



18th Surana & Surana National Corporate Law
Moot Court Competition
JSS Law College, Mysuru
7 – 9 February 2020



22 January 2020

CLARIFICATIONS

1. Was there any "force majeure" clause in the agreement?
No
2. Is the agreement can be termed as agreement for sale?
Depends on the legal analysis.
3. Can the agreement is termed as a contract?
Not a factual query. Legal analysis.
4. What were the necessary approvals which were obtained to commence the project?
Whether any other approvals were taken before this?
Facts are clear.
5. To whom the amount of advance payment and further installments were made?
Facts are clear.
6. Under submission (v.) From the side of homebuyers, "if the argument of the company that both RERA and IBC cannot be approached simultaneously" part doesn't impliedly includes 'Consumer forum' just like the early part of this submission includes 'Consumer forum'.
Not a factual query. It depends on legal analysis.
7. Whether a notice about dissolution of the partnership firm was given at the time of dissolution or the notice to the homebuyers was the only notice?
No notice of dissolution was given.
8. Are the amendments after the release of moot problem are applicable or not?
Legal query depends on your understanding of the law and facts.
9. The agreement in the last line of para 3 was entered before or after the formation of partnership as mentioned in para 4?
Agreement cannot be entered with a partnership firm without it being constituted!
10. Under issue 2 from the side of company which guidelines are referred?
It is for the participants to research!
11. Was the partnership firm registered? If yes, was there any time decided, earlier, for their dissolution?
Query is beyond the scope of the problem.

12. What is the current state of the proceedings under RERA and Consumer forum?
Make necessary assumptions.
13. The association is registered under which act?
For the participants to analyse.
14. Should we frame our arguments according to the sequence of issues or can we arrange them as we want?
You can arrange as per your convenience.
15. Whether the application is filed by Homebuyers collectively or by association?
Facts are clear.
16. Is the terms of agreement was exactly the terms mentioned in the advertisement?
Make necessary assumptions.
17. Whether the Partnership firm created for the construction of the project is a limited liability partnership or not?
Not an LLP
18. Were the home buyers made aware by the company or the partnership firm of the use of the money contributed by the home buyers vide installments?
Company.
19. Were the funds diverted by the company or the partnership firm towards other choked projects?
Facts are clear.
20. Could you please clarify the exact dates of the following:
a. payment of the last installment
b. date of handing over the completion certificate to the home buyers
c. date of registration of the association
Make necessary assumptions to support your case.
21. What was the amount of funds diverted to the other projects?
Assume from facts.
22. We want to clarify the meaning of word “alternatively” as mentioned in the point 4 on page 4 of the moot proposition. Does that indicate homebuyers are claiming either 20 lakh for the extra expenses incurred by homebuyers for obtaining occupancy certificate or 60 lakh as refund for non-performance of contract by the company?
Facts are clear.
23. Whether there are any cases/landmark judgments that are not allowed to be submitted in the memorial submission and/or oral arguments?
Not a relevant question.
24. More specifically can the Pioneer Urban Land and Infrastructure Ltd. and ors. v Union of India and Ors, AIR 2019 SC 4055 be cited ?
Up to the participants.

25. Was the legal notice sent by the homebuyers to the company on 30 September, 2019 was a legal notice?
Do not understand the relevance of issuing legal notice and ordinary notice.
26. Was there any clause regarding interest to be paid by the corporate debtor in the event of delay of project? If yes, what were the terms of the clause?
Make necessary assumptions to support your case.
27. What were the necessary approvals which were obtained to commence the project? Whether any other approvals were taken before this?
Repetitive question.
28. To whom the amount of advance payment and further installments were made?
Repetitive question.
29. Under submission (v.) From the side of homebuyers, "if the argument of the company that both RERA and IBC cannot be approached simultaneously" part doesn't impliedly includes 'Consumer forum' just like the early part of this submission includes 'Consumer forum'.
Repetitive question.
30. Whether a notice about dissolution of the partnership firm was given at the time of dissolution or the notice to the homebuyers was the only notice?
Repetitive question.
31. What is the exact number or %age of homebuyers that approached NCLT? (Refer para 9, last third line)
Facts are clear.
32. Whether these homebuyers approached RERA prior to filing application in NCLT?
Facts are clear.
33. Whether A, B and C (the individual partners in the partnership firm) were also the directors in the company Dream Home Builders Pvt Ltd.? (Refer para 2, line 4 and para 6, Line 2)
Facts are clear.
34. Is the phrase "the company", wherever used in the moot problem, refers to Dream Home Builders Pvt. Ltd. only? If not, kindly provide with specific lines where it refers to its Holding company, if any such instances exists.
Facts make your query clear.
35. Do we have to provide footnotes in the judgment? Or it has to be drafted in the manner actual judgments are written where judges cite cases in the main text itself?
Refer the Moot Rules.
36. In Argument iv from the side of the Homebuyers, is the amount of 60 lakhs demanded in addition or in alternate to 20 lakhs? Therefore, are the homebuyers demanding a collective sum of Rs. 80 lakhs? or demanding either 20 lakhs or 60 lakhs?
Repetitive question.

37. Please try to state the number of homebuyers who went to IBC, RERA and Consumer Forum out of the 30 homebuyers.
Facts are clear.
38. Whether the Insolvency & Bankruptcy Code (Amendment) Ordinance, 2019 promulgated on 28.12.2019 is applicable to the present problem?
Depends on your understanding of facts and law applicable.
39. Whether Paradise Homes was registered under RERA?
Yes.
40. If so, whether such registration in respect of the project was granted in the name of the company or the partnership firm?
The company.
41. Was there any internal agreement between the company and the partnership firm regarding sharing of profits out of the Paradise Homes project?
Not a logical question given that the company had 25% interest in the firm.
42. What were the terms of agreement of sale between the promoter and the allottees?
Facts are clear.
43. Whether public notice of dissolution of the partnership firm was given?
Make necessary assumption.
44. Was it a joint venture partnership or limited liability partnership or general partnership?
General partnership firm.
45. Should we take into account the recent bill in the parliament that mentions that a certain number of homebuyers are required to initiate the CIR process?
Depends on your understanding of the law and facts involved.
46. How much money was diverted by the Company?
Assume from the facts.
47. Are A, B, and C directors in the Company as well as partners in the firm? (para 6 of the case file)
Reproduction of the facts. Yes.
48. Clarification sought - What number of home buyers are filing the application before the NCLT?
Assume from facts.

NO FURTHER CLARIFICATIONS WILL BE ISSUED

Administrator