

ITEM NO.54+60

COURT NO.9

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

Item No.54 :

Writ Petition(s)(Civil) No(s).940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for directions, permission to assess the portal facility, vacating stay and modification/clarification)

WITH

W.P.(C) No.947/2017 (X)

(With appln.(s) for directions & modification/clarification)

W.P.(C) No.942/2017 (PIL-W)

(With appln.(s) for appropriate orders/directions, clarification, intervention/impleadment and appln. on behalf of R.13 seeking permission to pursue company appln.No.17 (P.B.) of 2018)

W.P.(C) No.971/2017 (X)

(With appln.(s) for directions)

W.P.(C)No.1041/2017 (X)

(With appln.(s) for directions, further directions and for permission to file addl. documents)

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

(With appln.(s) for directions and impleadment/intervention)

W.P.(C) No.1116/2017 (X)

W.P.(C) No.1144/2017 (X)

(With appln.(s) for directions)

W.P.(C) No.1156/2017 (X)

(With appln.(s) for clarification of order dated 12.2.2018)

W.P.(C) No.1206/2017 (X)

(With appln.(s) for directions)

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)
(With appln.(s) for directions)

W.P.(C) No.56/2018 (X)

W.P.(C) No.91/2018 (X)
(With appln.(s) for impleadment)

W.P.(C) No.57/2018 (X)
(With appln.(s) for directions)

W.P.(C) No.74/2018 (X)

W.P.(C) No.134/2018 (X)
(With appln.(s) for permission to file addl. documents)

W.P.(C) No.131/2018 (X)
(With appln.(s) for stay/directions)

W.P.(C) No.160/2018 (X)
(With appln.(s) for permission to file subsequent events on record)

W.P.(C) No.164/2018 (X)

W.P.(C) No.182/2018 (X)
(With appln.(s) for directions)

W.P.(C) No.199/2018 (X)

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

W.P.(C) No.245/2018 (X)

W.P.(C) No.281/2018 (X)
(With appln.(s) for stay)

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

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

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

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

W.P.(C) No.288/2018 (X)
(With appln.(s) for impleadment and directions)

W.P.(C) No.353/2018 (X)
(With appln.(s) for stay)

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

Item No.60 :

W.P.(C)No.460/2018

Date : 17-05-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

	Mr. Pawanshree Agrawal, Adv. (A.C.)
For Petitioner(s) WP(C)942	Mr. Ajit Kumar Sinha, Sr. Adv. Mr. Ashwarya Sinha, AOR Mr. Shwetabh Sinha, Adv.
WP(C)288	Mr. Sanjiv Sen, Sr. Adv. Mr. Raj Kamal, AOR Mr. Maheen Pradhan, Adv. Mr. B.N.S. Marok, Adv. Mr. Bhaskar Aditya, Adv. Mr. Rahul Arya, Adv.
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WP(C)52	Ms. Anjana Prakash, Sr. Adv. Mr. Sukant Vikram, AOR
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	Mr. Subramonium Prasad, Sr. Adv. Mr. Kunal Mimani, Adv. Mr. Kumar Kislaiy, Adv. Mr. Dheeraj Nair, AOR
Applicant in WP(C)942	Mr. Sanjay Hegde, Sr. Adv. Mr. Abhishek Kauhik, Adv.
WP(C)940	Mr. M.L. Lahoty, Adv. Mr. Paban K. Sharma, Adv. Ms. Ishita Bist, Adv. Mr. Anchit Sripat, Adv.

WP(C)182

Mr. Himanshu Shekhar, AOR

Mr. Abhinav Jain, Adv.
For Mr. Himanshu Shekhar, AOR

Mr. Shadan Farasat, AOR
Mr. Suhail R. Bhat, Adv.

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Mr. Akash Sharma, Adv.

Mr. Suman Tripathy, Adv.
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Mr. Ranjay, Adv.
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Mr. Kailash Pandey, Adv.
Mr. Brijesh Tyagi, Adv.
For Mr. Kailash Prashad Pandey, AOR

Ms. Sangeeta Singh, Adv.
For Mr. Prakash Ranjan Nayak, AOR

Mr. Nitin Bajpai, Adv.
Mr. Udit Grover, Adv.

Mr. Vijay Kumar, Adv.
Mr. Thomas Common, Adv.
For Mr. A.P. Mayee, AOR

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Ms. Mridula Ray Bharadwaj, AOR

Mr. Manish Kumar Saran, AOR

Mr. Prithvi Pal, AOR
 Mr. Shishir Pinaki, AOR
 Mr. Shovan Mishra, AOR
 Ms. Sayaree Basu Mallik, AOR
 Mr. Gopal Jha, AOR
 Mr. Aniruddha P. Mayee, AOR
 Mr. A.P. Mohanty, AOR
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 Mr. Kumar Mihir, AOR
 Mr. Ashok Kumar Singh, AOR
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WP(C)164

In-person

For Respondent(s)
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 Ms. Harpreet Lamba, Adv.
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 Mr. Alok Kr. Agarwal, Adv.
 Ms. Rati Tandan, Adv.
 Mr. Manoj Kumar, Adv.
 Mr. Apoorv Rastogi, Adv.
 Mr. Harshal Kumar, Adv.
 Mr. Gaurav Goel, AOR

WP(C)187

Mr. S.B. Upadhyay, Sr. Adv.
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 Mr. Nishant Kumar, Adv.
 For Ms. Anisha Upadhyay, AOR

Mr. Amit Sibal, Sr. Adv.
 Mr. Manmeet Singh, Adv.
 Mr. S.S. Ray, Adv.
 Mr. Anshul Tyagi, Adv.
 Mr. Prithvi Sidhu, Adv.
 Ms. Saloni Sharma, Adv.
 Ms. Anjali Anchayil, Adv.

Galaxy Group

Mr. Dhruv Mehta, Sr. Adv.
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Ms. Anupama Sharma, Adv.
Ms. Sonali Negi, Adv.
Mr. Mohit Rai, Adv.

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Mr. Aman Gupta, AOR
Mr. Parth D. Tandon, Adv.

Mr. Badri Prasad Singh, AOR
Mr. Gaurav Tyagi, Adv.
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Ms. Purna Mehta, AOR
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Ms. Astha Sharma, AOR

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For Mr. Sanjay Kumar Dubey, AOR

Mr. Ravindra Kumar, AOR

Mr. Rabin Majumder, AOR

Mr. Akhilesh Kumar Pandey, AOR

M/s. Cyril Amarchand Mangaldas, AOR

Mrs. Anil Katiyar, AOR

Mr. Rajesh Kumar Gupta, AOR

Mr. Balaji Srinivasan, AOR

Ms. Rajkumari Banju, AOR

Mr. Pakash Kumar Singh, AOR

Mr. Divyakant Lahoti, AOR

Ms. Rashmi Singh, AOR

Mr. Anoop Prakash Awasthi, AOR

Mr. Sumit Sinha, AOR
Mr. K. Paari Vendhan, AOR

Intervenor Mr. Somiran Sharma, AOR
Ms. Priyanka Das, Adv.

Intervenor Mr. Manoj, Adv.
For Mr. T. Mahipal, AOR

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

1. Heard learned counsel for the parties.
2. Pursuant to our request made to the learned counsel, they have sat together and a joint statement has been filed for containing the proposal for completion of the various projects. A joint meeting had been conducted between the lawyers representing the buyers and builder of Amrapali Group and the representatives of Greater NOIDA and NOIDA. The proposals are in the form of four baskets with independent time lines and the co-developers had been chosen to undertake the completion of the projects and remaining work at site. The independent proposals given by Amrapali along with the proposed co-developer had been placed before the concerned lawyers representing the flat owners in those projects and lawyers of NOIDA and the representatives of Greater NOIDA and broad consensus has been reached.
3. The following are the basket-wise proposals:

FIRST BASKET**I. SAPHIRE - PHASE-I IN NOIDA :**

In relation to Sapphire Phase-I, consisting of 1033 units, the time given is of 10+2 months for completion of the project.

II. SAPHIRE-PHASE-II :

It consists of 1308 units and the time sought for completion of the project is 12 to 15 months.

The promoter of the Sapphire Phase I & II projects is M/s. Amrapali Sapphire Developers Pvt. Ltd. The developer chosen by the promoter is M/s. Galaxy Dreamhome Developers Pvt. Ltd. With respect to Sapphire Phase II project, as agreed to by the promoter, the relevant agreements entered into with co-developers to be placed within one week. The documents shall be filed afresh, even if the same had been filed earlier, duly supported by an affidavit. Let the undertaking of concerned promoter/co-developer be also placed on record within seven days.

III. LEISURE PARK :

This project comprises of 2993 units. There are three categories of this project, namely:

i) The first category comprises of the following 19 towers with 1665 units and the time limit of 15 months is fixed :

1. E1	2. E2	3. E3	4&5. E4 (Two towers)
6. B2	7. B3	8. B4	9. B5
10. A1	11. A2	12. A3	13. A4
14. A5	15. A6	16. F1	17. F2
18. F3	19. F4		

ii) The second category comprises of 3 towers, i.e., towers C1, C2 and F5. There are 411 units and time limit, as agreed to for completion is upto 22 (twenty two) months.

(iii) The third category (River view) comprises of 7 towers, i.e., D1 to D7. There are 917 units in this category and time, as agreed to for completion is 29 (twenty nine) months.

The co-developer of the first basket is M/s. Galaxy Dreamhome Developers Pvt. Ltd.

SECOND BASKET

PRINCELY ESTATE :

The promoter of the project is M/s. Amrapali Princely Estates Pvt. Ltd. There are 1919 units. Out of these, minor work is required to be carried out in

1600 units, possession of which have already been handed over to buyers and some work remains in three other towers, being towers N, O and P, which comprise 319 units. Time agreed for completion of same is 12 months and it has been proposed that M/s. Kanodia Business Pvt. Ltd. will be the co-developer.

It is also agreed to that as there is no water tank, no lift in three towers, i.e., N, O & P, the work of water tank and lifts in these towers shall be completed within six months from today.

As the inhabitants are already occupying certain portion upto fifth floor, let arrangements be made, as agreed to, for water tank on priority basis. Adequate provision for electricity connection shall also be made within three months from today.

We defer the order with respect to Amrapali Silicon project, as agreed to.

THIRD BASKET

Amrapali-the promoter has proposed certain projects in category-A, namely, Zodiac, Platinum, Titanium and Eden Park in this basket.

The promoter of the Zodiac is M/s. Amrapali Zodiac Developers Pvt. Ltd., whereas the promoter of

Platinum and Titanium is M/s. Ultra Home Construction Pvt. Ltd. and of Eden Park, the promoter is Amrapali Eden Park Developers Pvt. Ltd. The following agreement has been reached with respect to the aforesaid category 'A' projects :

A.1. ZODIAC :

Zodiac comprises of 2230 units. It is agreed to that the work in the said units shall be completed within 12 months. The co-developer is M/s. India Infoline Limited (IIFL) & M/s. Galaxy Dreamhome Developers Pvt. Ltd.

A.2. PLATINUM & TITANIUM :

(a) Platinum comprises of 888 units; and (b) Titanium comprises of 54 units. The work in the said units shall be completed within 7 months. The co-developer being M/s. IIFL or M/s. Galaxy Dreamhome Developers Pvt. Ltd.

Let the requisite undertaking by the concerned promoter and co-developer be filed within seven days in this Court.

A.3. EDEN PARK :

Eden Park comprises of 316 units. The work shall be completed within 7 months. The co-developer is

M/s. Galaxy Dreamhome Developers Pvt. Ltd.

Let the promoter and co-developer to file requisite undertaking within 7 days from today.

CATEGORY B PROJECTS :

The following are category 'B' projects :

B.1. CENTURIAN :

A. CENTURIAN PARK:

Centurian Park comprises of low rise 600 units. The work shall be completed within 10 months.

B. TERRACE HOMES :

Terrace Homes comprises of 3481 units. The work shall be completed within 21 months.

C. TROPICAL :

Tropical comprises of 1240 units. The work shall be completed within 30 months.

D. 0-2 Valley :

0-2 Valley comprises of 800 units. The work shall be completed within 12 months.

The proposed promoter is M/s. Amrapali Centurian Park Pvt. Ltd. and co-developer is M/s. IIFL.

It appears that earlier M/s. Sahi Developers Pvt.

Ltd. was appointed as co-developer under a Joint Development Agreement. There is some *inter se* dispute with respect to the work undertaken by the said co-developer and the promoter. Be that as it may. The co-developer M/s. Sahi Developers Pvt. Ltd. to file the details of the investment made by it in the projects. Let the promoter also file reply to the same and appropriate orders would be passed by this Court with respect to the interest of M/s. Sahi Developers Pvt. Ltd. However, we permit the new co-developer M/s. IIFL to be appointed for the said project, so that owing to the *inter se* dispute between the promoter and co-developer, the project may not be delayed.

B.2. GOLF HOME :

This project consists of two parts : (i) Golf Homes; and (ii) Kingswood.

(i) Golf Homes :

Golf Homes consists of 4210 units. The work shall be completed within the period of 6 months to 22 months and possession shall be handed over as soon as the project is completed.

(ii) Kingswood :

Kingswood comprises of 1596 units. The work shall be completed within nine months to 22 (twenty two) months.

The promoter of Golf Homes and Kingswood projects is M/s. Amrapali Smart City Developers Pvt. Ltd. and the co-developer is M/s. IIFL.

B.3. TECH PARK :

Tech Park project is located in Greater NOIDA. The promoter is M/s. Ultra Home Construction Pvt. Ltd. and the co-developer is M/s. IIFL. The work shall be completed within the time limit of 18-24 months.

PROJECT COSMOS KOCHI :

In COSMOS KOCHI, project at Kochi, the time limit for completion is fixed from 9 to 18 months. The promoter of the Vananchal 'Kochi', project is M/s. Ultra Home Constructions Pvt. Ltd.

In VANANCHAL CITY, Ranchi project also, the promoter is M/s. Ultra Home Constructions Pvt. Ltd.

The co-developer for both the Vananchal projects is M/s. IIFL.

FOURTH BASKET

I. DREAM VALLEY :

The promoter of Dream Valley is Amrapali Dream Valley Pvt. Ltd. This project comprises of Dream Valley Villa and Enchante, with respect to which proposal has been filed.

a) Dream Valley (Villa) : This project comprises of 379 units. The work shall be completed within 6-15 months in the phase-wise manner.

b) Dream Valley-2 (High Rise) : This project comprises of 8302 units. The work shall be completed within 9-35 months.

c) Enchante : This project comprises of 1508 units. The work shall be completed in phase-wise manner within 42 months.

The co-developer is M/s. Galaxy Dreamhome Developers Pvt. Ltd. Requisite undertaking by the promoter and the co-developer shall be filed within seven days.

II. LEISURE VALLEY :

a) Leisure Valley Villas - which comprises of 887 units, the work shall be completed within 6-15

months.

b) Verona Heights & Jaura Heights - comprise of 4964 units and the work shall be completed within 42 months.

c) Adarsh Awas Yojna - comprises of 1904 units and the work shall be completed within 30 to 42 months.

The promoter of the projects is M/s. Amrapali Leisure Valley Pvt. Ltd. and the co-developer is M/s. Galaxy Dreamhome Developers Pvt. Ltd.

III. HEARTBEAT CITY 1 & 2 :

a) In Heartbeat City-1 project, the number of units are 759 plus shops. The time limit is 10-18 months; and

b) In Heartbeat City-2 project, the number of units are 1217 plus shops. The time limit is from January, 2020 to December, 2020.

The promoters of these projects is M/s. Pebble Prolease Pvt. Ltd. and M/s. Three Platinum Softech Pvt. Ltd. The co-developer is M/s. Galaxy Dreamhome Developers Pvt. Ltd.

The aforesaid period wherever fixed includes the

period of mobilization and reflects the outer limit. Let undertaking of promoter and developer be filed within seven days with respect to all the projects.

4. It is apparent from the admission made by the promoter that the money to the extent of Rs.2765 crores, out of the six projects in question, has been transmitted to other projects. Though, we were inclined to direct the promoter to deposit the said amount in this Court, but we are not doing this at this juncture, because of the singular reason that the various promoters of the projects have shown their willingness to complete these projects by engaging the services of the co-developer. It is made clear that co-developer is the agent of the promoter. No right or interest shall accrue to the co-developer and liability towards the buyer shall remain with the promoter.

5. At this stage, we deem it appropriate to direct that an escrow account has to be opened. The said account has to be opened in the UCO Bank, Supreme Court Branch, situated in the premises itself. At this juncture, we deem it appropriate to direct the promoters to deposit a sum of Rs.250/- crores (Rupees

Two Hundred Fifty Crores) in the said escrow account, and money shall be deposited on or before 15th June, 2018.

6. A proposal has also been submitted on behalf of the promoters of the aforesaid projects to sell some of un-encumbered property, details of which have been given at page 28 of the affidavit dated 16.5.2018. Out of the aforesaid proposal, we find that the properties mentioned at serial numbers 11 and 15 are of high value. The unlaunched part of M/s. Amrapali Leisure Valley Pvt. Ltd., land of project is in Greater NOIDA, is held on the basis of the lease hold interest from the Greater NOIDA Industrial Authority, the realizable value shown to be is Rs.917.29 crores (Rupees Nine Hundred Seventeen Crores Twenty Nine Lakhs). There is no bank loan but however, there appears to be some dues to the Greater NOIDA Authority on this particular property. The distress sale value is shown at Rs.491 crores (Rupees Four Hundred Ninety One Crores). The property mentioned at serial number 15 is a part of unlaunched property of Amrapali Centurion Park (Commercial) held on lease hold basis from the Greater NOIDA Industrial Authority and its distress value is Rs.246 crores (Rupees Two Hundred

Forty Six Crores).

7. There are some other commercial properties, which are in the form of hotels and other commercial properties comprising of malls, etc. and those can also be sold for completion of projects. As and when a concrete proposal is submitted before us for sale, the same shall be considered and appropriate orders would be passed in this regard. However, the amount of Rs.250 crores (Rupees Two Hundred Fifty Crores) has to be deposited by 15th of June, 2018 without fail, in the escrow account to be opened with the UCO Bank of this Court.

8. There are certain outstanding dues of the buyers. It would be open to the buyers to deposit the said amount in the said escrow account. However, as soon as the projects are completed, we propose to give them reasonable time to deposit the outstanding dues. As soon as the promoter and co-developer are in a position to hand over the possession, the buyers shall have to deposit the outstanding amount in the escrow account to be opened in the UCO Bank, within three months time from the date of issuance of offer of possession.

9. We also propose to form a Committee to submit periodical reports of progress of the construction, to this Court, consisting of the following members :

- i. Architect of developer;
- ii. Structural Engineer of developer;
- iii. Chartered Accountant appointed by developer;

as well as -

- iv. Architect of buyers
- v. Structural Engineer of buyers
- vi. Chartered Accountant appointed by the buyers

and apart from the above members, we appoint Mr. M.L. Lahoty, learned Advocate, as a member of the said Committee, so as to coordinate the effective functioning and to submit appropriate periodical report in this Court. We appoint one nominee each of Greater NOIDA and NOIDA Authority, to be the member of said Committee.

10. There are certain unsold units in the various projects that have to be firstly adjusted by making swapping as agreed to, after that the remaining available units may also be permitted to be sold. In this regard, a proposal would be submitted as and when swapping process is completed and the details of

property to be sold and amount of offer by the prospective buyers, be indicated by this Court. The proposal will be submitted for consideration so that appropriate orders may be passed by this Court. Let the Committee constituted by us also to supervise the swapping part.

11. Eight weeks' time is granted to the buyers for the purpose of applying for swapping and decision shall be taken within 15 days from the date of application for the purpose of swapping is filed before the promoters. In case there is any difficulty in swapping, the Committee is authorized to take care of the grievances and to guide the promoters as well as the buyers.

12. As there are certain dues of NOIDA and Greater NOIDA Authorities and that of the secured creditors and operational/unsecured creditors, let the proposal be submitted by the promoters in this regard, on or before 07.07.2018. We also place on record that approximately a sum of Rs.4,300-4,900/- crores will be required for completion of the various projects as pointed out by promoters.

13. There are certain 'C' category projects. With

respect to those projects also, as they are not taken care of during swapping or there may be certain buyers not willing for swapping or certain amount may be required to be refunded to the buyers, who are not intending to purchase now and not opting for swapping or/and is not feasible, to take up those projects. The promoter shall also file its proposal with respect to such buyers who want their money to be refunded. Let that proposal be also filed after swapping is done indicating therein as to how many persons require to refund the money. The buyers in 'C' category projects only who are intending to obtain refund, may also submit their proposal to the concerned promoter in the meantime, within one month from today.

14. The promoters with respect to Silicon Valley have applied for connection for electricity, sewerage and water, as per order passed by this Court on 10.5.2018. The aforesaid order be carried out punctually. The promoters of the Silicon Valley has undertaken to make the payment of dues onwards.

15. The joint statement that has been filed has been signed in the Court by the learned counsel for the promoters as well as by learned counsel for the

authorities and the flat buyers, is placed on record and made part of this order as "Annexure-A".

16. The aforesaid Committee constituted by us is also requested to evaluate the work undertaken by M/s. Sahi Developers Pvt. Ltd. so far and submit a report in the 1st week of July, 2018.

17. Let nominations be made by the developers, flat buyers and authorities within seven days from today, under intimation to this Court.

18. The matter has been heard in part and requires further hearing. List on 18.7.2018 at 2.00 p.m.

19. It is agreed to, that with respect to essential amenities, the order passed by this Court on 10.5.2018 shall also apply to Silicon City Phase I project and in case inhabitants are there in some towers, the same shall apply to Silicon City Phase-II project also.

(Sarita Purohit)
Court master

(Jagdish Chander)
Branch Officer

*Annexure-A is placed with R/P.