

ITEM NO.301

COURT NO.2

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.940/2017

BIKRAM CHATTERJI &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No.12572/2022 - FOR APPROPRIATE ORDERS/DIRECTIONS; and, IA No.31467/2022 - FOR INTERVENTION/IMPLEADMENT)

WITH

W.P.(C) No.245/2018 (X)  
(IA No.27275/2022 - FOR CLARIFICATION/DIRECTION)

W.P.(C) No.306/2018 (X)

W.P.(C) No.502/2019 (X)

Diary No.36392/2019 (X)

SLP(C) No.1879/2018 (XVII)

SMC(Cr1) No.4/2018 (XVII)

W.P.(C) No.378/2018 (X)

W.P.(C) No.298/2018 (X)

CONMT.PET.(C) No.483/2020 in W.P.(C) No.940/2017 (X)

W.P.(C) No.288/2018 (X)

W.P.(C) No.1397/2018 (X)

W.P.(C) No.246/2018 (X)

W.P.(C) No.226/2018 (X)

W.P.(C) No.267/2018 (X)

W.P.(C) No.1018/2017 (X)

W.P.(C) No.353/2018 (X)

W.P.(C) No.460/2018 (X)  
W.P.(C) No.829/2018 (X)  
W.P.(C) No.742/2018 (X)  
W.P.(C) No.199/2018 (X)  
W.P.(C) No.134/2018 (X)  
(IA No.27193/2022 - FOR APPROPRIATE ORDERS/DIRECTIONS)  
W.P.(C) No.164/2018 (X)  
W.P.(C) No.1206/2017 (X)  
W.P.(C) No.281/2018 (X)  
W.P.(C) No.1116/2017 (X)  
W.P.(C) No.1156/2017 (X)  
W.P.(C) No.1144/2017 (X)  
W.P.(C) No.1041/2017 (X)  
W.P.(C) No.971/2017 (X)  
W.P.(C) No.947/2017 (X)  
W.P.(C) No.56/2018 (X)  
W.P.(C) No.57/2018 (X)  
W.P.(C) No.74/2018 (X)  
W.P.(C) No.131/2018 (X)  
W.P.(C) No.182/2018 (X)  
W.P.(C) No.942/2017 (PIL-W)  
W.P.(C) No.8/2018 (X)  
W.P.(C) No.1242/2017 (X)  
W.P.(C) No.58/2018 (X)  
W.P.(C) No.21/2018 (X)

W.P.(C) No.52/2018 (X)

W.P.(C) No.91/2018 (X)

W.P.(C) No.160/2018 (X)

Date : 20-05-2022 These matters were called on for hearing today.

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UPON hearing the counsel the Court made the following  
O R D E R

**PART - I**

**Re: I.A. No. 12572 OF 2022 (Vol. No.I-185) and I.A. No.31467 of 2022 (Vol. No.Z-386) – Applications on behalf of M/s. La Residentia Developers Private Limited**

The matter concerning La-Residentia Developers Private Ltd. ("La-Residentia" for short) was dealt with by this Court in its order dated 29.06.2021. After considering rival submissions, following directions were issued:

"26. It is therefore directed:-

a) The Company shall be entitled to continue with the construction and development of the instant project;

b) 632 flats which were subject matter of Orders dated 23.07.2019 and 14.10.2019 shall be allowed to be sold by the Company to the interested persons or parties at a fair price or value, provided:-

- i) all the concerned transactions including the execution of appropriate documents or deeds are counter-signed by the Court Receiver or his nominee;
- ii) The price or value at which said flats are to be sold is certified by the Court Receiver to be fair and appropriate.
- iii) all the amounts received by way of such transactions of sale are credited to a separate account completely under the control of the Receiver and/or his nominee;
- iv) the cost of construction with respect to those 632 flats, upon due certification by the Chartered Accountants of the Company and to the satisfaction of the Receiver, shall be made over to the Company; and

- v) it shall however be open to the Receiver to give such advances towards the construction of these 632 flats from and out of the amounts deposited in the account as specified hereinabove, depending upon the stage and progress of construction.
- c) The injunction with respect said 632 flats, as directed in the Orders dated 23.07.2019 and 14.10.2019, shall stand modified to the extent indicated hereinabove.
- d) The difference between the amounts received from the concerned flat buyers for purchase of said 632 flats and the expenditure incurred on cost of construction shall finally be credited to the general account maintained for the benefit of the flat buyers of the Amrapali Group of Companies."

Mr. V. Giri, learned Senior Advocate appearing for La-Residentia submits *inter alia*:

- a. Despite the order passed by this Court, no substantial progress could be undertaken and the completion of the project including the component of 632 apartments could not be completed as the Registration which the Project had under the provisions of the Real Estate (Regulation and Development) Act ("RERA Act" for short) had elapsed in the meantime;
- b. There were various actions initiated by the flat-holders from the rest of the component, that is to say, flats other than 632 apartments and some injunctions or prohibitory orders have been issued by various Courts/Tribunals.

- c. Since initial validation of Maps by Greater NOIDA Authority, additional FAR was also available and utilizing such additional FAR, certain additional components have been constructed, which may need revalidation by Greater NOIDA Authority.

Mr. Giri, learned Senior Advocate, in the circumstances prays for appropriate directions so that the project can be completed and the task of completing the construction of component of 632 flats can be discharged in terms of the directions issued by this Court.

Ms. Madhavi Divan, learned Additional Solicitor General appearing for UP Real Estate Regulatory Authority ("the RERA Authority" for short) submits that in case an appropriate application giving sufficient particulars accompanied by the requisite charges is submitted by La-Residentia seeking extension of Registration in accordance with law, the RERA Authority will certainly take appropriate steps to see that the entire project is completed.

It is further suggested by Ms. Divan that all the details as to how many apartments have been sold up till now and the statutory requirement as to how much money has been received and expended must also be made known to the RERA Authority.

Ms. Divan however expressed apprehension that the Registration so extended may be utilized as a defence in actions initiated by the flat-holders from component other than 632 apartments, as sanctifying that the period for completion of project itself stands extended and consequently, there may be difficulty for the

claimants in seeking relief on the ground that the project was not completed in time.

Mr. Ravindra Kumar, learned Senior Advocate appearing for the Greater NOIDA Authority submits that even if extension as prayed for is granted, that shall not be taken as an excuse to get out of the other statutory obligations and whatever be the charges for delay in completion of the project including interest must be made over to the Greater NOIDA Authority. Insofar as re-validation of Maps is concerned, it is submitted that the matter will be considered by the Greater NOIDA Authority purely in accordance with law and in case any requisite fees are charged, the same must be paid by La-Residentia.

Learned Court Receiver submits that the matter has to be seen from the perspective to ensure whatever is due to the flat-buyers of Amrapali is received into their kitty. Going by the text and the tenor of the order dated 29.06.2021, if the realizable value from 632 apartments is taken to be Factor 'X', and the cost of construction is taken to be Factor 'Y', the latter Factor must be deducted from the former and the interest of flat-buyers of Amrapali is to the value which represents the difference between 'X' and 'Y'.

Having bestowed our attention to the facts and circumstances of the case, in our view, it would be in the interest of everyone concerned that a stalled project must be taken towards completion. This shall not however be taken as overriding the interest of those persons who are submitting that they are entitled to any compensation or interest because of delay in handing over

possession. We are not concerned with those issues nor shall we be taken to have in any way reflected on merits of the contentions raised by such allottees before various Courts and Tribunals. We are concerned here purely with the interest of Amrapali Home-Buyers and guided by that consideration, we direct as under:

- a. La-Residentia shall prefer an application seeking extension of Registration granted to it under the provisions of the RERA Act within 15 days from today. The application shall be accompanied by all particulars as are required in law. The particulars must include the status and stages of completion undertaken up till now and what is projected in future. It must also indicate the time-line within which the entire project will be completed.
- b. The application must be accompanied by requisite fee which are chargeable in accordance with law.
- c. After such completion application is preferred, the RERA Authority shall take appropriate decision on the application and intimate the result within two weeks.
- d. La-Residentia shall complete the entire project within the time limit so fixed by the extension of Registration.
- e. La-Residentia shall be entitled to enter into transactions with respect to 632 apartments which aspect was dealt with in detail in the directions issued in paragraph 26 of the order dated 29.06.2021.

- f. In keeping with those directions, the transactions shall be entered into which shall be countersigned by the nominee of the learned Court Receiver. All the money shall be credited to a separate account maintained under the directions of learned Court Receiver as stated in said order dated 29.06.2021.
- g. Outflow from the account shall also be in accordance with the directions already issued and under the express directions of learned Court Receiver.

We have passed these directions to ensure that the project gets completed and as stated earlier, we shall not be taken to have either dealt with the contentions of various flat-buyers or reflected on the merits or demerits of their contentions.

In order to have clarity in the matter, we put it to Mr. V. Giri, learned Senior Advocate, whether extension of Registration will be taken to as a defence in any pending litigation or litigation to be filed in future.

It must be stated here that Mr. Giri fairly accepts that such extension shall not be pleaded by his client as defence in any such action either initiated already or which shall be initiated in future.

Mr. Giri has also stated that mere re-validation of Plan shall also not be taken as defence in case any action is initiated or is likely to be initiated by any of the interested parties seeking any relief because of alteration in the Plan.

These applications are, accordingly, disposed of.

**PART - II**

All the remaining Interlocutory Applications on Board are adjourned to 11.07.2022 at 2.00 p.m.

(MUKESH NASA)  
COURT MASTER

(VIRENDER SINGH)  
BRANCH OFFICER