
(2012) 09 DEL CK 0361

In the Delhi High Court

Case No : CO. APP. No. 71 of 2011

Lt. Col. RPS Dhanoa (Retd.) and Others

APPELLANT

Vs

JVG Finance Ltd.

RESPONDENT

Date of Decision : 11-09-2012

Acts Referred:

Citation : (2012) 7 AD 571

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : H.K. Chaturvedi and Ms. Anjali Chaturvedi, for the Appellant; Rajiv Bahl, for Official Liquidator, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The sixty appellants are aggrieved from the dismissal by the learned Company Judge, vide order dated 21.04.2011, of Company Applications No.543/2011, 626-672/2011, 681-690/2011 and 723-725/2011 preferred by them in Company Petition No.265/1998 for the winding up of JVG Finance Ltd. and which has been ordered to be wound up. The appellants are the purchasers of plots of land in Chaudhary Charan Singh Avas Yojana, Baghpat project of development by colonization, undertaken by the company in liquidation. They have been found to be genuine bona fide purchasers of the said plots of land. They filed the applications aforesaid seeking a direction to the Baghpat Development Authority or the Uttar Pradesh PWD or the CPWD to further develop the colony, demarcate the plots and allot the same to the appellants.

2. The Company Judge, vide order dated 16.04.2009 had constituted a three member Committee to report about the aforesaid project of the company in liquidation. The said Committee inter alia reported that the total land on which the colony was intended to be developed was 53.86 acres but details only of about 46.50 acres were made available; an area of 5.80 acres was in the year 2000 purported to be transferred to some other person; that hardly any

development work has been done on the land; that the site falls in rural area and though the layout plans of the colony were purported to have been approved on 19.02.1991 but no confirmation thereof is available; similarly, no sanctioned layout plans are available; that even if sanction had been obtained in the year 1991, the same would have by now lapsed and will have to be obtained afresh; that huge expenditure is required to be incurred on the development work.

3. On the basis of the report aforesaid, the learned Company Judge has concluded that the directions, as sought by the appellants, could not be issued and more so when the office of the Official Liquidator is overburdened and has no expertise in such development. The learned Company Judge has accordingly directed refund of the amounts paid by the appellants with simple interest at 4% per annum in lieu of allotment of land to be done. The claim of appellants for additional compensation has been left open, to be considered after auction of the said land.

4. Notice of this appeal was issued on the contention of the counsel for the appellants that the appellants be allowed to develop the land themselves.

5. The Official Liquidator in the reply filed has stated that though sincere attempt was made to explore the possibility of handing over possession of the plots to the appellants but in the absence of any demarcation or layout plan, the same is not feasible; that the developmental cost itself is estimated at approximately Rs. 20 crores and that in all there are 143 claimants of plots in the said Yojana.

6. The appellants have filed a rejoinder inter alia stating that some roads, electricity poles, boundary walls, entry gate exist at site; that the most logical and legitimate approach on the part of the Official Liquidator would be to demarcate the plots and release the same to the appellants. Some photographs of site have also been filed.

7. We have enquired whether the aforesaid 143 claimants of the plots in the said Yojana constitute the entire body of plot holders in the said Yojana / proposed colony. The answer is in the negative. Rather, we are told that considering the size of the land, the said 143 persons and of whom only 60 are before us, would constitute a minority of the total land. That being the position, the question of entrusting the development of the entire land / project comprising of vast land other than which the appellants have agreed to purchase and which belongs to the company in liquidation, does not arise. No concrete proposal also has been placed before us as to development. The counsel for the Official Liquidator has rightly contended that the appellants being the purchasers of handful of plots, cannot be expected to bear the development cost of the entire land.

8. In the aforesaid circumstances, the relief sought by the appellants cannot be granted. The photographs filed also do not show that the plots which the appellants claim to have been sold to them are identifiable at site. The directions as sought by the appellants to the Official Liquidator are impractical. Several authorities will have to be approached for sanctions and the entire business of

colonization will have to be carried out and all of which the Official Liquidator is not equipped to do.

9. We are however of the view that since the appellants have been found to be bona fide purchasers and even Sale Deeds exist in their favour, at the time of putting the land / Project to auction, the learned Company Judge should, without undermining the value of the land / Project, explore the possibility of doing the same on as is where is basis i.e. with the highest bidder acquiring the Project with commitments in favour of the appellants. Having observed so, we may say that if the appellants contend that they are liable to pay no more to the purposed buyer of the land / Project, the same will undoubtedly depress the value of the land and which would be to the detriment of the other creditors of the company in liquidation. Even in law, the appellants cannot be said to be entitled to a developed plot at the price which they claim to have paid. In the last over two decades, the cost of development has multiplied manifold. If the appellants are to be considered for being passed on with the land to the purchasers thereof, they have to shell out more money, may be not equivalent to the prevalent price but something less than that. It may also act as an incentive to the purchaser who will get a ready stock of customers / purchasers. It is up to the appellants to put up a proposal in this regard before the learned Company Judge and all that we can observe is that the learned Company Judge, if finds the same to be workable may consider the same. We have made this suggestion since it is found that the refund of the price paid with interest at 4% per annum allowed by the learned Company Judge is not sufficient and the learned Company Judge also being aware of the same has reserved the right of the appellants to compensation. Save for the aforesaid observations, the appeal is dismissed.

No costs.