

ITEM NO.73

COURT NO.1

SECTION II-C

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

Petition(s) for Special Leave to Appeal (Crl.) No(s).5978-5979/2017

(Arising out of impugned final judgment and order dated 11-08-2017
in BA No. 1573/2017 11-08-2017 in BA No. 1574/2017 passed by the
High Court Of Delhi At New Delhi)

SANJAY CHANDRA & ANR.

Petitioner(s)

VERSUS

STATE GOVT. OF NCT OF DELHI

Respondent(s)

(FOR I.R. and APPLICATION FOR EXEMPTION FROM FILING CERTIFIED and
INTERVENTION APPLICATIONS

Date : 01-09-2017 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Abhimanyu Bhandari, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Abhinav Agarwal, Adv.
Mr. Rajiv Virmani, Adv.
Mr. Gaurav Jain, Adv.
Ms. Unnati Mishra, Adv.
Mr. Atul Malhotra, Adv.
Ms. Kartika Sharma, Adv.
Mr. E.C. Agrawala, AOR

For Respondent(s) Mr. Rana Mukherjee, Sr. Adv
Mr. Rajiv Nanda, Adv.
Mr. T.A. Khan, Adv.
Mr. B.V. Balramdas, Adv.
Mr. B. Krishna Prasad, Adv.

Mr. Abhinav Jain, Adv.

Mr. Varun K. Chopra, Adv.

Mr. M.L. Lahoty, Adv.
Mr. Paban K. Sharma, Adv.
Mr. Himanshu Shekhar, Adv.
Mr. A. Sripad, Adv.

Ms. Maheravish Rein, Adv.
Mr. Manjit Singh Ahluwalia, Adv.
Mr. Aldanish Rein, Adv.

Ms. Garima Bajaj, Adv.

Mr. Avnish Kumar, Adv.
Mr. Ruchit Duggar, Adv.

Mr. Anant Bhushan, Adv.

Mr. K. Anuraj, Adv.

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

Heard Mr. Abhimanyu Bhandari, learned counsel for the petitioners and Mr. Rana Mukherjee, learned senior counsel along with Mr. Rajeev Nanda, learned counsel for the respondent-State.

In pursuance of our order dated 24.8.2017, the petitioners have deposited a sum of Rs.15,00,00,000/- (Rupees fifteen crore only) before the Registry of this Court. To appreciate the controversy, it is appropriate to reproduce the order dated 24.8.2017 :-

"Having heard Mr. Bhandari, learned counsel for the petitioner and Mr. M.L. Lahoty, Mr. Rajiv Nanda and Mr. Manjit Singh, learned counsel for the consumers, we think it appropriate to direct the petitioner to deposit a sum of Rs.15,00,00,000/- (Rupees fifteen crore only) before the Registry of this Court within two weeks hence. The said amount shall be invested in an interest bearing short term deposit in the UCO Bank, Supreme Court Compound, New Delhi.

Let the matter be listed on 18.9.2017.
If the petitioner is able to deposit the

amount earlier, liberty is granted to mention.

If any consumer is desirous of getting a flat, the authorised agent of the petitioner can hand over the flat in accordance with law."

Mr. Bhandari, learned counsel for the petitioners has assiduously urged that both the petitioners should be enlarged on Bail.

Learned counsel appearing for the State would, in their turn, submit that they have made a verification, regard being had to the order dated 16.8.2017 and found that there are 158 persons who have filed the First Information Report (FIR) Though the FIR has been filed in respect of the project called 'Wild Flower Country' and 'Anthea Project', yet the controversy has a larger canvass.

We are absolutely conscious that we are dealing with an application for bail but the consumers who have invested their money in various projects which had been undertaken by the petitioners cannot be allowed to lurch in the dark. Their problem has to be solved. We must appreciably state that Mr. Bhandari on the previous occasion had assured the Court that the petitioners are inclined to settle with all the consumers in respect of all the projects. The settlement can take place in two ways, i.e. the consumers who are inclined to take possession of the flats can opt for the same; and second the consumers who want their money back shall get the amount invested along with interest.

At this stage, Mr. Manjit Singh Ahluwalia, Ms. Maheravish Rein and Mr. Varun Chopra, learned counsel submitted that they have also booked flats in the project to which the FIR relates. AS a sum of Rs.15,00,00,000/- (Rupees fifteen crores only) has been deposited, we direct the Registry to pay the

same on pro rata basis to the informants who have lodged the FIR. For calculation of the pro rata basis, Ms. Kartika Sharma, learned counsel assisting Mr. Bhandari, Mr. Manjit Singh Ahluwalia, Ms. Maheravish Rein and Mr. Varun Chopra shall assist the Registry so that there can be no difficulty in disbursing the amount on pro rata basis to the informants. Be it clarified, the pro rata payment has been directed relating to the FIR lodged by the informants in respect of this project.

In the course of hearing we have been apprised that some of the consumers have entered into a Memo Of Understanding (MOU) with the petitioners which pertains to getting the amount refunded or to get an alternative plot. If they desire to get the amount refunded, they may do so and thereafter the Registry will disburse the amount on pro rata basis to the informants who shall approach the Registry. Mr. Bhandari, Mr. Manjit Singh Ahluwalia and Ms. Maheravish Rein, learned counsel shall assist the Registry in this behalf. Mr. Bhandari, learned counsel appearing for the petitioners does not dispute the position that the informants had booked the flats. The pro rata amount shall be disbursed by the Registry on proper identification. Whoever wants alternative flat may file the necessary affidavit so that this Court can direct the petitioners to deliver the alternative flats within a stipulated time.

At this juncture, Mr. M.L. Lahoty, learned counsel appearing for some of the intervenors who have booked flats in three projects, namely, 'Vistas', 'Burgundy' and 'Amber' submits that 125 of them had visited the site. It is his submission that the said 125 consumers have no objection to take the flats on 'as is where is'. Mr. Bhandari, learned counsel appearing for the petitioners, per contra, would submit that the flats are not ready and the authorised agent may not be in a position to hand over the same. Regard being

had to the said situation, we are inclined to direct that Mr. Lahoty, learned counsel shall hand over the list of names of 125 consumers to Mr. Bhandari by 2.9.2017. The authorised agent of the petitioners shall scrutinize the documents to satisfy himself as regards the entitlement, show them the flats and if they accept the flats, he shall hand over the flats to them by 7.9.2017. Be it clarified, the issue of obtaining of occupancy certificate shall be considered at a later stage. To this arrangement, both Mr. Lahoty and Mr. Bhandari have no objection. Needless to emphasise, if there is any outstanding payment as per the agreement, it shall be given to the authorised agent by way of demand drafts. The delivery of possession to the clients of Mr. Lahoty, though relates to other projects, we have so directed keeping in view the larger scenario.

The question of grant of bail shall be considered on 8.9.2017. The petitioners is directed to deposit a further sum of Rs.5,00,00,000/- (Rupees five crore only) by 6.9.2017. On the conditions being satisfied, we are inclined to admit the petitioners on bail on the next date of hearing and the bail shall be interim in nature, for the purpose is that the petitioners shall pay the consumers who have booked flats in various projects with them.

All the applications for intervention stand allowed.

Call on 8.9.2017.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Assistant Registrar