act, 1986 i.e. EA/375/2017, we have also attached the project of the judgment debtors.

In some other cases, Incharge, PO & Summons Cell, Chandigarh, namely, Inspector Paramjit Kaur Sekhon appeared before us and she assured that all out efforts will be made to arrest the culprits. Today, she has arrested Sh. Baldev Chand Bansal, Managing Director of the Company. We gave an appreciate note to her for performing her duty vigilantly.

Without moving an application, Sh. Paras Money Goyal, Advocate, Counsel for Sh. Baldev Chand Bansal, Managing Director of the Company states that he is going to move an application for granting bail to Sh. Baldev Chand Bansal. As and when the application is moved, necessary orders will be passed.

When produced before us, it was told to Sh. Baldev Chand Bansal, Managing Director of the Company that he has a right to bail subject to the conditions to be imposed. He was further informed that taking note of his act and conduct, he is directed to pay the principal amount in Court, so that grant of bail to him be considered. He has failed to make any promise.

In view of above, let Sh. Baldev Chand Bansal,

Managing Director of the Company be taken to Burail Jail, Chandigarh in all the connected execution applications tabulated above. Office is directed to prepare the warrant of commitment and it be sent to the Jail Superintendent, Burail Jail, Chandigarh, for compliance, directing the said officer to take the accused in custody and he be produced in Court on the next date of hearing i.e. **10.04.2019**.

In the meantime, we gave an opportunity to Sh. Baldev Chand Bansal, Managing Director of the Company to discharge the liability on or before the next date of hearing, may be at this stage, by making payment of principal amount.

Certified copy of this order be sent to the Superintendent, Burail Jail, Chandigarh for taking necessary action.

Certified copy of this order be given dasti to the Incharge, PO & Summons Cell, Chandigarh for necessary compliance.

Certified copy of this order be also supplied to Sh. Baldev Chand Bansal, Managing Director of the Company.

Certified copy of this order be given dasti to the Counsel for the parties.

Copy of this order be placed in all the files of execution applications tabulated above.

Sd/-

[JUSTICE JASBIR SINGH [RETD.]]
PRESIDENT

[PADMA PANDEY]
MEMBER

[RAJESH K. ARYA]
MEMBER