

October 3, 2016

The Manager
Listing Department
National Stock Exchange of India Limited,
Exchange Plaza, C/1, Block G,
Bandra Kurla Complex, Bandra (East)
Mumbai – 400051

BSE Limited
Corporate Relationship Department
1st, Floor, New Trading Ring,
Rotunda Building, P. J. Towers,
Dalal Street, Fort,
Mumbai-400 001

Dear Sirs,

Sub: Order of Hon'ble High Court of Delhi on First Motion application filed by various Home Buyers of Unitech Limited.

We are writing to you further to our filing made on September 5, 2016 with the National Stock Exchange of India Limited ("NSE") and BSE Limited (BSE).

As previously informed, the Hon'ble High Court of Delhi ("**Hon'ble Court**"), upon a first motion application filed by various home buyers ("**Buyers**") in the matter of Scheme of Compromise and Arrangement under section 391(1) of the Companies Act, 1956 ("**Matter**") has passed an order dated September 2, 2016 ("**First Motion Order**"). A copy of the draft Scheme of Compromise and Arrangement filed by the Buyers ("**Scheme**") is annexed herewith as **Annexure A**. A copy of the First Motion Order is annexed herewith as **Annexure B**.

Certain key features of the Scheme presented by the Buyers are extracted in **Annexure C**. The Scheme filed by the Buyers envisages a scheme of compromise and arrangement between the home buyers of various residential projects being undertaken by Unitech Limited ("**Company**") (but not by subsidiaries, joint ventures, associates etc. of the Company) and the Company only. It is pertinent to note that the Scheme does not propose any arrangement/ composition/ merger/ demerger/ amalgamation/ reconstruction involving any of the members of the Company or any merger/ demerger/ amalgamation/ reconstruction of the Company with any other entity or any reduction of capital, and is limited solely to a compromise and arrangement with the Buyers of projects being undertaken by the Company. Accordingly, there will also be no change in the pre-Scheme shareholding and post-Scheme shareholding of the Company on account of the Scheme. In view of the same, the Scheme does not require to be voted upon by members or any class of members of the Company.

The Company was asked by the Hon'ble Court to file its response to the Scheme. Vide its affidavit dated June 1, 2016 filed before the Hon'ble Court, the Company has said that it is willing to consider the draft Scheme, subject to applicable laws.

The Hon'ble Court has in the First Motion Order, *inter alia*, held and ordered as follows: (i) all execution proceedings pending or which may be filed against the Company before different forums, in respect of the projects of the Company, are to be kept in abeyance; (ii) establishment of a separate project sales escrow account and development escrow account for each project and in each of these accounts a representative of the homebuyers would be a necessary signatory; (iii) establishment of a general escrow account to be used for the purposes of completing the unfinished projects; (iv) appointment of a court commissioner to monitor the escrow accounts; (v) convening of meetings of the home buyers as per the prescribed schedule for voting on the Scheme. Further, the Hon'ble Court has also required the Company to obtain all required consents prior to the second motion being filed in the Matter.

Accordingly, the Company wishes to bring the Scheme on record of NSE and BSE. The relevant regulations of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, which require a listed entity to not file any scheme of arrangement under sections 391-394 of the Companies Act, 1956 *applicable* with any court or tribunal unless it has obtained an observation letter or no-objection letter from the stock exchange, do not apply to a scheme of compromise and arrangement of the nature of the Scheme, i.e. which is not proposed by the listed company and which also does not involve any of the members of the listed company in any manner and which otherwise also does not envisage any scheme of merger/ demerger/ amalgamation/ reconstruction of the listed company with any other entity or any reduction of capital. As noted earlier, the Scheme as proposed by the Buyers is solely between the Company and Buyers of projects being undertaken by the Company.

In addition to documents annexed to this letter as noted hereinabove, we are enclosing herewith, a copy of the following documents for your reference:

- (i) audited financial of last three (3) years are available on the website of the Company <http://www.unitechgroup.com/investor-relations/financial.asp>
- (ii) letter dated September 5, 2016 from the Company to NSE and BSE regarding compliance of the Scheme; **(Annexure C)**

As noted earlier, since the Scheme does not involve any of the members of the Company in any manner and otherwise also does not envisage any scheme of merger/ demerger/ amalgamation/ reconstruction of the Company with any other entity or any reduction of capital, there is no valuation report and consequently no fairness opinion by merchant banker of valuation of assets / shares or auditors certificate. Further, as also noted hereinabove, the shareholding of the Company will not change in any manner on account of the Scheme. Furthermore, no exemption from Rule 19(2) (b) of the Securities Contracts (Regulation) Rules, 1957 is required or is being sought.

In view of the above, we would request you to kindly issue a confirmation to us confirming that the requirement of obtaining the observation letter/ no-objection letter from the stock exchange would not be applicable in the present case. Needless to say, we would provide all disclosures and comply with all regulations of Securities and Exchange Board of India as applicable upon final approval of the Scheme by the Hon'ble Court.

Since the meeting of the first set of Buyers who are entitled to vote on the Scheme is scheduled for November 20, 2016 and we are required to give notice for the meeting at least twenty one (21) days before the date of the meeting to such Buyers, we would extremely obliged if you could kindly expedite the aforesaid confirmation.

We would be happy to provide any additional information/ clarification as may be required. If required, we would also be happy to visit your offices to provide any clarifications that may be required.

Thanking you,

Yours faithfully,
For Unitech Limited,



Deepak Jain
Company Secretary

SCHEME OF COMPROMISE & ARRANGEMENT

BETWEEN

THE HOMEBUYERS CATEGORY OF UNSECURED CREDITORS OF
UNITECH LIMITED

AND

UNITECH LIMITED

Vandana

Ashwini

For Aastha Alumina Pvt. Ltd.
Bhagy
(Director's)

Utkarsh Mehta

Garimayadav

Bhuti Sandani

Kamran

Arvind

For KARNIKA MARBLE TRADERS

Ashwini Jain

Harish Malhotra

Pragya Malhotra

545

INDEX

S. NO.	CONTENTS	PAGE NO.
1.	Preamble	
A	Background of the Homebuyers	
B	Background of the Company	
C	Difficulties Faced By the Company	
D	Current Viability Status of the Company and Need For Restructuring	
E	Turnaround Strategy	
2.	Overview of the Scheme	
A	Legal Proceedings	
3.	Operative Part of the Scheme	
	Terms of the Scheme	
	Category I	
	Category II	
	Category III	
	Category IV	
4.	Documentation	
5.	Election	
6.	Regulatory Approvals	
7.	Overriding Effect of the Scheme	
8.	Severability	
9.	Annexure-A- List of the prominent projects executed by the Company.	
10.	Annexure-B - A non-exhaustive list of pending litigation against the Company.	
11.	Annexure-C- List of projects undertaken by the Company, which are currently at the various stages of construction.	
12.	Annexure-D- Operations Update - April - December, 2015	

Bibi Samtani

Ramkanti

Shafiqur Rahman

Mahabubul Alam

Nurjita Nulab

Saeed Ahmad

Samit Walhotra

FOR KARNIKA MARBLE TRADERS

Ashwin Jain

For Aastha Alumina Pvt. Ltd.

Priyanka Walhotra

(Director's)

1. PREAMBLE

546

A. Background of the Homebuyers / Unsecured Creditors

The present scheme of arrangement and compromise is being filed by a group of homebuyer category of unsecured creditors of the Company, who have spent considerable amount of their hard earned money and lifes savings in buying their dream homes from the Company, M/s Unitech Limited including its associates and Subsidiaries (hereinafter referred to as the "Company"). These homebuyers / allottees of the Residential Units / Flats of the Company including its associates and subsidiaries, and are therefore 'consumers' within the meaning of the Consumer Protection Act, 1956 and thus from part of a specific homebuyer class of unsecured creditors of the Company, on account of having entered into agreements of sale / buyers agreement to purchase a residential flat in various developments / projects undertaken by the Companies.

In some cases, these homebuyers category of unsecured creditors have already paid a substantial part of the sale consideration towards the purchase of their respective residential flat from the Company. That in most of these cases, the Company assured the home buyers that they would be providing a complete residential unit alongwith various amenities and facilities alongwith their residential home, the development and delivery whereof was guarantee within an approximate period of 36 months (in most cases) from entering into the said agreements of sale / buyers agreement, in terms of the clauses stipulated under the standard form Agreement to Sell / Buyers Agreement executed by the Company with these homebuyers category of unsecured creditors. The relevant extracts of one such Agreement to Sell / Buyers Agreement as executed between the Company and one of the homebuyers are as under:

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Priganka Malhotra

Shubla Mittal

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547

"4.a. Delivery of Possession:

i) That the possession of the floor is proposed to be delivered by the Developer to the Purchaser(s) within 36 months of signing hereof subject to Force Majeure circumstances and upon registration of Sale Deed provided all amounts due and payable by the Purchaser(s) under this Agreement have been paid to the Developer within the stipulated period. It is, however, understood between the Parties that various Floors in the Complex shall be ready and be completed in phases and handed over to the Purchasers accordingly. It is agreed in between, the parties that the developer shall be entitled to 3 (three) months grace period in the aforesaid time schedule for offer of possession of the floor."

"4.c. Compensation for delay in: handing over the floor:

That the Developer shall be liable to pay to the Purchaser(s) charges Rs.5/- per sq.ft. per month of the Super Area of the Floor for the period of delay in offering the Possession of the said Floor beyond the period (including the grace period) indicated in clause 4.a.i, save and except where delay occurs for reasons beyond the control of the Developer. These charges, if any payable, shall be adjusted at the time or offer of Possession. Alternatively, if so, demanded in the intending Purchaser(s) at the end of each calendar quarter, without any interest.

"4.e. Inability to offer Floor:

That if for any reason whatsoever, the Developer is unable to offer the allotted Floor to the Purchaser(s), as agreed herein, the Developer will offer the Purchaser(s) an alternative property in an complex developed, underdevelopment or proposed to be develop in the surrounding area/ projects and if no alternate property is available the Developer will refund the amount paid by the Purchaser(s) in full with simple interest @ 12% per annum from the date of payment(s) by the Purchaser(s). The Developer shall not in the event of

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For Aastha Alumina Pvt. Ltd.
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548

such an eventuality be liable to pay any other damages, charges or compensation."

Whereas pursuant to the sale of the residential flats / units by the Company to its homebuyers, which *inter-alia* included the flats / units sold to the above-mentioned homebuyers / Petitioners herein, the Company has not been able to complete its projects and hand over the delivery of the sold units in terms of its promises / commitments, with delay in some cases running over 4 years.

That in this regard, through the estimate available on the website of the Company, www.unitechgroup.com, it appears that the Company has an undelivered 35 million sq feet yet to be delivered to its various homebuyers / customers, who have booked units from 2006-07 to 2012.

Whereas it is however well within the public domain and knowledge that the Company is not in the position to construct their projects, and are embroiled in heavy litigation on account of its failure to deliver the residential flats / units to various homebuyers / unsecured creditors within the committed time frame. Resultantly, a large number of home buyers who have rushed to various courts and forums including the District Consumer Courts, State Commissions and various benches of the National Consumer Disputes Redressal Commission ("NCDRC"), as evident from their respective websites, wherein after continuously pursuing litigation against the Company involving tremendous time and legal expenditure, some homebuyers have been awarded with decrees in their favour. That at this pace, it appears that the Company will not have enough liquidity to offer refunds to all such consumers as the real

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Lawyer

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For KARNIKA MARBLE TRADERS

(Director's)

549

estate assets may not be immediately encashable thus leaving the Petitioners herein amongst various other homebuyers without any substantial remedy at the cost of few of those seeking refunds.

These home buyers are thus extremely apprehensive that if the company goes into winding up and/or a liquidation at the instance of homebuyers / unsecured creditors, in which case the said unsecured creditors will be only left to pursue the highly expensive and long drawn litigation against the Company, with the result that their dream of getting their residential flat will never materialize. Further, the banks and financial institutions who have given huge loans to the Company by taking the land under the proposed development proposed as security for the loan, will also be attached and auctioned to realize the value for re-payment to these banks / financial institutions in the event of the liquidation, thus leaving the Petitioners herein alongwith other homebuyers without any substantial remedy.

In the given circumstances, the homebuyers realize that due to the present nature of the economy, large numbers of developers are failing to fulfill their promises and provide delivery of the flats. The home buyers are concerned that because of a large number of home buyers are now rushing to various courts and forums including district and state consumer forums including the national consumer dispute redressal commission, wherein after continuously pursuing litigation against the Company involving tremendous time and legal expenditure, some homebuyers have been awarded with decrees in their favour. That a small fraction of such homebuyers who have already got decrees in their favour will also not be able to realize anything as the decrees awarded in their favour may remain as only a mere paper decree with no

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550

scope of execution or enforceability thereof whatsoever, thus leaving all the homebuyers, with or without decrees, without any remedy whatsoever once the Company goes into liquidation. The foregoing is particularly in view of the audited financial statements and accounts of the Company, a perusal whereof makes it amply clear that the chances of all homebuyers or even less than 10% thereof may also not get their entire principal amount back alongwith 10% to 18% interest for the period of delay.

Whereas the homebuyers to the present Scheme are keen to get the delivery and possession of their respective dream homes rather than getting back a refund at the cost of other homebuyers. Thus, the home buyers / unsecured creditors are proposing the present scheme of arrangement and compromise with the Company, which if approved by the entire class of home buyers category of unsecured creditors / investors of the company, will ensure that the company gains enough time to complete the development of its projects, and eventually handover the residential units to the Homebuyers. That on the basis of the multiple projects executed by Unitech Ltd and the good will enjoyed by it in the real estate market as provided at **Annexure - A**, numerous prospective buyers approached the Company in the course of their ordinary business and in pursuance thereof, entered into various Agreements to Sell / Buyer Agreements for the purchase of residential units / flats, which were either in the partially developed or under-developed phase undertaken by Unitech Ltd, details whereof are provided hereinafter.

B.

Background of the Company

Unitech Limited was incorporated as a Company under the provisions of the Companies Act, 1956 bearing CIN No. L74899DL1971PLC009720, on 9th February 1971, originally

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Pratik Mallikarjun

Rasamangalakur

Priyanka Mallikarjun

Rishi Santani

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(Director's)

155

named as M/s United Technical Consultants Pvt. Ltd, which was converted into a public limited company on 3rd October 1971. Thereafter the name of the company was changed to Unitech Ltd on 17th October 1985. The Company is engaged in the business of real estate development, development of township and group housing schemes, comprising of commercial complexes, IT/ITES parks, SEZs, integrated residential developments, schools, hotels, malls, golf courses and amusement parks

Unitech Limited is a public limited company, listed with BSE Limited (BSE) and National Stock Exchange of India Limited (NSE) and has accepted the deposits from the public since May 2009. Unitech is promoted by the Chandra family, with Mr. Ramesh Chandra as the Chairman and, Mr. Sanjay Chandra and Mr. Ajay Chandra as the Managing Directors of the Company respectively.

(Director's)

For Aastha Alumina Pvt. Ltd.

C. Difficulties / Issues being faced in the completion / delivery of the projects undertaken / sold by the Company

Pursuant to the sale of various units / flats by the Company in the residential projects undertaken by them, *inter-alia* including the units sold to the above-mentioned homebuyers the Company has not been able to complete its projects and hand over the delivery of the sold units in terms of its commitments with delay in some cases running over 4 years, which has resulted in the Company being embroiled in heavy litigations related to its incomplete projects.

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552

developed or partially developed with diminishing liquidity, on account of various factors including *inter-alia* the financial crunch faced by the Company or on account of excessive piling up of inventory alongside continuing overheads for upkeep, security and day to day repair and maintenance faced by the Company, political uncertainty; increasing litigation costs; land issues in Uttar Pradesh, et al.

As a result thereof, from the website of the Company, it appears that as of date, there are various held up / stopped projects of the Company, a non-exhaustive list whereof is provided as Annexure-D to this Scheme.

In the given circumstances, it is realised that due to the present nature of the economy, large number of developers are failing to fulfil their promises and provide delivery of the flats. The home buyers are concerned that because of a large number of home buyers who are now rushing to various courts and forums including session and district consumer forum including the National Consumer Dispute Redressal Commission, wherein after continuously pursuing litigation against the Company involving tremendous time and legal expenditure, some homebuyers have been awarded with decrees in their favour. Further, it is well within the public domain and knowledge that the Company is not in the position to construct their projects, and are embroiled in heavy litigation on account of its failure to deliver the residential flats / units to various homebuyers / unsecured creditors within the committed time frame. Resultantly, a large number of home buyers who have rushed to various courts and forums including the District Consumer Court, State Commission and the National Consumer Disputes Redressal Commission ("NCDRC"), as evident from their respective websites, wherein after continuously

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553

pursuing litigation against the Company involving tremendous time and legal expenditure, some homebuyers have been awarded with decrees in their favour. That at this pace, it appears that the Company will not have enough liquidity to offer refunds to all such consumers as the real estate assets may not be immediately encashable thus leaving the Petitioners herein amongst various other homebuyers without any substantial remedy at the cost of few of those seeking refunds.

D. Current Viability Status of the Company and need for Restructuring

Through the estimate available on the website of the Company, www.unitechgroup.com.it appears that the Company has an undelivered 35 million sqft yet to be delivered to various customers who booked units from 2006-07 to 2012. It is however a matter now known to everyone coupled with various news clippings that the Company is not in the position to construct the projects with the result that the day is not far when all the refunds sought by the consumers may result in the company pushed into liquidation, while homebuyers who have not gone into litigation will suffer the most. As per Annual Report of the Company for the year 2014-15 -

"Your Company delivered 3.16 million sq. ft. of completed area during the year and handing over is in progress in 41 projects across various regions of the country. As at 31st March, 2015, a total of 37.49 million sq.ft. area is under development. In order to efficiently execute the much higher scale of projects across markets, the Company is substantially upgrading its operations. During the year under review, the Company continued to focus on strengthening the back end

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Sanjay Kumar

Sanjay Kumar

10

Sanjay Kumar

Priyanka Malhotra

For Aastha Alumina Pvt. Ltd.
(Director's)

For KARNIKA MARBLE TRADERS

554
infrastructure of the construction division to improve the quality
and output of construction work".

Thus, from the financial indebtedness of the Company and the heavy litigation which it is embroiled in, it appears that it may become mounting issue whereby, the Company rather than spending its resources and time on completing the projects and ensuring delivery, would only be focusing on defending itself before different courts and forums, as a result of which only the customers who succeed in obtaining decrees against the Company may get some relief, while all the others who want their homes to be constructed will be solely left to pursue the path of litigation and will be left in lurch without any remedy or recourse left for them, with the only option remaining to fight a long drawn legal battle against the Company. The paradox is that all the money, which should go into construction, is going into refund. In light of the above, the present Scheme is proposed to find a practical solution to tide over the persisting issues faced by all the creditors / unit holders / invertors and the Company.

A non-exhaustive list of pending litigation against the Company is provided at **Annexure – B**.

The present Scheme therefore proposes that since these homebuyers category of unsecured creditors are extremely apprehensive that if such refunds continue, there is all likelihood that Company might be sent into winding up at the instance of homebuyers / unsecured creditors despite in which case the said unsecured creditors will be only left to pursue the highly expensive and more than that a long drawn litigation against the Company, with the result that their dream of getting their residential flat will never materialize. Further, the banks and financial institutions who have given huge loans to the Company by taking the land under their proposed development

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(Director's)

For KARNIKA MARBLE TRADERS
Pratibha

556

payment to these banks / financial institutions, thus leaving the homebuyers without any substantial remedy.

Whereas though the Company is facing tremendous difficulties in completing its Projects, however considering the potential of the Company and its past record, ability and skill to deliver the projects, it appears to be in the best interest of the homebuyers / investors, employees and the Company that the proposed scheme of the re-schedulment and/or restructuring should be considered and approved in order to enable the Company to deliver the commercial units to the existing purchasers, unit holders, instead of wasting precious time and resources in pursuing any long-drawn litigation against the Company, which shall not sub serve any purpose whatsoever either to the existing stakeholders or the Company. Thus in view of the prevailing circumstances, the homebuyers / unsecured creditors to the present Scheme are proposing the present scheme of arrangement and compromise with the Company, which if approved by the entire class of home buyers creditors / investors of the company, will ensure that the company gains enough time to complete the development of its projects, and eventually handover the residential units to the Homebuyers.

For Aastha Alumina Pvt. Ltd.
(Director's)

E. Turnaround Strategy

1. The Opportunity Ahead

- a) Approximately 74 projects are at various stages of construction (Source: Unitech website as per details set out at Annexure - C) and focused work with a plan shall help complete these projects at the earliest. In that sense, it is possible for the company to provide home to some majority of

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13

557

the estranged homebuyers who have booked flats with the Company in good times and are now stuck with the Company.

In the given scenario, it appears that if all the existing resources and efforts of the Company are first channelized into completing the ongoing projects, then the Petitioners believe that Company should be able to deliver the possession of Units to Unit holders in not more than 3 years.

2. Overview of the Scheme

A. Legal Proceedings

i. Current

It is proposed that after this scheme of arrangement comes in to effect, all legal proceedings initiated by the Unit Holders against the company and against the director-promoter or any officer of the company before any Court, Tribunal or before any Authority under the provisions of the Consumer Protection Act, 1986 and/or any under any other legislation, code, law in force, if any, shall be withdrawn by the Unit holders.

For Aastha Alumina Pvt. Ltd.
(Director's)

ii. Future

No homebuyer / unsecured creditor shall institute any fresh proceedings in any Court, Tribunal or before any Authority against the company and its directors/officers under the Consumer Protection Act, 1986 and/or any under any other legislation, code, law in force, in any respect.

Subodh Kumar
Suresh Kumar
B. V. Sankar Kumar

Pratik Mallikarjun
Pratik Mallikarjun
Pratik Mallikarjun

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Vandana

For KARNIKA MARBLE TRADERS

Ashwin Jai

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The proceedings in the above clauses mean and include any legal proceedings initiated against the company or any director/officer of the company, which arise directly or indirectly from non-payment of refunds by the company, and/or not being able to complete the undertaken projects within the stipulated time period or any other related aspects.

3. Operative Part of the Scheme

In this scheme, unless repugnant to the meaning or context thereof, the following expressions shall have the following meanings:

“Act” means the Companies Act, 1956 as originally enacted and amendment or modification thereof.

“Buyers Agreement” shall mean such agreements executed between the home buyers and Company/its associate and/or group companies.

“Company” shall mean Unitech Limited, a company incorporated under the provisions of the Companies Act, 1956, having its registered office at 6. Community Centre, Saket, New Delhi - 110017.

“Effective Date” shall mean the date on which the certified copy of the order of the Hon'ble High Court of Delhi at New Delhisanctioning the scheme of arrangement or compromise is filed with the Registrar of Companies, Delhi.

“Homebuyers” shall mean the allottees forming a specific class of unsecured creditors of the Company, who have purchased residential units / flats in the projects undertaken by

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For KARNIKA MARBLE TRADERS
[Signature]
 Director

For Aasitha Alumina Pvt. Ltd.
[Signature]
 Director(s)

559

the Company, and are 'consumers' within the meaning of the Consumer Protection Act, 1986.

"Date of Scheduled Delivery" shall mean the date on which the homebuyers were offered delivery of their units in terms of their buyers agreement/allotment letter and includes any extensions and/or grace period provided therein:

Terms of the Scheme

The Scheme shall be binding on all the homebuyers category of unsecured creditors and any other class of homebuyers category of unsecured creditors (including decree holders) who have purchased units / flats in any of the developments / Projects undertaken by the Company, which the Hon'ble High Court of Delhi may direct.

The Following Scheme Of Arrangement & Compromise is Proposed:

It is realized that the approval of the present draft scheme of compromise and arrangement between the Company and all the homebuyers category of unsecured creditors, appears to be the only reasonable solution in view of the persisting difficulties faced by the Company, which may enable them to concentrate on completing the withheld projects and ensure the expeditious delivery thereof, if the options as laid down under the said Draft Scheme are accepted by the Respondent Company and homebuyers category of unsecured creditors. The said option forming part of the draft Scheme of compromise and arrangement between the Respondent Companies and the Petitioners, are reproduced hereunder for ready reference:

(Director's)
For Aastha Alumina Pvt. Ltd.

For KARNIKA MARBLE TRADERS

For KARNIKA MARBLE TRADERS

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For KARNIKA MARBLE TRADERS

16

For KARNIKA MARBLE TRADERS

CATEGORY I:

560

Possession To The Home Buyers Where Delay Is More Than 2 Years From Date of Scheduled Delivery:

- i) Such homebuyer shall get enhanced compensation equal to 2 times of the present delay penalty clause effective from the date of approval of the scheme, prospectively;
- ii) Such enhanced penalty shall be adjusted from the final payment made/to be made by the homebuyers or by way of adjustment from the maintenance charges /advance payable by the homebuyer to the company or its associate maintenance company;
- iii) The Company shall complete construction of the houses of the estranged homebuyers (who are presently delayed for a period more than 2 years from the date of their scheduled delivery) within a period of 2 years from the date of approval of the Scheme.

CATEGORY II:

Possession To The Home Buyers Where Delay Is up to 2 Years From Date of Scheduled Delivery:

Such homebuyer shall get enhanced compensation equal to 1.5 times of the present delay penalty clause effective from the date of approval of the scheme, prospectively until such homebuyer falls in Category I when he will be compensated in terms of that category and such compensation will be effective from the date of such change of category;

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17

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For KARNIKA MARBLE TRADERS For Aastha Alumina Pvt. Ltd.
Pratik Mahotra
(Director's)

CATEGORY III

562

Phased Manner Exit And Refund To The Homebuyers Who Wish To

Exit

To ensure that construction of Project is not jeopardized and at the same time, those of the home buyers who do not wish to continue in the project, may be given the following option -

i) Designated Refund Account

A Designated Refund Account be formed for each Project in which 10% of the proceeds from the customers of each project are transferred. The amounts in this Account shall be used exclusively for the purpose of refunds to these customers in 12 equal installments after zero period of 12 months from the date of approval of Scheme.

ii) Hardship Cases

In the hardship cases, where the homebuyers need urgent refund can approach the Hardship Committee for such refund and in such cases, after the approval of hardship committee, which will comprise of one representative of home buyers, one official from company and one officer from the Hon'ble High Court of Delhi, payments upto Rs 5 Lacs may be released from the Designated Refund Account on the basis of priority decided by Hardship Committee.

CATEGORY IV

In the event, Company is not in position to offer houses to certain home buyers for any reason whatsoever after the lapse of period mentioned in Category I and II, Company shall be obligated to refund the amount in

Prakash Mittal

Sarvesh Kumar

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(Director's)

For Aastha Alumina Pvt. Ltd.

For KARNIKA MARBLE TRADERS

Prakash Mittal

563

terms of the Buyers Agreement after the expiry of period (2 years or 3 years as the case may be) provided in the category to which home buyer belonged, from the date of approval of the Scheme.

Further the proposed Scheme *inter-alia* envisages that if the Options under the proposed Scheme as afore-stated, are accepted by the Respondent Companies along with other homebuyers / unsecured creditors, and consequently if the Scheme comes into effect, in such case, no homebuyer category of unsecured creditor shall institute any fresh proceedings in any Court, Tribunal or before any Authority against the Respondent Companies and its directors/officers under the Consumer Protection Act, 1986 and/or any under any other statutory legislation, code or law in force in respect of alleged past or current defaults in clearing their outstanding dues.

Furthermore, in the meanwhile, all the present and future litigation as instituted by the Homebuyers / allottees of residential flats / units against the Respondent Company under the Consumer Protection Act, 1986 including any other law, code, enactment for the time being in force, and including any decree/final order and judgment in favour of such Homebuyers and/or allottees of residential units shall be kept in abeyance.

4. DOCUMENTATION

All rights and liabilities relating to the restructured obligations created under the sanctioned scheme shall be governed by the terms contemplated by this scheme. The company and the homebuyers / unit holders / investors may enter into any documentation that may be required, only to give formal effect to the scheme as provided in the sanctioned scheme and to govern the ongoing relationship between the company and the homebuyers / Unit

Prakash Kumar

Sanjay Kumar

Prakash Kumar

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(Director's)

For Aastha Alumina Pvt. Ltd.

For KARNIKA MARBLE TRADERS

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564

holders / investors. However, in the absence of formal documentation as referred above, the terms of the sanctioned scheme shall prevail.

5. ELECTION

Where a homebuyers / unit holders / investors has already opted for the proposed scheme as herein, after the Appointed Date and/or during the pendency of the application, before the Hon'ble High Court of Delhi, it would be deemed to be his / her consent to the scheme for the purpose of approval of the scheme in the meeting.

6. REGULATORY APPROVALS

The Scheme sanctioned shall be implemented subject to all necessary regulatory approvals, if any.

7. OVERRIDING EFFECT OF THE SCHEME

The homebuyers / unit holders / investors covered under the Scheme shall claim any payment only in accordance with the Scheme. All payments received by them subsequent to the appointed date and prior to the effective date shall be treated as payments made under this Scheme, and as were required to be made under this Scheme.

8. SEVERABILITY

In such case, the Scheme of Arrangement/Compromise is not approved as a whole, but is approved only with respect to some particular homebuyers / unit holders / investors, the Scheme will be binding to that extent and shall be put into force to that extent.

Number 1100th
Suresh Kumar
Pratik Malhotra
Pragati Malhotra
Vandana

For KARNIKA MARBLE TRADERS
For Aastha Alumina Pvt. Ltd.
(Director's)

IN THE HIGH COURT OF DELHI AT NEW DELHI
COMPANY APPLICATION (MAIN) NO. 88/2016

In the matter of

The Companies Act, 1956 & the Companies Act, 2013 (to the extent applicable);

And

Application under Section 391(1) of the
Companies Act, 1956

Scheme of Compromise and Arrangement between:

Namit Malhotra & Others

Applicants/Home Buyers

Through: Mr. Ashwani Kumar, Sr. Advocate with
Mr. Tanmaya Mehta and Ms. Gauri
Rishi, Advocates

AND

Unitech Limited

Respondent

Through: Mr. Salman Khurshid, Sr. Advocate
with Mr. Rajiv Virmani, Mr. Abhimanyu
Bhandari, Mr. Chetan Lokur,
Ms. Aanchal Mullick, Mr. Himanshu
Bora, Ms. Shabeena Anjum, Ms. Gargi
Srivastava and Mr. Arpit Shukla,
Advocates

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

ORDER

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02.09.2016

1. This is a first motion application filed under Section 391(1) of the Companies Act, 1956 by eleven applicants namely (i) Mr. Namit Malhotra; (ii) Ms. Priyanka Malhotra; (iii) Ms. Mukta Mittal, (iv) Mr. Rakesh

Yadav; (v) Ms. Priti Samtani; (vi) Mr. Pawan Samtani, (vii) Mr. Deepak Kumar; (viii) Ms. Vandana Kumar; (ix) Mr. Abhineet Malhotra; (x) Aastha Alumina Private Limited; and (xi) Karnika Marble Traders as unsecured creditors/home buyers of the respondent company viz. Unitech Limited seeking directions of this court to convene and hold the meetings of the home buyers/unsecured creditors of the respondent company to consider and approve, with or without modification, the proposed Scheme of Compromise and Arrangement floated by the applicants.

2. The registered office of the respondent company is situated at New Delhi, within the jurisdiction of this Court.

3. It is submitted by the applicants that the respondent along with its other subsidiaries and associate companies is engaged in the business of the real estate development, development of township and group housing schemes etc. The applicants are stated to be the home buyers and/or allottees of flats/units in the various residential projects undertaken by the respondent company and therefore fall in the category of the unsecured creditors of the respondent company. According to the applicants, they have provided advances to the respondent company and have been allotted a residential unit which needs to be constructed and developed by the respondent company; but the respondent has failed to deliver the residential units to them within the stipulated period provided

in the Agreement between the applicants and the respondent company. Copies of the Buyers Agreement/allotments letters issued by the respondent company in favour of the applicants have been placed on record.

4. It is further submitted that apart from the applicants, numerous other prospective buyers also approached the respondent company for purchase of residential units/flats in the various projects undertaken by the respondent company and a large number of buyers have already paid substantial parts of the agreed sale consideration towards the purchase of their respective residential flats/units from the respondent company. Although the respondent company assured these homebuyers that they would provide the complete residential units with promised amenities and facilities, within a period of 36 months from the period of entering into the Buyers Agreement with these homebuyers; with a grace period of maximum of 03 months; but it failed to complete the said project within the stipulated time, which now remain either in the partially developed or under-developed phase with delay in some projects running to over 04 years.

5. The non-exhaustive list, as provided by the applicants, of the held-up/stopped projects of the respondent company is stated to be as under:

S. No.	Location	Project name	Stage of development
1.	Gurgaon	The Close (South)	Handover/finishing
2.	Gurgaon	The Close (North)	Handover/finishing
3.	Gurgaon	Fresco	Handover/finishing
4.	Gurgaon	Escape	Handover/finishing
5.	Gurgaon	Harmony	Handover/finishing
6.	Gurgaon	UW Resorts Plots	Land development activities in progress
7.	Gurgaon	UW Resorts Villas	Internal work in progress
8.	Gurgaon	Nirvana Floors	Handover/finishing
9.	Gurgaon	UW Gardens-II	Handover/finishing
10.	Gurgaon	Residences	Handover/finishing
11.	Gurgaon	Sunbreeze	Internal work in progress
12.	Gurgaon	Vistas	Internal work in progress
13.	Gurgaon	Alder Grove	Internal work in progress
14.	Gurgaon	South City-II Independent Floors	Handover/finishing
15.	Gurgaon	Exquisite	Internal work in progress
16.	Gurgaon	Espace Premiere	Structure in progress
17.	Gurgaon	South Park	Structure in progress
18.	Gurgaon	The Willows	Land development activities in progress
19.	Gurgaon	Anthea Floors	Land development activities in progress
20.	Gurgaon	Crestview	Land development activities in progress
21.	Gurgaon	The One	Structure in progress
22.	Gurgaon	Ivy Terraces	Land development activities in progress
23.	G. Noida	Horizon	Internal work/ handover/ finishing in progress
24.	G. Noida	Heights	Internal work/ handover/ finishing in progress
25.	G. Noida	Cascades	Internal work/ handover/ finishing in progress

26.	G. Noida	Habitat	Internal work/ handover/ finishing in progress
27.	G. Noida	Verve	Internal work/ handover/ finishing in progress
28.	G. Noida	Unihomes Plots	Land development activities in progress
29.	Noida	Amber	Internal work in progress
30.	Noida	The Willows	Land development activities in progress
31.	Noida	Burgundy	Structure in progress
32.	Noida	Unihomes Ph-1	Internal work/ handover/ finishing in progress
33.	Noida	Unihomes Ph-2	Internal work in progress
34.	Noida	UW Gardens	Structure in progress
35.	Noida	Unihomes 3	Structure in progress
36.	Noida	The Residences	Structure in progress
37.	Noida	Exquisite	Structure in progress
38.	Noida	Unihomes Superb	Yet to start
39.	Noida	Other Sites	Handover/finishing
40.	Kolkata	Gardens	Handover/finishing
41.	Kolkata	Horizons	Handover/finishing
42.	Kolkata	Heights	Handover/finishing
43.	Kolkata	Air	Internal work in progress
44.	Kolkata	Cascades	Handover/finishing
45.	Kolkata	Harmony	Internal work in progress
46.	Kolkata	Vistas	Handover/finishing
47.	Kolkata	Gateway Cluster I	Handover/finishing
48.	Kolkata	Gateway Cluster II	Structure in progress
49.	Kolkata	Fresco	Internal work in progress
50.	Chennai	Ananda	Internal work/ handover/ finishing in progress
51.	Chennai	Brahma	Internal work/ handover/ finishing in progress
52.	Chennai	Gulmohur Avenue	Internal work/ handover/ finishing in progress

53.	Chennai	Unihomes	Internal work/ handover/ finishing in progress
54.	Chennai	Aspen	Handover/finishing
55.	Chennai	Palm Villas	Internal work/ handover/ finishing in progress
56.	Chennai	Gardens	Structure in progress
57.	Chennai	Unihomes 2	Handover/finishing
58.	Chennai	Greenwood City	Handover/finishing
59.	Chennai	Chaitanya	Structure in progress
60.	Chennai	Ekanta Phase-1	Structure in progress
61.	Chennai	Birch Court	Handover/finishing
62.	Bangalore	UW Resorts	Structure in progress
63.	Bhopal	Unihomes	Internal work/ handover/ finishing in progress
64.	Mohali	Singletons Floors	Internal work in progress
65.	Mohali	Executive Floors	Internal work in progress
66.	Mohali	Plotted Development	Handover/finishing
67.	Mohali	Unihomes	Internal work in progress
68.	Mohali	UW Gardens	Internal work in progress
69.	Mohali	Aspen Greens	Land development activities in progress
70.	Rewari	Unihomes	Land development activities in progress
71.	Rewari	Ananda	Land development activities in progress
72.	Ambala	Unihomes	Land development activities in progress
73.	Ambala	Ananda	Land development activities in progress
74.	Dehradun	The Residences	Structure in progress.

6. Since the respondent company has not been able to complete these projects; and most of its projects being either under-developed or partially developed, therefore, a large number of homebuyers, whose

residential units/flats were not delivered by the respondent company as promised, have filed cases against the respondent company or its directors/officers in various forums like District Consumer Courts, State Commission, the National Consumer Disputes Redressal Commission (NCDRC) as well as in this Court under Section 433 & 434 of the Companies Act, 1956 for winding up of the respondent company.

7. According to the applicants, the NCDRC has awarded decrees in favour of various homebuyers and in some cases, also directed the respondent company to refund the amount of the homebuyers along with an interest @ 18% p.a. The applicants apprehend that if such refunds are forced on the company and continue to be paid by the company, the construction activity of the company will completely halt and the company very soon will be in a situation of zero liquidity and may go into winding up at the instance of a few homebuyers and in that event the collective dreams of all the homebuyers of getting their residential units/flats will never materialize. They further apprehend that the properties of the respondent company may also get attached and auctioned to pay the debts/loans of the banks and the financial institutions, who have advanced huge loans to the company, thus, leaving the applicants herein along with other homebuyers without any substantive remedy since all the homebuyers fall in the category of unsecured creditors of the respondent company. The applicants have submitted that they are solely

keen to get the delivery and possession to their respective homes rather than wasting their valuable time and resources in pursuing litigation against the company. Thus, the applicants have proposed the draft Scheme of Compromise and Arrangement with the respondent which, according to the applicants, if approved by the respondent company and the class of homebuyers, who are unsecured creditors of the company, will ensure that the company will be able to complete the development of its projects, and eventually handover the residential units to its homebuyers including the applicants herein.

8. A copy of the draft Scheme of Compromise and Arrangement has been placed on record by the applicants. The salient features of the Scheme are as under:

2. Overview of the Scheme

A. Legal Proceedings

i. Current

It is proposed that after this Scheme of Arrangement comes in to effect, all legal proceedings initiated by the Unit Holders against the company and against the director-promoter or any officer of the company before any Court, Tribunal or before any Authority under the provisions of the Consumer Protection Act, 1986 and/or under any other legislation, code, law in force, if any, shall be withdrawn by the Unit Holders.

ii. Future

No homebuyer/unsecured creditor shall institute any fresh proceedings in any Court, Tribunal or before any authority against the company and its directors/officers under the Consumer Protection Act, 1986 and/or under any other legislation, code, law in force, in any respect.

The proceedings in the above clauses mean and include any legal proceedings initiated against the company or any director/officer of the company, which arise directly or indirectly from non-payment of refunds by the company, and/or not being able to complete the undertaken projects within the stipulated time period or any other related aspects.

The options forming part of the draft Scheme of Compromise and Arrangement between the respondent and the homebuyers is as under:

CATEGORY I:

Possession to the home buyers where delay is more than 2 years from date of scheduled delivery:

- i) Such homebuyer shall get enhanced compensation equal to 2 times of the present delay penalty clause effective from the date of approval of the Scheme, prospectively;
- ii) Such enhanced penalty shall be adjusted from the final payment made/to be made by the homebuyers or by way of adjustment from the maintenance

charges/advance payable by the homebuyer to the company or its associate maintenance company;

- iii) The company shall complete construction of the houses of the estranged homebuyers (who are presently delayed for a period more than 2 years from the date of their scheduled delivery) within a period of 2 years from the date of approval of the Scheme.

CATEGORY II:

Possession to the home buyers where delay is upto 2 years from date of scheduled delivery:

- i) Such homebuyer shall get enhanced compensation equal to 1.5 times of the present delay penalty clause effective from the date of approval of the Scheme, prospectively until such homebuyer falls in Category I when he will be compensated in terms of that category and such compensation will be effective from the date of such change of category;
- ii) Such enhanced penalty shall be adjusted from the final payment made/to be made by the homebuyers or by way of adjustment from the maintenance charges/advance payable by the homebuyer to the company or its associate maintenance company;
- iii) The company shall complete construction of the houses of the estranged homebuyers (who are presently delayed for a period up to 2 years from the date of their scheduled delivery date) within a period of 3 years from the date of approval of the Scheme.

Other Conditions for Categories I and II:

- i) All the proceeds from the Customers shall be kept in the separate account and shall be utilized for the purposes of construction only subject to prior charge or encumbrance of banks and financial institutions etc.;
- ii) One representative from the Home Buyers from each project shall monitor the construction activities on the Project and shall become a coordinator and shall have access to accounts on a weekly basis;
- iii) Representative of Home Buyers to monitor and assist in collecting installments dues from the defaulting customers to speed up the process of construction.

CATEGORY III:

Phased Manner Exit and Refund to the homebuyers who wish to exit:

To ensure that construction of Project is not jeopardized and at the same time, those of the home buyers who do not wish to continue in the project, may be given the following option:-

i) **Designated Refund Account**

A Designated Refund Account be formed for each Project in which 10% of the proceeds from the customers of each project are transferred. The amounts in this Account shall be used exclusively for the purpose of refunds to these customers in 12 equal installments

after zero period of 12 months from the date of approval of Scheme.

ii) Hardship Cases

In the hardship cases, where the homebuyers need urgent refund can approach the Hardship Committee for such refund and in such cases, after the approval of hardship committee, which will comprise of one representative of home buyers, one official from company and one officer from the Hon'ble High Court of Delhi, payments upto Rs.5 lacs may be released from the Designated Refund Account on the basis of priority decided by Hardship Committee.

CATEGORY IV:

In the event, Company is not in position to offer houses to certain home buyers for any reason whatsoever after the lapse of period mentioned in Category I and II, Company shall be obligated to refund the amount in terms of the Buyers Agreement after the expiry of period (2 years or 3 years as the case may be) provided in the category to which home buyer belonged, from the date of approval of the Scheme.

Further the proposed Scheme *inter-alia* envisages that if the Options under the proposed Scheme as afore-stated, are accepted by the Respondent Company along with other homebuyers/unsecured creditors, and consequently if the Scheme comes into effect, in such case, no homebuyer category of unsecured creditor shall institute any fresh proceedings in any Court, Tribunal or before any Authority

against the Respondent Companies and its director/officers under the Consumer Protection Act, 1986 and/or under any other statutory legislation, code or law in force in respect of alleged past or current defaults in clearing their outstanding dues.

Furthermore, in the meanwhile all the present and future litigation as instituted by the homebuyers/allottees of residential flats/units against the Respondent Company under the Consumer Protect Act, 1986 including any other law, code, enactment for the time being in force, and including any decree/ final order and judgment in favour of such homebuyers and/or allottees of residential units shall be kept in abeyance.

9. In view of the aforesaid, the applicants made the following prayers to this Court:-

- a) Order the circulation of the Scheme of Compromise and Arrangement, annexed as *ANNEXURE – "G"* to the present Company Application, to the Respondent Company and/or other homebuyers/unsecured creditors of the Respondent Company, so as to consider if the scheme proposed by the Applicants is acceptable to them;
- b) Pass an order thereby appointing a Chairman of the Meeting and direct the Chairman to hold and convene a meeting of the Respondent Company on such date and time as this Hon'ble Court may deem fit and proper for the purpose of considering, and if, thought fit approving with or without modification(s), the proposed scheme of Arrangement and Compromise between

the Applicants herein and the Respondent Company amongst other homebuyers/class of unsecured creditors;

c) Pass an order thereby keeping in abeyance all present and future litigation as instituted by the homebuyers/allottees of residential flats /units against the Respondent Company under the Consumer Protect Act, 1986 including any other law, code, enactment for the time being in force, including any decree/final order and judgment in favour of such homebuyers and/or allottees of residential units;

d) Pass any such further order(s) as this Hon'ble Court may deem fit and proper.

10. In response to the aforesaid application, the respondent company initially filed its short preliminary submissions vide affidavit dated 31st May, 2016 of Mr. Ajay Chandra, Managing Director of the respondent company, stating that the respondent company has been in the business of real estate development for 35 years and is listed on the stock exchange since 1986. It is further submitted that the respondent company has so far developed six townships covering an area of 1,382 acres and over 20 million square feet of residential, commercial and retail space; and is home to more than 19000 home buyers; and that the respondent company has a positive net worth of Rs.9852.15 crores as on 31st March, 2015. It is further submitted by the respondent that the real estate industry has been witnessing an unprecedented slow down and volume reduction in last 4-5 years. This has caused a squeeze in the

working capital for the respondent company and lack of bank financing availability coupled with various regulatory delays due to issues pertaining to NGT, land acquisition matters for infrastructure around the development etc. due to the above, delivery challenges have been high though the respondent company has made all efforts to generate liquidity in increasing working capital and to also collect from customers who have not paid the dues. The status of the various projects held-up/stopped was provided in the affidavit dated 31st May, 2016, which were subsequently amended vide affidavits dated 2nd August, 2016 and 22nd August, 2016. The reasons stated for the revised figures in the subsequent affidavits are that the earlier affidavits erroneously included the projects being developed by the associates/subsidiary companies. Vide affidavit dated 22nd August, 2016, the held-up/stopped projects are claimed to be as under:

S. No	Project Name	Location	No. of units sold till 31.7.16	No. of units offered for possession till 31.7.16	No. of units yet to be offered for possession
1	Exquisite	Sector 117, Noida	56	0	56
2	Gardens	Sector 117, Noida	324	0	324
3	Residences	Sector 117, Noida	443	0	443
4	Unihomes 1	Sector 117, Noida	1030	224	806
5	Unihomes 2	Sector 117, Noida	1497	83	1414
6	Unihomes 3	Sector 113, Noida	1627	0	1627
7	Habitat	Sector Pi II, Greater Noida	807	419	388
8	Heights	Sector Chi III, Greater Noida	318	318	0

9	Horizon	Sector Pi II, Greater Noida	1134	966	168
10	Cascades	Sector Pi II, Greater Noida	353	214	139
11	Unihomes Plot	Sector Mu, Greater Noida	352	0	352
12	Alder Grove	Nirvana Country 2, Sector 71/72, Gurgaon	239	0	239
13	Anthea Floor	Wildflower Country Sector 70, Gurgaon	544	0	544
14	Crest View	Wildflower Country Sector 70, Gurgaon	377	0	377
15	Espace Premier	Nirvana Country 2, Sector 71/72, Gurgaon	82	0	82
16	Exquisite	Nirvana Country 2, Sector 71/72, Gurgaon	226	0	226
17	Nirvana Plots	Nirvana Country, Sector 50, Gurgaon	5	0	5
18	Residences	Uniworld Resorts, Sector-33, Gurgaon	1338	370	968
19	Uniworld Resorts Plot	Uniworld Resorts, Sector 33 & 48, Gurgaon	182	11	171
20	Uniworld Resorts Villas	Uniworld Resorts, Sector-33, Gurgaon	100	1	99
21	Sunbreeze	Sector-69, Gurgaon	685	0	685
22	The Willows Plots	Nirvana Country 2, Sector 71/72, Gurgaon	12	0	12
23	South Park	Sector 70, Gurgaon	711	0	711
24	Vistas	Sector 70, Gurgaon	1265	0	1265
25	The Spruce	Wildflower Country Sector 70, Gurgaon	55	0	55
26	Uniworld City Plots	Uniworld City, Sector 97, 106 & 107, Mohali, Punjab	657	207	450
27	Executive Floors	Uniworld City, Sector 97, Mohali Punjab	141	44	97
28	Gardens Villa	Uniworld City, Sector 97, Mohali Punjab	1	0	1
29	Ananda	Sector 15, Rewari	49	0	49
30	Unihomes	Sector 15, Rewari	244	0	244
31	Unihomes	Sector 16, Ambala	233	0	233
32	Ananda	Sector 16, Ambala	38	0	38
33	Unihomes 1	Uniworld City, Nallambakkam, Chennai	868	480	388
34	Unihomes 2	Uniworld City, Nallambakkam, Chennai	491	112	379

35	Gardens	Uniworld City, Nallambakkam, Chennai	84	0	84
36	Birch Court	Uniworld City, Nallambakkam, Chennai	47	47	0
37	Aspen Greens	Uniworld City, Nallambakkam, Chennai	149	149	0
38	Palm Villas	Uniworld City, Nallambakkam, Chennai	71	71	0
39	The Terraces	Uniworld City, Nallambakkam, Chennai	3	0	3
40	Palm Premiere	Uniworld City, Nallambakkam, Chennai	24	0	24
41	Uniworld Resorts	Electronic City, Bengaluru	191	0	191
	Total		17,053	3,716	13,337

It is submitted that the company has positive net worth of Rs.9852.15 crores, as can be seen from its balance sheet as at 31st March, 2015, which is placed on record and further that the respondent company is expecting a net positive cash flows of Rs.4079.00 cores (before taxes) post development of the above said projects; which exhibits capability of respondent company to deliver all the undelivered units; and that the respondent company will be able to turn the prevailing situation around; and to provide expeditious delivery to their customers/homebuyers; if the existing customers pay up the outstanding amounts as due from them towards the purchase of flats/units.

11. In another affidavit dated 1st June, 2016 of Mr. Ajay Chandra, the Managing Director, the respondent company has submitted that its management has perused the draft Scheme suggested by the applicants and fully supports the said scheme with such modifications as may be approved by the Hon'ble Court. It is further submitted that the respondent

company shall take all the necessary steps to take this proposed scheme forward in terms of and in compliance with the applicable laws including submitting the same for consideration and approval of requisite majority as required by Section 391 of the Companies Act, 1956.

12. I have been taken through the Scheme in detail and also the affidavits filed by the respondent company. On the face of it, it is obvious that the petition filed by a group of home buyers may also serve the interests of the company which is clearly beset by serious financial difficulties that could result in its liquidation. However, to my mind, Section 391 in Chapter-V of the Companies Act, 1956 clearly envisages the examination of the Schemes representing the interest of one or more class of stakeholders with the salutary object of regulating corporate functioning to the extent desirable or feasible. Under the circumstances and since the court is obliged to apply its mind objectively to all relevant factors in this behalf, it hardly matters whether the proposal has emanated from a class of creditors or from the company itself. What is to be seen is whether the Scheme being propounded subserves the interest of all the stakeholders in the company including that of the flat buyers and does not offend the statute.

13. There is no denying the fact that there has been a colossal failure on the part of the company in completing its projects which are at

different stages of completion, as narrated in the petition. It is also an admitted fact that a large number of the homebuyers who have booked their flats with the company have got decrees from different courts of competent jurisdiction in their favour with the principal amount being required to be refunded by the company with varying rates of interest, which aggregate to a very substantial amount.

14. It has been pointed out in the affidavit filed by the respondent company that they had sold 17,053 units out of which they have delivered only 3,716 units. As per their own admission, 13,337 units still remain to be delivered to the homebuyers who have booked their flats in the various projects. As against this, it is pointed that there are 971 cases filed by the different home buyers in different forums claiming either the flat or refund of the amount with interest. Apart there from, there are some winding up petitions also pending before this Court. It is contended by the learned senior counsel for the applicants as also by the learned senior counsel for the company, that the decrees being passed against the company are creating a huge strain on the resources of the company, and are a major hindrance in the projects being completed. Learned counsel further submits that unless the company is protected against execution of these decrees, the resources of the company would get depleted in satisfying the said decrees and the company would not be in a position to complete any of its projects. It is in this background that the

learned counsel for the parties have urged this Court to examine the Scheme and to give the company an opportunity and a lifeline to not only sustain itself but also to provide for completion of the projects and handing over of possession of the flats to the homebuyers. It is further claimed by the learned counsel for the parties that in addition to the liquid cash available to the company for completion of the projects, there are huge outstanding which the company has still to recover from the prospective buyers; and in case the company is provided a lifeline with the intervention of this Court under Section 391 of the Companies Act, 1956, it will work to the benefit of each and every stakeholder.

15. Section 391 of the Act deals with the powers of this Court to sanction any compromise or arrangement. The said section is a code in itself and it, *inter alia*, envisages consideration of a Scheme of Arrangement or Compromise with a class of creditors which may be the shareholders, the board members, the secured creditors, the unsecured creditors or any sub-category within each class. The applicants are proposing a Compromise and Arrangement between the homebuyers, as a class, with the respondent company. The homebuyers are the unsecured creditors of the company who have invested their money in the projects brought up by the respondent company and have made part deposits towards booking and allotment of a flat in the different projects of the company. The company is supporting the compromise and

arrangement and, as noted earlier, has filed affidavits in this behalf. In its affidavits, the company has undertaken to fulfill its obligations towards the flat buyers within a specified time limit for each project and also to compensate the said flat buyers/unsecured creditors for the delayed handing over of the flats by promising to almost double the compensation provided under the individual buyers agreements.

16. The plight of the homebuyers is certainly very distressing. There is no denying this fact. They are well within their right to approach all legally available forums to secure their investment or to seek enforcement of the agreement with the company. However, in the existing set of facts and circumstances, and in the light of the proposed Scheme of Compromise and Arrangement, if the company is not granted an opportunity to carry forward its proposed Scheme of Compromise and Arrangement, the net effect would be that the company, in the absence of any opportunity to fulfill its projects, might face erosion of its net worth and suffer loss of credibility, putting it at the threshold of liquidation. Admittedly, winding up proceedings against the company are pending in this Court in Company Petition numbers 52/2015, 70/2015, 99/2015, 283/2015, 355/2015, 687/2015, 713/2015, 715/2015, 928/2015, 273/2016, 402/2016 & 412/2016. However, provisional liquidator has not yet been appointed in any of the petitions. An order of liquidation of the company at this stage would not serve the interest of any stakeholder, including those

homebuyers who have got decrees in their favour. Even they would need to stand in the queue of the unsecured creditors for seeking execution of them. Also, their priority and their right to secure execution as unsecured creditors would stand much below the workers, statutory creditors, or the secured creditors, all of whom would be accorded a prioritized claim on the assets of the company. Thus, considering the impact and consequences of liquidation; and the feasibility of the homebuyers getting possession of the flats, as promised by the company within a specified time frame, it would be in the interest of the homebuyers if an opportunity is granted to the applicants and the company to put forward their Scheme to each of the homebuyers by convening their meetings at convenient locations and seeking their approval to the proposed Scheme of Compromise and Arrangement.

17. So far as the approval of the Scheme of Compromise and Arrangement from the shareholders and other statutory and secured creditors is concerned, the respondent company shall take appropriate steps to get the same approved by all the stakeholders, prior to the filing of the second motion petition.

18. Learned senior counsel for the applicants, as also the respondent company, have referred to sub-section 6 of the Section 391 and have prayed for stay of all proceedings launched against the company.

Learned senior counsel has submitted that even though the company has a positive net-worth, however, if the proceedings launched by the said 971 homebuyers are allowed to continue, not only will the net-worth of the company get eroded, but the collective energies of the company will also get diverted to cater to the interest of a very limited number of homebuyers, as against the interest of the 13,337 homebuyers, who are awaiting the completion of the projects and are looking forward to take the possession of the flats; and which the company is also keen and eager to fulfill. Learned senior counsel submits, that it is, therefore, important that the company be protected from the consequences of the pending litigations and given an opportunity to fulfill its obligations, in terms of the agreements executed with homebuyers; and also to compensate the said homebuyers for the delays in completing the projects.

19. As noted earlier, the company, as well as its directors, are facing prosecution in addition to the financial strain on the company's resources because of the decrees passed against them. If a substantive, effective and meaningful opportunity is to be provided to the company to complete the projects and to handover possession to the homebuyers, it is important that they must be protected against execution of decrees passed against them. In Krishna Texport Industries Limited Vs. DCM Limited [2008] 144 Comp. Cases 113 (Delhi), a Division Bench of this

court has held that if winding up proceedings are pending, civil proceedings can be put in abeyance for the time being to give some time to the company to come up with a scheme or otherwise to clear its liability. The proceedings seeking execution of decrees passed against the company are civil in nature and, thus, it is within the jurisdiction of this Court to keep the same in abeyance so as to provide a fair and reasonable opportunity to the company to fulfill its obligation under the agreement with the individual flat buyers. Accordingly, all execution proceedings pending or which may be filed against the company before different forums, in respect of the projects of the company, details of which are provided in para 10 above, shall be kept in abeyance till further orders. However, cases in which directions have been issued or may be issued in future by the Supreme Court of India to the company in this behalf shall stand exempted from the scope of this order.

20. This protection being granted to the company and its directors is with the sole object of affording them a reasonable opportunity, as requested by them, to fulfill their commitments towards the flat buyers by completing the flats and handing over the possession to the respective buyers.

21. The respondent company in their affidavit dated 1st September, 2016 has stated that in order to ensure the smooth completion of each of

the 41 held-up/stopped projects, three different Escrow Accounts, viz. Project Sales Escrow Account, Development Escrow Account and a General Escrow Account will be opened and the monies therein will be used for the sole purpose of completing the projects and meeting the statutory liabilities of the company. The Project Sales Escrow Account would receive the sale proceeds generated from customers and buyers of units/flats in those projects. It is submitted that certain projects which have been funded by the financial institutions/banks etc. will have a charge over the Project Sales Escrow Account of the said financial institution/bank and as and when working capital is required for the development of a particular project and for paying the statutory liabilities in relation to the said project, subject to the lien of the financial institution/bank, equivalent amount would be transferred from the Project Sales Escrow Account into the Development Escrow Account. The Development Escrow Account is proposed to be used exclusively for the completion of the units/flats in each project. The General Escrow Account is proposed to be opened for receiving the proceeds from any sale of land and withdrawals from the said account will be used for the purposes of completing the unfinished projects of the company and meeting the working capital requirements of the company. Learned senior counsel submits that a separate Project Sales Escrow Account and Development Escrow Account would be opened for each of project and in each of

these accounts a representative of the homebuyers would be a necessary signatory.

22. Learned senior counsel for the company prayed that a Court Commissioner may be appointed for the purposes of monitoring the functioning of the aforesaid three Escrow Accounts and that the company will provide all information to the Court Commissioner as and when required to assist and to ensure that the Court Commissioner can monitor the functioning of all the aforesaid Escrow Accounts and ensure that the monies received in the said accounts are used only and exclusively for the purposes of ensuring the completion of each project and for handing over the completed units to the homebuyers within the time as proposed in the Scheme.

23. Learned senior counsel for the company has submitted that as of now the company owns certain lands/properties which are unencumbered and available to the company for sale. It is further submitted that as of now there is no stay on the sale of these properties. Learned senior counsel submits that in order to meet the working capital requirements and to increase the cash flow, the company might be required to sell such land/parcels which would enable it meet its obligations under the Scheme and effect timely handing over of possession of flats to the homebuyers as proposed in the Scheme. Since

it is claimed by the learned senior counsel that the company owns these non utilized lands and properties and there is no stay on the sale of such non utilized land and properties, the company would be at liberty to sell such lands and properties and use the funds generated for expeditious completion of the projects. The company would ensure that such sale of lands and properties is at the market rate and in any case not lower than the prevailing circle rates. The sales of lands/properties conducted would be in the knowledge of the Court Commissioner to ensure that the funds generated from the sales are transferred to the General Escrow Account and used only for the purposes of the completion of the projects.

24. Mr. Lorren Bamniyal, Registrar of this Court is appointed as the Court Commissioner, who shall monitor the functioning of the Escrow Accounts and also keep a watch on the use of the funds by the company from the three Escrow Accounts solely for the purposes of completion of the held-up/stopped projects of the company and also ensure that the flats/units are handed over to the homebuyers within the period specified in the Scheme of Compromise and Arrangement.

25. In the light of the aforesaid discussion, and with a view to ascertain the approval or disapproval of the Scheme by each of the homebuyers, it is felt that considering the locations of the projects of the respondent

company, as stated in the petition, meetings of the homebuyers be convened as under:

S. No.	Date & Time of meeting	Venue	Names of projects, whose homebuyers, are eligible to attend the meeting
1	20 th November, 2016 at 11:30 a.m.	Uniworld City, Sector-97, 106, Landran Banur Road, Mohali, Punjab	Uniworld City Plots, Executive Floors, Gardens Villa (all the aforesaid projects are in Mohali, Punjab) Unihomes, Ananda (both the aforesaid projects are in Ambala, Haryana)
2	27 th November, 2016 at 11:30 a.m.	Uniworld City, Nallambakkam, Off Vandalur Kellabakkam Road, Opp. IITDM, Chennai-600127	Unihomes 1, Unihomes 2, Gardens, Birch Court, Aspen Greens, Palm Villas, The Terraces, Palm Premiere (all the aforesaid projects are in Chennai, Tamil Nadu) Uniworld Resorts (the aforesaid project is in Bengaluru, Karnataka)
3	4 th December, 2016 at 11:30 a.m.	Uniworld Resorts, Sector-33 and 48, Near Subhash Chowk, Gurgaon, Haryana	Alder Grover, Anthea Floor, Crest View, Espace Premier, Exquisite, Nirvana Plots, Residences, Uniworld Resorts Plot, Uniworld Resorts Villas, Sunbreeze, The Willows Plots, South Park, Vistas, The Spruce (all the aforesaid projects are in Gurgaon, Haryana) Ananda, Unihomes (both the aforesaid projects are in Rewari, Haryana)
4	11 th December, 2016 at 11:30 a.m.	Unitech Gold and Country Club (UGCC), Sector-96, Near Mahamaya Balika Inter College, Noida-	Exquisite, Gardens, Residences, Unihomes 1, Unihomes 2, Unihomes 3 (all the aforesaid projects are in Noida, U.P.)

		201305, Pradesh	Uttar	Habitat, Heights, Horizon, Cascades, Unihomes Plot (all the aforesaid projects are in Greater Noida, U.P.)
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26. The following directions are issued for convening the aforesaid meetings:

(i) Mr. Ashok Gurnani, Advocate, (Mobile No. 9810109039) is appointed as the Chairperson and Mr. Sunil Sharma, Advocate, (Mobile No. 9811383958) is appointed as the Alternate Chairperson to conduct the meeting at Mohali, Punjab. The Quorum of the meeting of the homebuyers of the respondent company shall be 50% of the total homebuyers, who are entitled to attend and vote at the meeting at Mohali, Punjab.

(ii) Mr. Rajat Wadhwa, Advocate, (Mobile No. 9810726995) is appointed as the Chairperson and Mr. Akhil Mittal, Advocate, (Mobile No. 9891180590) is appointed as the Alternate Chairperson to conduct the meeting at Chennai, Tamil Nadu. The Quorum of the meeting of the homebuyers of the respondent company shall be 50% of the total homebuyers, who are entitled to attend and vote at the meeting at Chennai, Tamil Nadu.

(iii) Mr. Rajeev K. Goel, Advocate, (Mobile No. 9312409354) is appointed as the Chairperson and Mr. Subhiksh Vasudev, Advocate,

(Mobile No. 9810710871) is appointed as the Alternate Chairperson to conduct the meeting at Gurgaon, Haryana. The Quorum of the meeting of the homebuyers of the respondent company shall be 50% of the total homebuyers, who are entitled to attend and vote at the meeting at Gurgaon, Haryana.

(iv) Mr. Yogesh Jagia, Advocate, (Mobile No. 9810043405) is appointed as the Chairperson and Mr. Rajeev Kumar, Advocate, (Mobile No. 9810466870) is appointed as the Alternate Chairperson to conduct the meeting at Noida, Uttar Pradesh. The Quorum of the meeting of the homebuyers of the respondent company shall be 50% of the total homebuyers, who are entitled to attend and vote at the meeting at Noida, Uttar Pradesh.

(v) Where the number of homebuyers expected to attend the meeting is large, the Chairpersons may, in consultation with the company, engage the services of additional manpower for smooth conduct of the meetings.

(vi) The homebuyers/unsecured creditors, who have booked/purchased their plots from the respondent company; but their projects are not shown in the aforesaid list are also entitled to attend and vote in the meetings, at the places where their projects are located, according to the aforesaid schedule. However, these homebuyers/unsecured creditors shall give a notice, in writing, to the concerned Chairperson, of their

intention to attend the meeting at least 07 days in advance of the date of the meetings.

(vii) It is made clear that only the homebuyers/unsecured creditors, who have booked/purchased the flats/units with the respondent company and have still not received the possession of the said flats/units, are entitled to attend the vote in the aforesaid meetings. The flat owners/buyers, who have received the possession of the flats/units shall not be entitled to participate in the said meetings.

(viii) The representatives of the respondent company shall provide a complete list of their projects and the homebuyers, to whom possession of flats/units is not provided and who are entitled to attend the meetings, as aforesaid, to the Chairpersons of the respective meetings within 7 days of passing of this order.

(ix). The Chairpersons and Alternate Chairpersons shall ensure that notices for convening the aforesaid meeting of the homebuyers/unsecured creditors of the respondent company, along with copies of the Scheme of Compromise and Arrangement and the statement under Section 393 of the Companies Act, 1956, shall be sent to the homebuyers/unsecured creditors of the respondent company, who are yet to receive the possession of their flats/units, by speed post at their registered or last known addresses at least 21 days before the date

appointed for the meetings, in their presence or in the presence of their authorized representatives. Notice of the meetings shall also be published in the prominent newspapers in English and Hindi having circulation in Delhi, Haryana, Punjab, Uttar Pradesh, Chennai and Bangalore, as also in one Vernacular newspaper of the respective States, where the projects of the respondent company are located, in terms of the Companies (Court) Rules, 1959 at least 21 days before the date appointed for the meetings.

(x). In case the quorum as noted above for the above meetings is not present at the meetings, then the meetings shall be adjourned by half an hour, and thereafter the persons present and voting shall be deemed to constitute the quorum. It is however made clear that the quorum of meetings, in any event, shall not be less than 25% of the total homebuyers/unsecured creditors, entitled to vote and attend the respective meetings. For the purpose of computing the quorum the valid proxies shall also be considered, if the proxy in the prescribed form duly signed by the persons entitled to attend and vote at the meetings is filed with the registered office of the respondent company at least 48 hours before the meetings. The Chairpersons and Alternate Chairpersons shall ensure that the proxy registers are properly maintained.

27. The Chairpersons and Alternate Chairpersons will be at liberty to issue suitable directions to the management of the respondent company

so that the aforesaid meetings of the homebuyers/unsecured creditors of the respondent company are conducted in a just, free and fair manner. The applicants and the respondent company shall extend all possible assistance to the Chairpersons/Alternate Chairpersons in conducting the schedule meetings smoothly.

28. The fee of the Chairpersons and the Alternate Chairpersons for the aforesaid meetings shall be Rs.1,00,000/- each in addition to meeting their incidental expenses. The cost of travel, boarding and lodging of the Chairpersons and Alternate Chairpersons in respect of the meetings that are being held at Mohali and Chennai shall also be borne by the respondent company/applicants. The Chairpersons will file their reports within two weeks from the date of holding of the aforesaid meetings.

29. The company shall remain bound by the statements made in their affidavit dated 1st September, 2016.

30. The application stands allowed in the aforesaid terms.

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SUDERSHAN KUMAR MISRA, J.

September 02, 2016



CA (M) 88/2016

Page 33 of 33

5th September 2016

UL-11(8)/UL-12(6)

The Manager (Listing Department) National Stock Exchange of India Limited Exchange Plaza, C/1, Block G, Bandra Kurla Complex, Bandra (East), Mumbai - 400051	BSE Limited Corporate Relationship Department 1 st Floor, New Trading Ring, Rotunda Building, P.J. Towers Dalal Street, Fort Mumbai - 400001
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Sub: Order of Hon'ble High Court of Delhi On First Motion Application filed by various Home Buyers
[Disclosure under Regulation 30 of SEBI (LODR) Regulations, 2015]

Dear Sir/Madam,

The Hon'ble High Court of Delhi, upon a first motion Application filed by various home buyers in the matter of Scheme of Compromise and Arrangement under Section 391(1) of the Companies Act, 1956, has passed an order dated 02.09.2016.

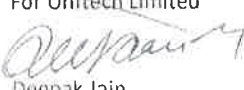
The Company has received the copy of this detailed order in the latter half of Saturday, 03.09.2016 and is reviewing the impact thereof.

The salient features , as observed by initial perusal , inter-alia, provides that –

1. The Court has admitted the first motion of the Application filed by the applicants (home buyers)
2. The Court has directed all proceedings pending or which may be filed against the company before different forums in respect of the residential projects of the company shall be kept in abeyance till further orders. This shall not apply to directions issued or to be issued by the Hon'ble Supreme Court of India.
3. It also granted to the Company and its directors this protection with sole object of affording them a reasonable opportunity, to fulfill their commitments towards the flat buyers by completing the flats and handing over possessions.
4. The Court has noted that company should have net positive cash flows post development of these projects and expeditious delivery to home buyers is possible if the existing customers pay up the outstanding amounts as due from them towards the purchase of flats/units.
5. The Court in order to protect the consumers has directed the company to open escrow account for each of these housing projects and a court appointed commissioner to monitor the same. Also the company shall request RWAs to appoint a signatory on the same.
6. The scheme being proposed provides for delays penalties upto 2 times of contractual penalties in the agreement as well as phased exit for home buyers.
7. The Company has been directed to hold meeting of home buyers in 4 locations to make it easier for people to attend.

This is for your information, record and compliance under applicable provisions of SEBI (LODR) Regulations, 2015.

For Unitech Limited


Deepak Jain

Company secretary