

BIKRAM CHATTERJI & ORS.

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v.

UNION OF INDIA & ORS.

(Writ Petition (C) No. 940 of 2017)

JULY 23, 2019

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**[ARUN MISHRA AND UDAY UMESH LALIT, JJ.]**

*Housing:*

*Housing projects – By a Group of companies – Proposing to construct approximately 42,000 flats – The projects were registered under RERA – Booking of flats by various home-buyers during the years 2010-2014 – Standard Form of Allotment-cum-Flat Buyers Agreement stated that delivery of possession within 36 months – Builder got the land from Noida and Greater Noida Authorities on paying 10% of the land price – Builders also took loans from the Banks for the project on mortgaging the land with the Banks – Home-buyers paid the amount from 50% to 100% abiding by the payment schedule – Builders failed to deliver the flats within 36 months – They did not pay the balance amount towards the land to the Noida and Greater Noida Authorities and also failed to repay the loans taken from the Banks – Some of the consumers filed consumer complaint under Consumer Protection Act – Bank, for recovery of the loan, filed company petition under s.7 of Insolvency and Bankruptcy Code, 2016 – National Company Law Tribunal (NCLT) appointed Interim Resolution Professional (IRP) and declared Moratorium restricting institution of any suit against the corporate debtor – Thereupon writ petitions u/Art.32 were filed by home-buyers – Several orders by Supreme Court giving the builder opportunity to go ahead with project work and complete the same – Orders were not complied by the builder – Forensic audit of the companies of the builder directed by the Court – Court directed freezing of individual accounts of the Directors of all the 40 companies and also directed attachment of the properties in the individual names of the Directors – Held: The Noida and Greater Noida Authorities were grossly negligent in reviewing and monitoring progress of the project and in collusion with the builders, failed to take action for non-payment of its dues – They illegally permitted*

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- A *the builders to sub-lease the land – The officials of Authorities have acted in clear breach of public trust and have failed to act as per statutory mandate, Regulations and terms of the Lease Deed – The mortgage of the land with the Bank was without obtaining clear NOC which was a condition precedent for creation of Mortgage –*
- B *Thus, no mortgage in the eye of law has been created – Moreover, the money borrowed from the Bank was not utilized for the project and the same was diverted for creation of other assets – The Bank also failed to check whether the money, in fact was required for the project and used for the same – Therefore, the Banks and the Authorities can realize their money only from those assets and from*
- C *the Guarantors and not from investment of home buyers – There has been blatant violation of provisions of RERA – In the circumstances of the case, principle of ‘fraud vitiates’ is attracted and such transaction would become unenforceable and would be against the public trust doctrine – It is bounden duty of court not only to save the home-buyers but also to ensure that they are not*
- D *cheated – Therefore, the registration of the builder companies under RERA is cancelled – The Lease-Deeds in favour of the Companies are also cancelled – Construction work in the projects is handed over to NBCC – Rights of the lessee shall vest in the Court Receiver – Real Estate Regulation and Development Act, 2016 – Uttar Pradesh*
- E *Industrial Area Development Act, 1976.*

*Doctrines/Principles:*

*Principle of ‘fraud vitiates’ – Applicability of.*

*Doctrine of ‘public trust’ – Applicability of.*

F **Issuing directions, the Court**

**HELD : 1.1 In the instant matter, the question of larger public importance is involved. A large-scale cheating has taken place and middle and poor class home buyers have been duped and deprived of their hardearned money and lifetime. By the**

G **Amrapali Group, the buyers’ money which has been obtained has not been invested in the construction activities, rather it has been diverted to a great extent. Money obtained from the banks has also not been invested in the projects and has been diverted elsewhere to acquire other assets. This is not only with respect**

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to the Amrapali builders that projects have not been completed as reflected in the affidavits of Noida and Greater Noida Authorities. More than 70% of the projects have not been completed which were initiated way-back in the year 2008-09 and were supposed to be completed within 3 years. [Para 69] [531-F-G]

1.2 If the real estate business has to survive in India, it has to be answerable to the public and has necessarily to uphold the trust reposed in builders/promoters. They have been paid huge amounts not only by the home buyers but also, they have to pay a huge amount for the public land given to them on lease by Noida and Greater Noida Authorities for construction of houses. The land has been given to them by the authorities on a concessional basis by making payment of 10% amount at the time of allotment. The builders have to be accountable to public/home buyers as well as the authorities and bankers. It is a matter relating to housing needs dealing with shelter place, such an activity is of the public importance as the real estate sector plays a pivotal role in the fulfilment of needs of housing infrastructure. [Para 73] [532-F-H]

2.1 It is apparent from the report of the forensic audit submitted by Forensic Auditors that there is a serious kind of fraud played upon the buyers in active connivance with the officials of the Noida and Greater Noida Authorities and that of the banks. The money of the home buyers has been diverted. The Directors diverted the money by the creation of dummy companies, realizing professional fees, creating bogus bills, selling flats at undervalue price, payment of excessive brokerage, etc. They have obtained investment from J.P. Morgan in violation of FEMA and FDI norms. The shares were overvalued for making payment to J.P. Morgan. It was adopted as a device for siphoning off the money of the home buyers to foreign countries. In view of the huge money collected from the buyers and comparable investments made in the projects, there was no necessity to obtain a loan from banks. The amount so obtained was not used in the projects. The mortgage deeds in favour of the banks were not permissible due to non-payment of dues of the Noida and Greater Noida Authorities. The Noida and Greater Noida Authorities issued

A conditional NOCs. to create mortgages subject to payment of dues which were not paid. They issued such NOCs in collusion with builders. It was incumbent upon the bankers also to obtain clear unconditional NOCs. which were not obtained and to ensure that the dues were paid to Noida and Greater Noida authorities. They permitted diversion of money immediately after sanctioning of the loan and also in day to day transactions of Amrapali group of companies. [Para 146] [580-D-H; 581-A]

2.2 No accounts were prepared *w.e.f.* the years 2015-2018 and money withdrawn was diverted during the said period. The Statutory Auditor, failed in duty and was part of fraudulent activities as found in the Forensic Report. The money obtained from banks was diverted to unapproved uses such as for the creation of personal assets of Directors, creation of assets in closely held companies by the Directors along with their partners and relatives, for personal expenses of Directors, to give advances without carrying interest for several years. There was total non-monitoring by the bankers. The money laundering was resorted to by Amrapali Group/ Directors. [Para 147] [581-B-C]

2.3 The statement filed on the expenditure of Rs.10,000 crores is nothing but a scrap of paper not supported by the books of account, supporting documents. It has to be outrightly rejected as there is an attempt made on siphoning off, apparent from the report of the Forensic Auditors also. [Para 142] [578-F-G]

2.4 The diversion of huge amount of Rs. 2,996.20 crores has been rightly detected on Forensic Audit. The Forensic Auditors have given the details in their report along with reasons. As to other amounts with respect to advances which are recoverable, the explanation that there is a surrender of shares etc. is not supported by books of accounts. There is no basis to contend so. No proper explanation has been given on behalf of Amrapali Group. The finding as to the diversion of home buyers' funds is based on the figures worked on the basis of minute accounting as reflected in the auditors' report. There is no proper answer to each and every entry which have been gone into by the Auditors. General and broad submissions have been made which are flimsy and have no legs to stand. [Paras 143, 144 and 145] [579-F-H; 580-A-B]

**3.1 The public trust doctrine imposes on the State and its functionaries a mandate to take affirmative action for effective management, and the citizens are empowered to question its ineffectiveness. The land of the farmers had been acquired for the purpose of housing and infrastructure needs, by the State Government and handed over to the concerned authorities for construction. They are bound to ensure that builders act in accordance with the objective behind the acquisition of land and the conditions on which allotment had been made. It was a duty of concerned officials; they are not only enjoined to ensure that the rights of the home buyers are protected but also the interests of the authorities; and bankers. The public authorities are duty-bound to observe that the leased property is not frittered away along with the money of the home buyers. Affirmative action was clearly enjoined upon them not only under the statutory provisions of various enactments but also under the public trust doctrine. [Para 73] [533-A-D]**

*Noida Entrepreneurs Association v. Noida & Ors. (2011) 6 SCC 508 : [2011] 8 SCR 25 ; Natural Resources Allocation, In re, Special Reference No.1 of 2012 (2012) 10 SCC 1 : [2012] 9 SCR 311 ; Association of Unified Tele Services Providers & Ors. v. Union of India & Ors. (2014) 6 SCC 110 : [2014] 9 SCR 780 – relied on.*

**3.2 In the instant case, it is apparent that there are colossal dues of Noida and Greater Noida Authorities. There were several defaults in making the payment of the premium amount, lease money, even the money payable to the farmers as compensation for land acquisition has not been paid by the builders, though the builder has realised from home buyers the amount payable to authorities of Noida and Greater Noida as a component of the price payable by them. [Para 76] [535-F-H; 536-A]**

**3.3 The transfer of the plot by the lessee was only on fulfilment of certain conditions. The dues of lessor towards the cost of land were to be cleared in accordance with the schedule of payment. It was specifically provided in lease deed condition No.(ii)(c) that the lessee shall use the allotted plot for construction**

A of group housing/flats/plots. Condition No.(ii)(c)(iii) deals with the part transfer of the plot. It lays down normally the permission for part-transfer of the plot shall not be granted under any circumstances. The lessee shall not be entitled to complete the transaction for sale, transfer, assign or otherwise part with possession of the whole or any part of the building constructed thereon before making payment according to the schedule specified in the lease deed of the plot to the lessor. By way of sub-lease of the plot, the transfer of plots could not have been made by the lessee. The lessee was required to start construction within 12 months from the date of possession. The date of execution of lease deed was to be treated as the date of possession. The lessee was required to complete the construction of minimum 15% of the total FAR of the allotted plot as per the approved layout plan and get occupancy/completion certificate within 3 years from the date of execution of the lease deed. Cancellation of lease deed was also provided in the case of violation of directions, or rules, regulations or in case of the default on the part of the lessee for breach or violation of terms and conditions of the registration/allotment/lease and/or non-deposit of allotment amount. [Paras 78, 80 and 81] [536-E-F; 538-D-F; 540-B-D]

E 3.4 The lease deed/allotment was to be governed by the provisions of the U.P. Industrial Area Development Act, 1976 and by the rules and/or regulations made or directions issued under the Act. The lessor was required to monitor the implementation of the project. In larger public interest the lessor was also given a right to take back possession of the land/building by making payment at the prevailing rate. [Para 82] [541-C-E]

G 3.5 Once the Noida and Greater Noida Authorities knew very well that there were defaults, they could not have allotted further land to the Amrapali group without insisting for payment of its dues. Secondly, it was not open to the authorities to permit the sub-leases of plot of land executed by builders, thereby allowing the leaseholder to earn a huge amount without making payment of the amount due to them. The officials of the authorities have acted in clear breach of public trust. They have permitted the defaulting leaseholders to earn the amount by sub-leasing

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its land of which dues had not been cleared. Thus, apparently, the officials of the authorities acted clearly in collusion with the builders and overlooked the interest of the Authorities and home buyers while permitting the sub-leases of plot of land to be granted. The action of the officials of the authorities has the effect of causing unjust enrichment of builder from the land held by the concerned authorities. It was wholly an illegal exercise permitted. [Para 77] [536-B-D]

3.6 The leases had been granted by Noida and Greater Noida Authorities subject to the provisions contained in U.P. Industrial Area Development Act, 1976. Section 13 of the U.P. Industrial Area Development Act, 1976 deals with imposition of penalty and mode of recovery of arrears, which states that where any transferee makes any default in the payment of any consideration money or instalment thereof or any other amount due on account of the transfer of any site or building by the Authority or any rent due to the Authority in respect of any lease or where any transferee or occupier makes any default in payment of any amount of fee or tax levied under the Act, in addition to the amount of arrears, a further sum not exceeding that amount shall be recovered from the transferee or occupier by way of penalty. Under Section 13-A, any amount payable to the Authority under Section 13 shall constitute a charge over the property and may be recovered as arrears of land revenue or by attachment and sale of property in the manner provided under the provisions of Uttar Pradesh Municipal Corporations Act, 1959 (Act no.2 of 1959). Section 14 provides for the resumption of any site or building and forfeiture of whole or any part of the money if any paid in respect thereof. [Para 95] [549-B-E]

3.7 Public trust doctrine requires an affirmative action, which was envisaged not only statutorily but under the Scheme also. The Authorities were required to ensure that projects were completed within the stipulated period, otherwise, the very purpose of the grant would stand frustrated and colossal loss of public money. Amrapali Group did not pay even the amount due to be paid to the landowners on the part of land acquisition, it did not pay premium annual lease amount interest to Authorities.

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A They have violated every condition, but still, Authorities were bent upon to condone everything. This reflects absolute dereliction of duty cast upon the Authorities. [Para 96] [550-B-C]

B 3.8 Thus, the officials of the Noida and Greater Noida authorities have acted clearly in a breach of public trust and apart from that, they have failed to act as per the statutory mandate, the regulations and the terms of the lease deed. [Para 78] [536-E-F]

C 4.1 With respect to the creation of mortgage deed in favour of bankers etc., Noida Authority has submitted that every mortgage permission is granted by the Noida Authority to the individual company of Amrapali group wherein a provision is made that Noida Authority has first charge/priority over all other charges including those created in favour of banks and financial institutions. One of the conditions on which permission to mortgage was that permission to mortgage was to be effective on making full payment of the premium and up to date annual lease rent of group housing plot and after execution of the sub-lease deed in favour of the allottee of the dwelling unit, the allottee/sub-lessee was to be governed by the terms and conditions of allotment/lease deed of the plot to be executed and sub-lease deed to be executed in favour of the allottee/sub-lessee. Since at no point of time, payment of premium due had been made and up to date annual lease rent had not been paid, no mortgage could have been created in favour of the bank in view of specific condition. [Paras 83 and 84] [542-B-C; 543-C-E]

F 4.2 In order to create a mortgage, it was necessary to obtain clear NOC in order to create effective mortgage deed. As that has not been done so far, no mortgage in the eye of law has been created in favour of the bank. It was not open to the bankers to mortgage the land in view of the conditional permission to create mortgage, the mortgage created in violation of condition cannot be said to be effective in accordance with law as the land was owned by the concerned authorities and the lessees had right to mortgage only subject to fulfilment of conditions imposed by the lessor/authorities. [Para 84] [543-F-G]

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**4.3 Issuance of conditional NOC was with ulterior motive, there was no reason to issue such a conditional permission, subject to which mortgage could have been made. They could not have issued any conditional permission for creation of a mortgage also without payment of amount due, permission has been issued obviously for being misused, in collusion with the officials of the bank and Authorities. It was incumbent upon the concerned authorities not to issue such an NOC for a mortgage and it was incumbent upon the bank officials in order to create a valid mortgage to ascertain from the Noida and Greater Noida Authorities that the condition imposed by them as condition precedent to create a mortgage had been fulfilled and to obtain clear NOC. But that is how in illegal manner the public money is obtained from banks for the purpose of construction activity and then it was not used for that purpose, and there was a diversion of money. [Para 85] [544-B-E]**

**4.4 The banks not only have failed to ensure that mortgage was effected in accordance with the law, but also they have failed to check whether money was in fact, required for the projects and was used for purpose it was lent. Money borrowed from bank, in fact, was not required for completion of these projects as the money paid by the buyers was enough for that purpose, but that was also diverted and the money obtained from the banks was also not utilised for the purpose it was taken and it was well within the knowledge of the bankers and Authorities that the funds were being diverted, but they remained mute spectators. It has been observed in extensive detail in the forensic audit report that the Banks did not monitor utilisation of funds and acted as a mute spectator to diversion which was almost happening evidently in all banking transactions. [Paras 85 and 86] [544-G-H; 545-A-C]**

**4.5 There was negligence on the part of Bank of Baroda and merely proceeding before the Court to recover the amount is not going to serve the purpose. More so, in view of the finding of the Forensic Audit that there was no necessity of obtaining the loan from the Bankers as Amrapali Group had sufficient money from the home buyers, which has also been diverted and has not been utilised in the construction activities. Other assets have**

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A been created with the help of the same and the borrowings have been used in order to siphon off the money by making payment of some unusual amount not only to J.P. Morgan, but also to IPFII Singapore in violation of the FEMA Rules and FDI Rules as found by the Auditors in the respective cases. [Para 93] [548-D-F]

B 4.6 The Noida and Greater Noida Authorities and the Bankers have permitted diversion of funds of home-buyers and the possession of other assets by Amrapali Group. The buyers' money had been diverted, which was meant for construction on payment of dues of Authorities in case they were paid timely by the Amrapali Group to the Authorities and to the Banks  
C substantively liability would have been cleared. But by their inaction and rather conniving, the buyers were cheated by the Amrapali Group. [Para 97] [550-D-E]

D 4.7 Whatever complete/incomplete structures are there, the Authorities are claiming that buyers have no right and they have the first charge on the structure as they have to recover the amount, only thereafter if anything is left out, can be paid to the buyers. In case the submission is accepted, it would amount to playing further fraud upon the fraud. It was incumbent upon the Authorities as well as the Banks to prevent the fraud. Now,  
E if Banks, as well as the Authorities, are permitted to recover the amount from the home-buyers' investment, in that case, it would be equally unjust and would be against the conscience of the law and nothing would be left for buyers not even a brick and the structures have come up by investing their money. Law never permits unjust gain based upon fraud. The principle "fraud  
F vitiates" is clearly attracted and such a transaction would become unenforceable and would be against the public trust doctrine. Therefore, it is the bounden duty of the Court to act as *parens patri*  
G *patria* not only to save the home-buyers but also to ensure that they are not cheated. [Para 97] [550-F-H; 551-A-B]

G 4.8 The kind of fraud that has taken place not only in Amrapali Group of Companies but at large as more than 70 percent of the various projects have not come up, is alarming to the Courts to take affirmative steps with the direction to prevent such frauds, restore the money of home-buyers and to punish incumbents

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responsible for such act. At the same time to ensure that buildings are completed. [Para 98] [551-C-D] A

4.9 In the peculiar facts and circumstances of the case, it has to be secured and recovered by way of selling other attached properties and the one, which have been created out of the diverted funds of the home-buyers and property of guarantors etc. The banks' borrowings have to be taken care of in a similar manner. The money payable to the Authorities had been diverted and huge amount of buyers' money had not been invested in the projects neither any part of the money of bank borrowings, in fact, were spent in the construction as found by the Forensic Auditors. The promoters are held accountable for the diversion of the money paid by the buyers as component of price of flats even on account of payment to Authorities. [Para 123] [567-D-F] B C

4.10 The stand of the Noida is clear that without payment of land dues no mortgage could be effected. Thus, in fact in the eye of the law no mortgage could be created as there was no permission to mortgage unless the dues were paid and thus the bank could not have mortgaged the property before clearance of the dues of the Noida Authority, and secondly, the mortgage was permissible for the purpose of financing the investment in the project. As a matter of fact, when this was the stipulation, it was the banker's duty to ensure that money made available was invested in the project. [Para 126] [568-E-F] D E

4.11 The Forensic Auditors' report makes it apparent that Bankers have failed to ensure and oversee that the money was invested in the projects. It was diverted elsewhere as rightly found by the Forensic Auditors. Thus, no charge can be said to have been created by bank loans on the projects as the money, in fact, it has not been used in the projects as such home buyers cannot be saddled with liability and also the projects. The money borrowed from banks was used to create other assets worth thousands of crores. Thus, the banks can realise their money from those assets and from guarantors and not from the investment of home buyers, not from the buildings in which loans granted by banks have not been invested. Home buyers are not direct party to the bank loan, thus it was the duty of the bankers F G

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A and Noida authorities, if they wanted to impose their charge, to  
ensure that no fraud takes place and money is invested in the  
projects for the purpose for which it has been taken not only the  
money paid by the home buyers but obtained from the banks and  
due to be paid to Noida authorities, is not usurped illegally by  
B promoter/builder. Though it was realised as part of the component  
of the price of flat from the home buyers, by the promoters/  
builders its illegal diversion was permitted by Amrapali Group in  
connivance with the officers of the authorities and the bank. Thus,  
the very condition of investment in the project by bankers, subject  
to which the mortgage was permissible, had been violated. Thus,  
C it cannot be said that any charge of the banks has been created  
on the projects. The charge would be on the property which has  
been purchased/created by dubious methods. It would be  
inequitable to fasten the charge against the investment made by  
the home buyers whereas they have not been benefited and rather  
D have been cheated by the promoters for which bankers, as well  
as authorities, have to share the blame. [Para 127] [568-G-H;  
569-A-E]

4.12 Though the home buyers may not be a secured creditor,  
they have a right to be treated in accordance with the law, fairly  
and they cannot be subjected to a fraudulent action by the  
E promoters, that too in connivance with the bankers and officials  
of the Noida and Greater Noida authorities. [Para 128] [569-F-G]

4.13 No doubt about it as submitted on behalf of Amrapali  
group of companies, that the provisions of RERA are for  
protecting the interests of promoters also. No doubt about it that  
F the RERA intends to protect the interests of the promoters and  
home buyers both. However, in the instant case, we have given  
the opportunity to the promoters to deposit the 10% of the amount  
in December 2017 and January 2018 but orders have met with  
non-compliance with all impunity. Thereafter on the assurance  
G of the Amrapali Group that it would undertake the construction  
work and a joint plan was submitted after great wastage of time  
and energy and then order dated 17.5.2018 was passed that was  
also not complied with. It was passed on a condition that a sum of  
Rs.250 crores to be deposited which was also not deposited by  
the Amrapali group to show its bona fide. The Group never  
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**intended right from the beginning to complete the construction work, has been rightly observed by Forensic Auditors. Thereafter, we have assigned the work to the NBCC. But at the same time, the effort has been made by Amrapali Group/ its Directors to sell the property which has been created by diversion of home buyers' funds. Incorrect facts have been stated and suppressions have been made in various affidavits filed in this Court that the certain properties are not encumbered. Various applications are being filed one after the other by the encumbered holders with respect to several properties that they have the charge over the said property. [Para 129] [570-A-E]**

**4.14 That apart, several attached properties have been put to sale by DRT under the orders of this Court. In most of the cases, no buyers have turned up and/or the price offered by forming a cartel are too low. The property cannot be sold at throw away price. Amrapali group is instrumental in not allowing the properties to be sold. There appears to be some invisible hand holding buyers out and even the bankers are not coming up to finance the purchasers, is the genuine grievance pointed out at the Bar. Be that as it may. Entire gamut of facts indicates the contumacious conduct of Amrapali Group, proper and correct disclosures on oath have not been made, even encumbrances are not being specified clearly in spite of repeated orders. They have sold several valuable properties during pendency of petitions as pointed out by the Forensic Audit Report. In the aforesaid circumstances, under the provisions of the RERA their interest cannot be protected. [Para 130] [570-E-H; 571-A]**

**4.15 Considering the serious kind of fraud unearthed on the forensic audit, formation of dummy companies, violation of norms of foreign investment, violation of FEMA, siphoning off the money of home buyers, making payment of dividend without profits and a methodology had been devised of valuing the shares on an unreasonable higher basis so as to siphon out the money of the home buyers to J.P. Morgan etc. The creation of a large number of assets with the help of money of the home buyers. Right from 2015, no construction activity has taken place. Account books had not been maintained and money has been transferred**

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A continuously. No audit was made. Money was taken out from  
banks, and fake purchases have been made. Thus, they are not  
at all entitled for any indulgence under the provisions of the  
RERA. In view of their unholy conduct, defying description, their  
contumacious fraudulent conduct totally disentitles them and they  
B are required to be dealt with as sternly as possible so as to make  
it exemplary one that such fraudulent actions do not recur in  
future, in real estate business in India. [Para 130] [571-A-D]

4.16 There was no *force majeure* condition or any legal  
impediment and as such the period from 2011 to 2015 cannot be  
treated as a moratorium period vis-à-vis the dues of Noida and  
C Greater Noida authorities. The submission made as to the  
farmers' agitation etc. is too vague and 30% of the projects have  
come up; whereas 70% have not yet come up, out of the projects  
in Noida and Greater Noida alone. [Para 141] [577-F-G]

5.1 The Real Estate (Regulation and Development) Bill,  
D 2013 (RERA) was intended to standardise business practices and  
transactions in the real estate sector. It intends to ensure  
consumer protection. It intends to regulate transaction related  
to both residential and commercial projects. It is apparent from  
the aims and objectives of RERA that the Act ensures greater  
E accountability towards consumers and significantly reduce fraud  
and delays. Accountability standards have been laid down where  
duties cast upon promoters as well as the effort has been made  
to make consumer also responsible. [Paras 104 and 105] [554-F;  
557-E]

5.2 In view of the provisions of the RERA Act, in the instant  
F case, it was necessary to deposit the amount in the account. A  
blatant violation of the provisions of RERA has been done by the  
Amrapali Group. Since RERA contemplates timely completion  
of projects once registration has been granted under Section 5  
and extension of registration under Section 6, it is only in the  
G event of *force majeure* in case there is no default on the part of  
the promoter, registration can be extended in aggregate for the  
period not exceeding one year. *Force majeure* shall mean a case  
of war, flood, drought, fire, cyclone, earthquake or any other  
calamity caused by nature. The registration granted under

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**Section 5 is valid for a period declared by the promoter. [Paras 109 and 110] [559-G-H; 560-A-B]** A

**5.3 Section 7 provides that the Authority may on receipt of a complaint or *suo motu* or on the recommendation of the competent authority revoke the registration granted under Section 5 in case promoter makes default in doing anything required by or under the Act or the rules or the regulation made thereunder; the promoter violates any of the terms of approval given by the competent authority; the promoter is involved in any kind of unfair practice or irregularities. It is also independently provided that in case the promoter indulges in any fraudulent practices, the registration can be revoked. Upon revocation of the registration, the promoter shall be debarred from accessing the website in relation to that project under Section 7(4)(a). Under Section 7(4)(b), the Authority shall facilitate the remaining development works to be carried out in accordance with provisions of Section 8. [Para 110] [560-B-D]** B  
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**5.4 It is clear that RERA intends for completion of the project in case any fraud is committed by the promoter and the activity is not completed, the home-buyers cannot be left in lurch, allowing the prayer on behalf of Bankers as well as by the Authorities would amount to unfair treatment of home buyers in the facts of this case. It is too late for them to submit that home buyer has no rights in the teeth of the provisions contained in the RERA, which intends to prevent fraud. [Para 111] [562-B]** E

**5.5 Once registration lapses on non-completion of project within the time stipulated or it is revoked the consequence ensue as enumerated in Section 8 of RERA, the Authority is enjoined upon the duty to consult with the appropriate Government to take such action as it may deem including the carrying out of the remaining development works by competent authority or by the association of allottees or any other manner as may be determined by the Authority. The development work has to be completed and cannot be left in between. [Para 112] [562-C-D]** F  
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**5.6 As per the provisions of Section 11, the promoter shall be responsible to obtain the completion certificate or the**

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A occupancy certificate. He shall also be responsible for providing and maintaining the essential services on reasonable charges, till taking over of the maintenance by the association of the allottees. The promoter shall enable the formation of an association or society or co-operative society or federation of allottees. He shall pay all outgoings until he transfers the physical possession to the allottee. After he has executed an agreement for sale for any apartment, plot or building, he may not mortgage or create a charge on such an apartment, plot or building and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee. [Para 113] [562-H; 563-A-C]

D 5.7 It is apparent that after the transfer of conveyance deed, the title vests in the allottee and of the common area in the association of the allottees or the competent authority as the case may be. No title remains with the promoter. In case promoter fails to complete or is unable to give possession of an apartment, plot or building, he shall be liable on demand to the allottees. In case the allottee wants to withdraw from the project, without prejudice to any other remedy available, the promoter has to return the amount received in respect of that apartment, plot, building with interest in this behalf including compensation in the manner as provided under the Act. [Paras 116 and 117] [564-E-G]

F 5.8 It is apparent that RERA intends protection of home-buyers and aims at completion of the buildings. The buildings have to be completed. The task has already been assigned to NBCC by the Court for completion of buildings as the promoters/builders have failed to complete the building within the time fixed and the time which could have been extended. Now, more than 10 years have passed and buyers were given the assurances that they would get flats within three years period by the promoter/builder. The maximum time fixed in RERA has also expired and extension could not have been beyond 1 year. It is clear that common areas as provided under Section 17 have to be ultimately handed over to the Association of Allottees or the Competent Authority as the case may be. Thus, any sub-lease, alienation or  
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transfer affected by the promoter of the common areas as defined in the RERA and otherwise reserved under the plan shall be void and inoperative. [Paras 120 and 121] [566-F-H; 567-A]

5.9 The contention on behalf of the Bank is that the agreement of promoter/builder with home buyers is unregistered as such, no right has been created in the immovable property in view of the provisions contained in section 49 of the Registration Act. The contention ignores and overlooks the provisions of RERA which intends to prevent such frauds on home buyers and ensure completion of projects and that of the agreement between promoters and buyers. There are various rights under the agreement as well as under the RERA. The agreement entered into at the time of allotment is the basis of the investment in the projects made by home buyers, it cannot be said to be a scrap of paper. It is their valuable investment which is required to be protected and cannot be permitted to be taken away by builder or secured creditors in an illegal manner. The provisions of section 17 of the Registration Act no doubt provide that a document of title requires compulsory registration, no doubt registered document has to be executed that also has to be taken care of by the Court so as to protect the interest of home buyers. [Para 132] [571-G; 572-A-B]

5.10 The two expressions of the provisions of Section 11(4)(g) of RERA Act are significant. Firstly, which the promoter has collected from the allottees. Secondly “which are related to the project”. In the instant case dues of the Noida/Greater Noida authorities have been collected from the allottees by the promoters but the authorities have permitted diversion of said amount by not taking any action in view of the chronic default right from the beginning. Though they knew that the promoter had booked the flats, even the permission to grant sub-lease of the plot had been granted in totally illegal manner without payment of dues of premium and lease rent etc. Conditional permission to the mortgage was issued without payment of the premium lease money etc. so as to perpetuate the fraud being done by the promoters. The mortgage created ought to have been objected in view of the conditions subject to which it could have been done.

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- A Obviously, it was done by Amrapali Group in connivance with officials of Authorities including the bankers. Thus when the authorities have themselves permitted fraudulent action money has been diverted, which has been paid by home buyers for payment to Authorities also, as premium was component of price and as bankers have also permitted diversion of loan amount,
- B mostly on same day, it cannot be said in the facts of the case, that any amount of the bankers or that of authorities remains invested in the project. The *sine qua non* is the expression “which are related to the project” would mean that that amount recoverable from the allottee is the one which has been invested in the project.
- C A third person can be held liable for the money payable to secured creditors in case it has been invested in the project, in case it has not been spent in constructions, same cannot be permitted to be realised from the project/home buyers, the investment of home buyers cannot be frittered away and to fasten liability upon the innocent buyers/allottees in that event would tantamount to perpetrating yet another fraud on them. Accountability, as per law, has to be fastened on promoters/builders and all concerned. It would amount to total deprivation of money of home buyers without any fault on their part or legal liability. It would amount to fastening liability upon them once over again by misuse of the process of law. The provisions of the first and second charge cannot come to the rescue of Authorities/Bankers. Under Section 11(4)(g) the promoter has to pay all outgoings which he has collected from the allottees, the payment of outgoings includes land cost, ground rent, charges for water or electricity, maintenance charges etc. As per the proviso to Section 11(4)(g),
- F the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authorities. Outgoings which have been collected by the promoter can be and have to be recovered in the facts and circumstance of the case from them as intended by section
- G 11(4)(g) of RERA. [Para 133] [572-E-H; 573-A-E]

5.11 The Bank’s plea is that the provisions of section 11(4)(h) of RERA provides that the promoter, after he executes an agreement for sale for any apartment, plot or building, cannot mortgage or create a charge on such an apartment, plot or

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building, as the case may be, and if any such mortgage or charge **A**  
 is made or created then it shall not affect the right and interest of  
 the allottee who has taken or agreed to take such apartment,  
 plot or building, as the case may be. The provision has a non-  
 obstante clause. As the provision has given an overriding effect  
 by non-obstante clause, the provision is no help to the banks as **B**  
 the agreement had been by promoters with home buyers entered  
 into earlier in point of time to the creation of the mortgage. There  
 could not have been any mortgage created subsequently and even  
 if validly created, it would not affect the right and interest of the  
 allottee as intended by RERA. Thus, the right and interest of the **C**  
 allottee are safeguarded by virtue of the provisions contained in  
 section 11(4)(h). As the project was pending, the provision  
 intends to confer a right on the allottee and save the allottees  
 and also their interests from such liability. Even if the provision  
 is held not applicable on the ground that RERA came into force  
 later, since there was no valid mortgage as held by this Court, it **D**  
 was incapable of affecting the right or interest of the allottee.  
 Had it been ensured that the money due to Noida and Greater  
 Noida authorities was paid by the promoters to the authorities,  
 the fraud of siphoning of money would not have taken place to  
 the extent it has been done. Moreover, the money borrowed  
 from banks has not been invested in the projects. In fact, projects **E**  
 required no funding. It would be iniquitous to charge the allottees  
 with the bankers' money. Thus, in the peculiar facts and  
 circumstances of the case, it is held that rights or interests of the  
 allottees are not at all affected by the mortgage created by the  
 bankers or by the dues of the Noida or Greater Noida authorities. **F**  
 [Para 134] [573-F-H; 574-A-D]

5.12 Section 4(2)(1) of the RERA requires the promoter to  
 disclose the prior encumbrance. Therefore, the RERA  
 contemplates the creation of encumbrance even before the  
 project is registered and such a plot can be offered to allottees. **G**  
 Basically, a declaration is required under section 4(2)(I)(A) that  
 the land is free from all encumbrances or as the case may be,  
 details of the encumbrances, if any, on such land, should be  
 disclosed. The intention is that the allottee should know about

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A the encumbrance if any. The provision does not espouse the cause of the bank in any manner whatsoever. [Para 135] [574-E-F]

5.13 It is not correct that in view of the provision of section 19(4) of RERA, the right of the allottees is restricted to only receiving the compensation from the promoters. The provisions of Section 8 of the RERA which provides for completion of the development projects by the competent authority or by the association of allottees or in any other manner, as may be determined and the association of allottees shall have the first right of refusal for carrying out the remaining development work is the wholesome provision contained in the second proviso to section 8. To claim compensation is at the option of the allottee if the allottee wants to go out. That is an additional right, not the only right conferred under the RERA. He cannot be left in lurch but is entitled to claim the refund if he so desires. It is his option to claim the refund along with interest and compensation which is to be determined under the RERA. The rights of the allottees are not restricted to only receiving the compensation. [Para 136] [574-G-H]

5.14 As regards the plea that the RERA recognises and protects interests of the lenders and does not in any manner take away rights under any of the existing statutes such as T.P. Act, Debt Recovery Tribunal Act, SARFAESI Act, it is apparent from a perusal of RERA, which is a special Act, that certain rights have been created in favour of the buyers. The provisions of RERA have to prevail. When it comes to the question of protection of rights of buyers even if RERA had not been enacted, under aforesaid laws in the facts of the case, a different view could not have been taken. However, there is no dispute that the bankers would have the right to recover their dues. The provisions of RERA are beneficial to the home buyers and are intended to insulate them from fraudulent action, ensures completion of the building and it is the duty of the court to protect and ensure the home buyers' interest and at the same time to hold them responsible for the duties enjoined upon them under the said statute. The home buyers are not observed from the discharge of their liability if any. At the same time, they have the right of

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**enforcement of their right for compensation due to undue delay in completion of the project. [Para 137] [575-D-F]** A

**5.15 In case the authorities are making allotment of plots at a paltry sum of 10% and giving the builders 8 years period to make payment of premium with a moratorium of 2 years then the period runs to 10 years and the project is to be completed within 3 years. It is clear that the authorities have to be very vigilant for securing their interests otherwise in every case even if the promoter has completed the project and realised the charges from the home buyers and has not deposited the amount due to the authorities, in case no action is taken by the Authorities, can it be taken after 10 years against home buyers. The authorities have to blame themselves for their inaction and have to wait for the realisation of dues by sale of other properties and as against guarantors etc. The projects have to be completed as mandated by Section 8 of RERA. [Para 139] [576-C-F]** B  
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**5.16 No part of the building can be directed to be demolished. Buildings have to come up and completed even the ones which are at the nascent stage as mandated by RERA. No doubt about it that in case of failure to pay the dues the onus of payment of land dues has to be passed on to the buyers on pro-rata basis but in the instant case they have already paid the substantial amounts, huge amount has been permitted to be diverted by the authorities and bankers as such they have to wait for recovery and cannot act in a manner further detrimental to the interests of the home buyers. [Para 140] [577-B-C]** D  
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**5.17 There is duty enjoined under the RERA, there has to be a Central Advisory Council as well as the role of the State Government is not ousted in order to protect against such frauds. The Central Government and the State Government are directed to take appropriate steps on the time-bound basis to do the needful, all other such cases where the projects have remained incomplete and home buyers have been cheated in aforesaid manner, it should be ensured that they are provided houses. [Para 141] [578-C-D]** F  
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A           **6. As the basic obligations have not been complied with by**  
the promoters, they cannot also be entitled to FAR. In the instant  
case, there is serious kind of fraud by the promoters as such  
they cannot be said to be entitled to avail the FAR to utilise it or  
to alienate and more so when they have failed to complete the  
B           **projects and pay the dues. [Para 122] [567-B]**

**7.1 There appears to be non-issuance of the completion**  
certificate, whereas the buildings are being occupied, completion  
certificate is directed to be issued. This Court has to monitor  
the payment of dues of the Authorities and Banks and that  
C           **outstanding are not going to create hurdle in the execution of**  
the registered document/conveyance deed in favour of home  
buyers. It has to be executed by the concerned Authorities as  
well as by the Court Receiver and by the home buyers. The  
amount which is due on the part of home buyers has to be  
deposited in the account, which has been opened, in the UCO  
D           **Bank by this Court. It has to be utilised firstly for the purpose of**  
completion of the buildings and for providing other facilities and  
the home buyers of incomplete projects also have to deposit the  
outstanding amount on their part in the aforesaid account opened  
in the UCO Bank and out of that amount, it has to be disbursed  
E           **as per the orders to be passed by this Court for the purpose of**  
construction and outstanding if any, shall be used for the purpose  
of payment of compensation to home buyers for the period of  
delay as per the agreement or as may be determined ultimately  
and other dues. [Para 124] [567-F-H; 568-A-B]

**7.2 In the facts and circumstances of the case, it would be**  
absolutely improper for the Authorities to deny issuance of  
occupancy or completion certificate, especially on the ground of  
non-payment of dues. The facts indicate that 9000 families are  
residing for the last several years out of the sheer necessity of  
shelter place and they have not been provided with electricity  
F           **connections and other facilities due to non-issuance of occupancy**  
certificate by the concerned authorities. Most of them have paid  
the entire amount to the builders. The payment to be made to  
concerned Authorities had also been collected by the builder from  
G           **home buyers as component of price of flat, but has not been**

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deposited with the concerned Authorities and the home buyers' money had been diverted, which was more than the dues of the Authorities and the Banks taken together. Had timely action been taken by the Authority, no amount could have been diverted and the position would have been different as it stands today. The concerned Authorities have to issue occupancy certificate as well as completion certificate with respect to the projects in which home buyers residing without insisting for the payment of their dues. This Court has to monitor the payment of the dues to the Authorities as well as the Bankers, from guarantors and other proprietors. The innocent buyers cannot be made to suffer for no fault on their part. [Para 101] [553-C-E]

7.3 Once Authorities have allowed 9000 home-buyers to occupy the premises without terminating the lease on the ground that occupation is illegal. Obviously, builders have put them in possession, they are not the encroachers and they have invested their valuable saving and have no other shelter place to live. They cannot be deprived of their houses and cannot be left without basic necessities of life like water, electricity, etc. The concerned Authorities are responsible to provide electricity, water, and all other basic amenities to buyers as they have the right to occupy the premises. In the peculiar facts of the case, the Court has directed the Authorities to provide basic necessities forthwith. The Central Government and Government of Uttar Pradesh are also directed to ensure that everything is done to protect the interest of the home-buyers without obliging the builders. Obliging the builders by making certain concessions by the Government would amount to perpetrating further fraud and unjust enrichment of builder. The case poses challenge to the law enforcement agencies to act in tandem to book such culprits. [Para 102] [553-E-H; 554-A]

7.4 It is also apparent from the provisions of the Act of 1976 as well as RERA and also the case set up by the Authorities that partial occupation certificate can also be issued. The completion certificate can be issued partially also as per the provisions of Uttar Pradesh Apartment (Promotion of

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A **Construction, Ownership, and Maintenance) Act, 2010.**  
[Para 123] [567-C-D]

8.1 Because of the failure on the part of the Builders to fulfil the obligations towards the buyers and the serious kind of fraud which has been played by them upon the home buyers, the registration of Amrapali group of companies under the Real Estate Regulation and Development Act, 2016 deserves to be cancelled.  
B [Para 148] [581-D-E]

8.2 Because of the gross violations of the conditions of lease deeds executed by the Noida and Greater Noida Authorities in favour of Amrapali group of companies with respect to various projects, the lease deeds are liable to be cancelled and the rights thereupon shall vest in the Court Receiver. [Para 149]  
C [581-E-F]

8.3 The criminal cases have also been registered by the police. The Court proposes to monitor the progress of the investigation. For violations of FEMA and FDI norms, the Enforcement Directorate is directed to make investigation in accordance with the law and submit reports quarterly to this Court. Money laundering aspect is also to be looked into by concerned authorities. [Para 151] [582-B]  
D [582-B]

8.4 It has been found in the Forensic Audit Report that there are several recoverable from various companies as well as from individuals, Directors and other incumbents. It is directed that as per the findings recorded by the Forensic Auditors, the money be deposited in this Court on a time-bound basis and other needful be done as observed by the Auditors. As the Court has approved the report, let the concerned companies/ Directors/ individuals take steps in compliance with the observations and findings made by Auditors to refund the amount and or to do needful as suggested within one month. [Para 152] [582-C-D]  
E [582-C-D]  
F [582-C-D]

8.5 It has also been found that non-payment of dues of the Noida and Greater Noida Authorities and the banks cannot come in the way of occupation of flats by home buyers as money of home buyers has been diverted due to the inaction of Officials of Noida/ Greater Noida Authorities. They cannot sell the buildings  
G [582-C-D]

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or demolish them nor can enforce the charge against homebuyers/  
 leased land/ projects in the facts of the case. Similarly, the banks  
 cannot recover money from projects as it has not been invested  
 in projects. Homebuyers money has been diverted fraudulently,  
 thus, fraud cannot be perpetuated against them by selling the  
 flats and depriving them of hard-earned money and savings of  
 entire life. They cannot be cheated once over again by sale of  
 the projects raised by their funds. The Noida and Greater Noida  
 Authorities have to issue the Completion/ Part Completion  
 Certificate, as the case may be, to execute tripartite agreement  
 and registered deeds in favour of the buyers on part-completion  
 or completion of the buildings, as the case may be or where the  
 inhabitants are residing, within a period of one month. [Para 153]  
 [582-E-G]

8.6 The home buyers are directed to deposit the  
 outstanding amount under the Agreement entered with the  
 promoters within 3 months from today in the Bank account opened  
 in UCO Bank in the Branch of this Court. The amount deposited  
 by them shall be invested in the fixed deposit to be disbursed  
 under the order of this Court on phase-wise completion of the  
 projects/work by the NBCC. The percentage of profit of  
 NBCC is fixed at 8 percent. As it is a Government Undertaking,  
 NBCC has to ensure that DPR is prepared reasonably and  
 the work to be completed as expeditiously as possible.  
 [Para 154 iii and 125] [583-D; 568-B-C]

8.7 The Institute of Chartered Accountants of India is  
 directed to initiate the appropriate disciplinary action against Mr.  
 Anil Mittal, CA for his conduct as reflected in various transactions  
 and the findings recorded in the order and his overall conduct as  
 found on Forensic Audit. Let appropriate proceedings initiated  
 and concluded as early as possible within 6 months and a  
 report of action taken to be submitted to this Court. [Para 154  
 vii] [583-F-G]

8.8 Concerned Ministry of Central Government, as well as  
 the State Government and the Secretary of Housing and Urban  
 Development, are directed to ensure that appropriate action is  
 taken as against leaseholders concerning such similar projects  
 at Noida and Greater Noida and other places in various States,

A where projects have not been completed. They are further directed to ensure that projects are completed in a time-bound manner as contemplated in RERA and home buyers are not defrauded. [Para 154 ix] [584-B-C]

B 8.9 Shri R. Venkataramani, Senior Advocate is appointed as the Court Receiver. The right of the lessee shall vest in the Court Receiver and he shall execute through authorized person on his behalf, the tripartite agreement and do all other acts as may be necessary and also to ensure that title is passed on to home buyers and possession is handed over to them. [Para 154 x] [584-D]

C 8.10 The Court also directs Noida and Greater Noida Authorities to execute the tripartite agreement within one month concerning the projects where homebuyers are residing and issue completion certificate notwithstanding that the dues are to be recovered under this order by the sale of the other attached properties. Registered conveyance deed shall also be executed in favour of homebuyers, they are to be placed in the possession and they shall continue to do so in future on completion of projects or in part as the case may be. The Noida and Greater Noida Authorities are directed to take appropriate action to do the needful in the matter. The Water Works Department of the concerned area and the Electricity Supplier are directed to provide the connections for water and electricity to home buyers forthwith. [Para 154 xi] [584-E-G]

#### Case Law Reference

F [2011] 8 SCR 25	relied on	Para 73
[2012] 9 SCR 311	relied on	Para 74
[2014] 9 SCR 780	relied on	Para 75

G CIVIL ORIGINAL/APPELLATE JURISDICTION : Writ Petition (Civil) No. 940 of 2017.

(Under Article 32 of the Constitution of India)

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With

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Writ Petition (C) Nos. 947, 971, 942, 1041, 1018, 1116, 1144, 1156, 1206, 1242 of 2017, 8, 58, 21, 52, 91, 56, 57, 74, 134, 131, 160, 164, 182, 199, 226, 245, 281, 306, 298, 246, 267, 288, 460, 353, 378, 742, 829, 1397 of 2018, S.L.P.(C) No. 1879 of 2018, SMC (CrI.) No. 4 of 2018.

Maninder Singh, Vikramjit Banerjee, ASGs, Ms. V. Mohana, Vikas Singh, Gaurav Bhatia, M. G. Ramachandran, Shyam Divan, Ms. Vibha Datta Makhija, Krishnan Venugopal, K. S. Namdar, S. B. Upadhyay, V. K. Shukla, Debal Kr. Banerji, Ms. Geeta Luthra, P. N. Mishra, Rakesh Khanna, Siddartha Dave, K. K. Rai, Rakesh Munjal, Neeraj Kishan Kaul, Nikhil Nayyar, V. Shekhar, Sr. Advs., Biswajit Dubey, Uday Khare, Ms. Ruchi Choudhary, Ms. Ashita Chawla, Ms. Srideepa Bhattacharyya, Aditya Marwah, Ms. Surabhi Khattar, Manpreet Lamba (for M/s. Cyril Amarchand Mangaldas), Vibhu Shanker Mishra, Mukul Singh, B. V. Balramdas, Ms. Ankita Sharma, Ms. Nikita Capoor, Prashant Singh, Arvind Kumar Sharma, Raj Bahadur, Vikrant Yadav, Mrs. Misha Rohatgi, Ekant Luthra, Nakul Mohta, Lalit Mohan, Johnson, Manoj Singh, Abhishek Sharma, Utkarsh Jaiswal, Himanshu Shekhar Tripathi, Rohitash Kumar Sharma, Gaurav Goel, Paras Choudhary, Vishal Gupta, Arpit Rai, Aviral Kashyap, Ms. Akansha Goyal, Rishi Matoliya, Ms. Sumati Sharma, Kumar Mihir, Ms. Shayaree Basu Mallik, Sukant Vikram, Hitesh Kumar Sharma, S. K. Rajora, Rajesh Kumar Gupta, Krishnam Mishra, Param K. Mishra, Nishant Kumar, Ms. Anisha Upadhyay, Shashank Singh, Rohit Pandey, Ms. Yamini Raman Acharya, Varad Dwivedi, Ms. Manju Jetley, Balraj Dewan, Vishnu Sharma, Sourav Roy, Ms. Anupama Sharma, Prashant Kumar, Ashutosh Kumar, Gaurav Majumder, Abhay Kumar, Alok Kumar Aggarwal, Ms. Anushruti, Ms. Pavni Poddar, Ms. Gauri Goburdhan, Ms. Shivani L. Lohiya, Ms. Asmita Nanda, Sahil Modi, Ms. Anshul Duggal, Pranav Vashishtha, Kushagra Nigam, Ms. Kritika Singh, Gaurav Goel, Manoj Singh, Altamish Siddiki, Abhishek, Prateek Yadav, Anshul Duggal, Niraj Gupta, Fuzaail Khan, J. Abbas, Ms. Shefali Jain, Mrs. Anushree Gupta, Prakash, Umair Ahmad Siddiqui, Mohd. Waqous, Zeeshan Khan, Kabir Dixit, S. S. Ray, Manmeet Singh, Anugrah Robin Frey, Ankrit Gupta, Ms. Rakhi Ray, S. K. Pandey, Anshul Rai, Chandrashekhar A. Chakalabbi, Awanish Kumar, Ramkrishna Veerendra (for M/s. Dharmaprabhas Law Associates), Mohd. Ehraz Zafar, Divyam Dhyani, Vivek Narayan Sharma, Abhishek Aggarwal, Atul Sharma, Manmeet Singh, Mishra Saurabh, Anshuman

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- B Ms. Shruti Narayan, Ranjan Kumar Pandey, Sandeep Bist, Ram Krishna, Anuj Tiwari, Shikhar Srivastava, Ritwik Sahah, K. K. Bhatt, Ms. Khushboo Khauja, Ms. Shobha Gupta, Joyshree Barman, Tahir Ashraf Siddiqui, Amit Goel, Ms. Ruchi Goel, Ashwani Bhardwaj, Ali Chaudhary, Azeem Kalebude, Jamnesh Kumar, A.D.N. Rao, A. Venkatesh, Rahul Mishra, Rohit Kumar Singh, Ms. Stuti Mishra, Ms.
- C Prerna Mehta, Ms. Gargi Khanna, Rajul Shrivastav, Mohit D. Ram, Ms. Suman Tripathy, Pran Prasoon, R. P. Goyal, Naresh Kaushik, Manoj Joshi, Rahul Kaushik, Vardhman Kaushik, B. Purushothama Reddy, Rahul Sharma, Omung Raj Gupta, Devik Singh, Lakshay Juneja, Ms. Lalita Kaushik, Ms. Priyanka Das, Somiran Sharma, Ms. Sheena Taqui, Ms. Ragini Pandey, Gudipati G. Kashyap, Ms. Apoorva Pandey, Ms. T.
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- F Ms. Manju Jetley, Mrs. Veera Kaul Singh, Ms. Vijaya Singh, Ms. Akansha Singh, Ms. Aishwarya Mishra, T. K. Joseph, P.K. Jayakrishna, Sandeep Jha, Ram Ekbal Roy, Binay Kr. Das, Manoj Sharma, Kapil Kaushik, Roopansh Poorohit, E.R. Sumathy, Ms. Savita Aggarwal, Ms. Kapnana Kalra, Sanjay Kumar Visen, Ms. Ritu Rastogi, Ms. Sasmita Tripathy,
- G Sanjeev Singh, Ms. Anandita Singh, Ms. Amisha Agarwal, Dushansho Polo, Ms. Pallavi Pratap, Ms. Shikha Shrivastav, Ms. Shweta M., Ms. Neena Singh, Nitin Jain, Aneesh Mittal, Abhishek Agarwal, Atul Sharma, Arunav Tewari, Ms. Mona K. Rajvanshi, Aneesh Mittal, Ms. Shreya Sharma, Manish Kumar Saran, Sukant Vikram, R. Sathish, Mrs. Indra Sawhney, Amit Pawan, Rameshwar Prasad Goyal, Prithvi
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Pal, Shishir Pinaki, Shovan Mishra, Raj Kamal, D. K. Sharma, Maheen Pradhan, Varun Tyagi, Siddhant Sharma, Mayank Sharma, Mrigank Prabhakar, Ms. Jyoti Sharma, Gopal Jha, Binay Kumar Das, G. Balaji, A. P. Mohanty, P. K. Pattnaik, Raghavendra Shukla, Robin Singh Solanki, Kumar Mihir, G. C. Tyagi, Kailash Prashad Pandey, Ashok Kumar Singh, Ms. Jasmine Damkewala, Ms. Sangeeta Singh, Prakash Ranjan Nayak, Suchit Mohanty, Mrs. Vandana Kaushal Nee Mohanty, Siboo Sankar Mishra, Ms. E. R. Sumathy, Dr. Alok K. Sharma, Naresh Kumar, Ravindra Kumar, Rabin Majumder, Akhilesh Kumar Pandey, Abhimanyu Bhandari, Ms. Nattasha Garg, Somesh Tiwari, Naveen Kumar, T. Mahipal, Ms. Atishi Dipankar, Ajit Sharma, Satish Pandey, Shashank Singh, Krishanu Mishra, Param Kumar Mishra, Kabir Dixit, Aishwarya Sinha, Ms. Priyanka Sinha, Alok Kumar Singh, Gaurav Goel, Mukesh Kumar Maroria, Jaibir Singh Nayar, Akash Nayar, Ms. Sucharita Ganguly, Siddhartha Jha, Ms. Rashmi Singh, Ashwani Bhardwaj, Tahir Ashraf Siddiqui, Kaushal Yadav, Sanand Ramakrishnan, Ritesh Agrawal, Raj Kamal, Mrs. Anil Katiyar, R. R. Rajesh, Raj Bahadur, Gaurav, Sanjeev Bhatnagar, M. K. Verma, Prakash Kumar Singh, Pawanshree Agrawal, Dharmendra Kumar Sinha, Ms. Astha Sharma, S. K. Verma, Ms. Prerna Mehta, Ms. Amita Singh Kalkal, Divyakant Lahoti, Dr. Shashwat Bajpai, Sharad Agarwal, Rohit Amit Shekdhar, Abhinav Shrivastava, Rahul Gupta, Ms. Sana Kamra, S.S. Ray, Vaibhav Gulia, Ms. Praveena Gautam, Aman Gupta, Dhananjay Garg, Rameshwar Prasad Goyal, Pawan Bhushan, Talha Abdul Rahman, Kunal Mimani, Ms. Vishruti Sahni, Dheeraj Nair, Ms. Sonam Gupta, Smarhar Singh, Virender Goswami, Gautam Narayan, Ms. Soni Singh, Shamik Saha, Manu Nair, Kuber Dewan, S.S. Shroff, Pradeep Misra, Daleep Dhyani, Suraj Singh, Ms. Pallavi Pratap, Avneesh Arputham, Ms. Anuradha Arputham, Sureshan P., Badri Prasad Singh, Aakarshan Aditya, Somesh Chandra Jha, Ms. Sujata Kurdukar, Roopansh Purohit, Gautam Das, Lalit Rana, C.M. Gopal, Sunil Kumar Sethi, Ms. Subasini S., Ms. Kamakshi S. Mehlwal, Ms. Charu Mathur, Anil Kumar Mishra-I, Aditya Jain, Ms. Indra Sawhney, Mohit D. Ram, Ashwani Kumar Upadhyay, Prashant Kumar Umrao, Veer P. Singh, Raghvendar Shukla, R.D. Upadhyay, Sumit Sinha, Ms. Payal Kakra, Sushant Chaturvedi, Ajay Pratap Singh, Ms. Anindita Pujari, Ms. Arti Singh, Ms. Pooja Singh, Kumar Dushyant Singh, Mrs. Gargi Khanna, Ranjan Kumar Pandey, Mishra Saurabh, Mrinal Harsh Vardhan, Abhimanue Shrestha, Anoop Prakash Awasthi, Ms. Anannya Ghosh, Brijesh Kumar Tamber,

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- A Ms. Shobha Gupta, Sanjay Kumar Visen, Sudhansu Palo, Abhitosh Pratap Singh, Mrs. Swarupama Chaturvedi, Ms. Aparna Trivedi, Ms. Hima Lawrence, Vikram, Anurag Rana, Ms. Nikita Tyagi, Ravindra Sadanand Chingale, Brijesh Panchal, Vinod Yadav, Sudhir Naagar, Mushtaq Ahmad, Ms. Suruchii Aggarwal, Ms. Abhigya, B. K. Satija, S.R. Setia, Vikram Patralekh, Ms. Kriti Sondhi, Braj Kishore Mishra, M/S Vibhu Shanker
- B Mishra And Co., Ms. Puja Sharma, Anup Kumar Mishra, Balwinder Singh Suri, Ms. Garima Sharma, Ms. Srishti Gupta, Ms. Aaryav Mehra (for M/s. Kings and Alliance LLP), Ambhoj Kumar Sinha, P. K. Jayakrishnan, M/S. V. Maheshwari & Co., Manoj Saxena, Nitish Massey, Mrs. Mona K. Rajvanshi, Sibho Sankar Mishra, Ram Lal Roy, Abhishek
- C Rajput, Praveen Jain, Annam D. N. Rao, Shri Gaichangpou Gangmei, Ms. Dharitry Phookan, B. Krishna Prasad, Radhakanta Tripathy, Ms. Chandan Ramamurthi, Joby P. Varghese, Nikilesh Ramachandran, Ms. Roothina Dua, Ejaz Maqbool, Kaushik Choudhury, Kedar Nath Tripathy, E. C. Vidya Sagar, Rajesh Kumar Gupta, Alok Kumar, Somya
- D Yadava, Snigdha Singh, Ashutosh Jain, Chirag Babbar, Ketul Hansraj, Balaji Srinivasan, Aneesh Mittal, Ms. Shreya Sharma, Abhijit Sengupta, Kumar Neeraj, Mrs. Lalita Kaushik, Arun K. Sinha, Raj Singh Rana, Pankaj Kumar Singh, Anupam Dwivedi, Ms. Bharti Tyagi, Chandan Kumar, Somiran Sharma, Ms. Arti Singh, Prasenjit Keswani, Kabir Shanker Bose, Raghvendra Pratap Singh, Ankit Anand, Arvind Gupta,
- E Dr. Sumant Bharadwaj, Ms. Mridula Ray Bharadwaj, Rakesh Kailash Sharma, Ms. Tamanna Goyal, Ms. Iti Aggarwal, Chander Prakash (for M/s. D.S.K. Legal), Binay Kumar Das, Chandan Kumar, Ms. Rituraj Choudhary, Tarun Vaid, Siddharth Bansal, Shekhar Kumar, K. Paari Vendhan, Ms. Vandana Sehgal, Ms. Gunjan Ahuja, Abhinav Shrivastava, Somanatha Padhan, Sarvam Ritam Khare, Sanjay Kumar Dubey, Arvind
- F Kumar, Anil K. Chopra, Neeraj Shekhar, Ms. Charu Ambwani, Rajesh Mahale, Vishal Gupta, Ravinder Kumar, Advs. for the appearing parties.

Applicant-in-person.

The Judgment of the Court was delivered by

G **ARUN MISHRA, J.**

1. These writ petitions pertain to the projects of various companies of Amrapali Group in the Noida and Greater Noida.

H 2. It is submitted on behalf of the petitioners that in 2011 in Noida and Greater Noida various real estate projects for housing were started.

In the various projects, the Amrapali Group of Companies proposed to construct approximately 42,000 flats. Various brochures were published and it was assured that the delivery of possession shall be made in 36 months and other world-class amenities were also promised. A

3. Various home buyers booked their apartments during the period 2010-2014. The buyers signed the Standard Form of Allotment-cum-Flat Buyers Agreement and even after payment of 40 to 100 percent of total consideration, they are faced with the threat of forfeiture of huge booking amount. The agreement contained specific terms as to interest. Under Clause 14 of the agreement, the builder authorised itself to finance loan from any financial institution by way of mortgage/charge/securitization of receivable of the land and flats and the allottees will have no objection in this regard. Clause 15 also authorised the builder to keep full authority over the flat depriving the allottees of any lien or interest despite payment of entire amount thereof. B C

4. The builder under Clause 19(a) was obliged to complete the flats of M/s. Amrapali Centurion Park Private Limited within 30 months from the date of commencement of excavation/signing of the agreement, which may vary for plus/minus 6 months. Under Clause 19(c), builder fixed a paltry sum of Rs.5 per square feet super area per month for the period of delay, which would include any/all damages, compensation, claims for delayed possession. D E

5. The buyers invested their life savings and some of them had obtained the loan from the Bank. Most of the buyers have made the payment to the extent of 50 percent to 100 percent abiding by the payment schedule. The dreams of the buyers of obtaining house were given serious jolts when M/s. Amrapali Silicon City Private Limited and M/s. Amrapali Centurion Park Private Limited, respondent Nos.3 and 4 herein respectively were found in serious breach of their obligation to deliver the flats within 36 months. They did not pay the amount either to the Noida or Greater Noida Authority and also to the Banks. Several revised dates of possession were fixed unilaterally, but they failed to deliver the flats. The Amrapali Group has failed to comply with its obligation under the subvention scheme, the tenure of which was approved by the bank/financial institution. The builder had failed to comply with the abovementioned scheme as the buyer making the payment of EMIs to the banks, thereby causing a double loss. Some of the consumers approached the National Consumer Dispute Redressal Commission (for F G H

A short, ‘the NCDRC’) by filing Consumer Complaint No.213 of 2017 under Section 12(1)(c) of the Consumer Protection Act, 1986.

6. The Bank of Baroda had filed Company Petition No. (IB)-121(PB)/2017 before the National Company Law Tribunal (for short, ‘the NCLT’) under Section 7 of the Insolvency and Bankruptcy Code, 2016 for triggering the Corporate Insolvency Resolution Process in the matter of M/s. Amrapali Silicon City Private Limited, respondent No.3. The NCLT appointed the Interim Resolution Professional (in short, the ‘I.R.P’). Moratorium was also declared thereby restricting the institution of any suits against the corporate debtor including execution of any judgment, decree or order; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal interest therein; and any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ‘the SARFAESI Act’). The order of NCLT has a direct bearing on the home buyers of M/s. Amrapali Centurian Park Private Limited, respondent no.4, which is virtually owned by M/s. Amrapali Silicon City Private Limited with 98.84 percent shareholding. Both the companies are run by the almost same set of Directors including Mr. Anil Kumar Sharma and Mr. Shiv Priya. Thus, in order to secure the interest of home buyers, in the instant petitions under Article 32, a plethora of intervention applications have been filed.

7. It is submitted on behalf of petitioners that home buyers have put their lives at stake by paying their lifetime savings and hard-earned money in the purchase of flats. As such, they cannot be categorised as ordinary financial creditors to rank pretty low in the order of priority under Section 53. Corporate builder heavily counts upon the home buyers as stakeholders to sustain in the market. Section 53 of the Insolvency and Bankruptcy Code, 2016 is irrational and violates the rights of the home buyers guaranteed under Article 21 as by subjecting the home buyers to the liquidation proceedings of discriminatory nature. The very survival of home buyers has been seriously jeopardised. Not only they are going to lose the entire money with accrued interest, but they also become financially crippled for all time to come even close to the dream of a new home, let alone purchase it. There is no equal protection under

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the Insolvency and Bankruptcy Code, 2016. The moratorium imposed by NCLT directly affecting not only the home buyers of M/s.Amrपाल Centurion Park Private Limited, but also similarly situated lakhs of home buyers in various other projects. They cannot be deprived of their legal rights. Similar plight has been averred by the other buyers in the other several projects.

8. The matter projects the issue of larger public interest. The real estate business has developed and it mainly survived by the money invested by the buyer for the purchase of the house. They have the right to obtain houses. The facts of the instant case project that Noida and Greater Noida have allotted huge plots to the builders by charging a sum of approximately 10 percent and in most of the cases, thereafter no money has been paid. The large number of projects which have come up not only in Noida and Greater Noida, but most of them have not been completed by the builders/promoters and they have siphoned buyers' money in large scale. No action has been taken by the Noida and Greater Noida Authorities against builders for cancellation of leases due to violation to fulfil their obligation. Bankers have financed to builder certain loan on the condition to invest in the projects, but they have also permitted the money to be used as for other purposes as apparent from the report of the Forensic Audit in the instant case which had been submitted by Auditors - Mr. Pawan Kumar Aggarwal and Mr. Ravinder Bhatia. The facts which are projected in the Forensic Auditor Report speaks for itself.

9. Before we consider the Forensic Audit, it would be appropriate to refer to certain orders which were passed from time to time by this Court. This Court on the application filed by petitioner - Bikram Chatterji, passed an order on 22.11.2017, directing builder to deposit 10 percent of the dues to Noida Authorities. This Court also directed that the phase in respect of which Occupancy Certificate and No Objection Certificate, if granted, the possession of flats shall be handed over to the respective flat buyers. Liberty was granted to flat owners to complete the finishing work. Thereafter, an order was passed on 31.1.2018, requesting the builder to deposit amount as ordered on 17.11.2017. It was also pointed that in several places firefighting devices were not installed though the places were occupied by thousands of families of Phase-I of Silicon City of Amrapali in Sector 76, Noida. Directions were issued to do the needful. We also directed to submit the proposal within one week with

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A respect to all the projects, which were incomplete. On 22.2.2018, the following order was passed by this Court:

“Applications for impleadment(s) is/are allowed to the extent of intervention only.

B IN W.P.Nos.160,91,164 of 2018 AND D. NO. 6636 OF 2018

Issue notice on the petition as well as on the prayer for interim relief returnable within two weeks.

Dasti, in addition, is also permitted.

C IN W.P.(C) Nos. 942/2017 AND 8 OF 2018

Heard learned senior counsel for the parties.

D Pursuant to the order passed on 21.02.2018, Mr. Ranjit Kumar, learned senior counsel assisted by Mr. Gaurav Bhatia and Alok Aggarwal, appearing on behalf of the promoters of Amrapali Group has produced a compilation ‘A’ before this court on behalf of the said promoters disclosing the particulars of the on-going projects, stages of the work vis-a-vis the towers involved, the likely time to complete the remaining works and the cost of construction therefor.

E Mr. Ranjit Kumar, learned senior counsel, has in particular drawn the attention of this court at pages 4 & 5 of the compilation ‘A’ which deal with 19 towers as mentioned therein of Amrapali Leisure Valley Developers Pvt. Ltd. (Leisure Park). In the chart, on these two pages of the compilation amongst others the number of units, saleable area, the proposed/likely time to complete the finishing work, the total balance amount payable by the home buyers and the total expenditure to be incurred in completing the work, have been indicated. As this chart reveals the likely time to complete the work and to deliver possession in accordance with the law, ranges from 3 to 15 months. According to the respondent, an amount of Rs.87.28 crores is required to complete the finishing works in fairness as mentioned therein.

G When enquired by this court as to the guarantee for the implementation of the arrangements proposed for all practical purposes, Mr. Ranjit Kumar, on instructions, has submitted that to ensure that the works are completed by the time as proposed 12

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developers in addition to the Galaxy group have given their letters A  
to collaborate with the respondent promoters for the said purposes  
as testified by the documents available in compilation 'B'.

Learned counsel appearing for the home buyers, however, have B  
expressed some reservation contending that the arrangements as  
proposed do not inspire confidence in view of the past experience  
and have pleaded that unless the 13 developers who undertake to  
collaborate with promoters of Amrapali Group are tied down with  
necessary conditions, the very executability of the project would  
be doubtful. To this Mr. Ranjit Kumar, learned senior counsel has  
urged that adequate undertakings would be given by the promoters C  
of Amrapali Group as well as the other developers.

Having regard to the rival submissions made and the attendant  
facts and circumstances and also considering the predominant  
interest of the home buyers, we are of the view that it would be in  
the fitness of things to permit the promoters of Amrapali Group to  
immediately start the finishing work as proposed in the units of D  
the towers as listed at pages 4 & 5 of Compilation 'A' on the basis  
of the arrangements as proposed.

In order to examine the bonafide of the proposal and the progress  
of the works that would be achieved, list these matters on 27th  
March at 2 P.M. By then the promoters of Amrapali Group would E  
furnish to this court complete details of the proposals in all respects  
made by the collaborators/developers and ensure completion of  
the projects/finishing work as indicated in chart.

We part with the belief that the respondents-developers would be  
true to their assurances to this court and also to the home buyers. F  
Needless to say that all promoters of Amrapali Group shall furnish  
their undertaking by 7th March 2018. Further orders in this regard,  
as considered necessary, would be passed on the next date i.e. on  
27.03.2018.

In response to the prayer made on behalf of the developers that G  
the insolvency proceedings before the NCLT ought to be stayed,  
we on this stage leave the parties to make the appropriate prayer  
as advised before the said Forum.”

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A 10. Keeping in view the predominant interest of the home buyers,  
vide above order we directed the Amrapali Group to complete the projects  
and the finishing work as assured, but it was not done as apprehended  
by the home-buyers. This Court vide order dated 15.3.2018, directed to  
submit a joint proposal with respect to providing project wise information  
of the stages of various building. Thereafter, on 27.3.2018, learned senior  
B counsel appearing for Amrapali Group stated that they are ready to  
undertake the completion of the projects of Amrapali Group and we  
requested the I.R.P. of Amrapali Group not to proceed any further, in  
view of the assurances given by the Amrapali Group to undertake works.  
This Court on 10.5.2018 has passed an order for installation of lifts in the  
C Towers and also to make certain lifts functional. We also asked the  
promoters/ developers to submit the statement of the total price of the  
flats, the total amount paid to the builder by the flat buyers, the total  
amount spent by the builder on the construction and how the remaining  
part of the money paid by buyers has been utilised. It also transpired  
D from documents that money had been transferred to certain other  
companies, thus, this Court has asked for the details of the composition  
of the transferee company including the names of the Director and for  
what purpose money was transferred and how it is to be retrieved and  
how projects are to be completed.

E 11. On 17.5.2018, this Court passed the following order:

“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.  
F 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 timelines and  
the co-developers had been chosen to undertake the completion  
of the projects and remaining work at the site. The independent  
G 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.

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3. The following are the basket-wise proposals: A

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. B

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. C  
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III. LEISURE PARK :

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

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) F  
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 up to 22 (twenty-two) months. G

(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. H

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

SECOND BASKET

PRINCELY ESTATE :

B 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.

C It is also agreed 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.

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

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

THIRD BASKET

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

G 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 :

H Zodiac comprises of 2230 units. It is agreed 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

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 codeveloper being M/s. IIFL or M/s. Galaxy Dreamhome Developers Pvt. Ltd. B

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. C

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

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. E

B. TERRACE HOMES :

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

C. TROPICAL :

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

D. O-2 Valley :

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

A 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 interse dispute with respect to the work undertaken by the said codeveloper 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 a 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 codeveloper M/s. IIFL to be appointed for the said project so that owing to the interse dispute between the promoter and co-developer, the project may not be delayed.

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B.2. GOLF HOME :

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

(i) Golf Homes :

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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 :

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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 :

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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.

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PROJECT COSMOS KOCHI : A

In COSMOS KOCHI, the project at Kochi, the time limit for completion is fixed from 9 to 18 months. The promoter of the Vananchal 'Kochi', the 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. B

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

FOURTH BASKET

I. DREAM VALLEY : C

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 a phase-wise manner. D

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 a phase-wise manner within 42 months. E

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 : F

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. G

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. H

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III. HEARTBEAT CITY 1 & 2 :

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

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

C

The promoters of these projects are 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.

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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, 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.

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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.

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6. A proposal has also been submitted on behalf of the promoters of the aforesaid projects to sell some of the unencumbered 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 leasehold interest from the Greater Noida Industrial Authority, the realizable value is shown to be is Rs.917.29 crores (Rupees Nine Hundred Seventeen Crores Twenty Nine Lakhs). There is no bank loan but however, there appear 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 the unlaunched property of Amrapali Centurion Park (Commercial) held on a leasehold 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 the progress of the construction, to this Court, consisting of the following members:

- i. Architect of the developer;
- ii. Structural Engineer of the developer;

- A           iii. Chartered Accountant appointed by the developer; as well as –
- iv. Architect of buyers
- v. Structural Engineer of buyers
- B           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 an appropriate periodical report in this Court. We appoint one nominee each of Greater Noida and Noida Authority, to be
- C           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.
- D
- E
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.
- F
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.
- G
13. There are certain 'C' category projects. With respect to those projects also, as they are not taken care of during
- H

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 a 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 the order passed by this Court on 10.5.2018. The aforesaid order is carried out punctually. The promoters of 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 1 st 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 a 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."

The aforesaid order was passed on the basis of the joint proposal, which was in the form of four baskets with independent timelines, submitted in this Court.

A 12. It was also mentioned in paragraph 4 of the above order that admission has been made by the promoters/builders that the money to the extent of Rs.2,765 crores, out of six projects has been transferred to other projects. Though we were inclined to direct the promoter to deposit the said amount in this Court, we refrained from directing as the willingness to complete the projects was shown by engaging services of co-developers and builder assured that it would undertake the work. It was proposed to sell certain unencumbered properties of Amrapali Group for payment of these projects, however, this Court directed to deposit an amount of Rs.250 crores in the escrow account to be opened in the UCO Bank, Supreme Court Branch on or before 15.6.2018. This order was again not complied with and the work was not undertaken and inability was shown to deposit the amount in the escrow account as ordered. When the case was listed on 18.7.2018 in this Court, learned counsel appearing on behalf of promoters was to place progress report, but in order to wriggle out of the compliance of order, totally a different stand was taken in this Court and it was stated that a notice dated 13.7.2018 has been issued by the Ministry of Housing and Urban Affairs, which was placed on record, indicating that a High-Level Committee has been created by the Government of U.P. to redress the issues of home buyers and the affected parties of incomplete/stalled house projects in the Noida/ Greater Noida/Yamuna Expressway under the Chairmanship of Secretary, Ministry of Housing and Urban Affairs. It was submitted on behalf of Amrapali Group that a meeting was held today and prayed that something concrete is likely to happen within ten days. We deferred the hearing up to 1.8.2018. However, at the same time, we directed the builder to file the accounts with effect from 1.4.2008 till date under the certificate of Chartered Accountant and also a list of all assets in a sealed cover in this Court. As a matter of fact, there was no compliance of the order dated 17.5.2018 of this Court, but the totally indifferent stand was taken so as to wriggle out of their obligation under said order was passed by this Court on the basis of the joint statement.

G 13. This Court has passed an order on 1.8.2018, wherein it was observed that in order to scuttle the hearing in this Court, it was stated that the meeting was held on the very same day. The order passed by this Court on 17.5.2018 to deposit Rs.250 crores had not been complied with. There was also an admission made by Amrapali Group that there was a diversion of more than Rs.2,765 crores from six projects. This

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Court observed that money could not have been diverted. That would *prima facie* tantamount to a criminal breach of trust. We directed that the individual bank accounts of the Directors of all the 40 companies be frozen and ordered attachment of the properties in the individual names of Directors and also put a restriction on the alienation of the properties in the names of individual Directors etc. Following order was passed by this Court: A  
B

“1. On 17.5.2018, we have passed a detailed order in these cases after hearing learned counsel for the parties for several days. We need not reiterate the directions, statements, representations made to this Court and the orders which we have passed. Order dated 17.5.2018 is clear in this regard. As per the order passed by this Court, certain obligations were imposed and certain directions were issued which were to be complied with by the group of companies as well as the co-promoters, etc., as mentioned in the aforesaid order. The compliance has not been reported an effort was made to wriggle out of order passed on 17.5.2018. D

2. When the matter was taken up on 18.7.2018, compliance of the order was not reported and on the other hand, a letter dated 13.7.2018 signed by Mr. Akhil Saxena, Deputy Secretary to the Government of India, was placed on record. The letter is extracted hereunder : E

“No.D.17024...sic  
Government of India  
Ministry of Housing and Urban Affairs  
Nirman Bhawan, New Delhi  
Dated July 13, 2018 F

Meeting Notice

Subject: Meeting to discuss the issues of homebuyers and affected parties of Noida/Greater Noida/Yamuna Expressway scheduled to be held on 18.07.2018 at 11:00 A.M. - 1.00 P.M. - regarding. G

The undersigned is directed to state that a High-Level Committee has been constituted by the Government of UP to redress the issues of homebuyers and affected parties of incomplete/stalled housing projects in the Noida/Greater Noida/ H

A Yamuna Expressway under the Chairmanship of Secretary, Ministry of Housing and Urban Affairs.

2. In this regard the Chairman of the Committee and Secretary MoUHUA will hold a meeting with the developers/promoters (Amrapali Group Jaypee Infratech Limited, Three C Group of Companies and Unitech Limited) on 18 July, 2018 at 11:00 A.M. - 1:00 PM in Room No.123-C, Conference Room, 1st Floor, Nirman Bhawan, New Delhi. You are requested to kindly make it convenient to attend the meeting personally. You may also bring the details of the housing projects promoted by your company along with your specific plans as to how earliest you can deliver the flats/houses to the home buyers who have made payments towards the same to your company.

3. A line in confirmation on email, housingministry@gmail.com will be highly appreciated.

D Sd/-  
(Akhil Saxena)  
Deputy Secretary to the Govt. of India  
Tel No.23062280

To

E 1. Shri Shiv Priya, ED, Amrapali Group, C-56/40 Sector-62, Noida-2301307.

2. Shri Nirmal Singh, Three C Group of Companies, Tech Boulevard Central Block, Plot No.6, Sector 127, Noida-201307.

F 3. Shri Manoj Gaur, Jaypee Infratech Limited, Sector 128, Noida-201304 (U.P.), India.

4. Dr. Ramesh Chandra, Chairman, Unitech Limited, 6, Community Centre, Saket, New Delhi-110017.

Copy to :

G 1. Sr.PPS to Secretary, Ministry of Housing and Urban Affairs.

2. PPS to Additional Secretary (Housing), Ministry of Housing and Urban Affairs.

3. PS to Economic Adviser (Housing), Ministry of Housing and Urban Affairs.

H

4. Deputy Secretary (Housing), MoHUA A

Sd/-  
(Anil Saxena)  
Deputy Secretary to the Govt. of India  
Tel. No.23062280"

3. In order to scuttle the hearing in this Court on 18.7.2018 on B  
which the case was listed, it was reported to us that meeting was  
held on that very day which was presided over by the Secretary,  
Ministry of Housing, who is the Chairperson of the Committee  
and Secretary MoUHUA. Thereafter, pursuant to the said meeting  
it was stated today that NBCC India Limited, a Government of C  
India enterprise, has invited "Expression of Interest" for joint  
development in real estate with respect to the development of  
residential and commercial real estate projects in Delhi and NCR  
region, inclusive of the Amrapali Group for which we have already  
passed orders on 17.5.2018.

4. In case the Committee constituted by the Government of Uttar D  
Pradesh wanted to take up the matter of Amrapali Group in view  
of the order dated 17.5.2018, it was necessary for them to seek  
the express permission from this Court, as this Court was in seisin  
of the matters, before transacting any business in this regard. But E  
that has not been done and when the order of this Court stands, it  
was not at all appropriate or permissible to take up the matter by  
the Committee and intermeddle with the order passed by this Court  
when the matter is pending in this Court. The action has a clear  
effect on rendering order passed by this Court ineffective. In the  
circumstances, we deem it appropriate to direct the presence of F  
the Secretary to the Ministry of Housing and Urban Affairs and  
the Chairman of the NBCC India Limited and to file their affidavit  
in this Court and produce entire record so as to show how they  
have convened the meeting and acted in the manner in the matter  
pending in this Court, without permission of this Court before G  
dealing with the matter of Amrapali Group. Let them be present  
before this Court tomorrow, i.e., on 2.8.2018, at 2.00 p.m. to explain  
their stand.

5. Mr. Anil Kumar Sharma, Chairman and Managing Director  
(CMD) of Amrapali Group of Companies were personally present

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A in this Court. He has stated that there are 40 companies in the Amrapali Group of Companies. They are as follows:

1. Ultra Home Pvt. Ltd.
2. Amrapali Silicon City Pvt. Ltd.
3. Amrapali Zodiac Developer Pvt. Ltd.
- B 4. Amrapali Sapphire Developer Pvt. Ltd.
5. Amrapali Princely Estate Pvt. Ltd.
6. Amrapali Eden Park Developer Pvt. Ltd.
7. Amrapali Smart City Developer Pvt. Ltd.
8. Amrapali Smart City Pvt. Ltd.
9. Amrapali Leisure Valley Pvt. Ltd.
- C 10. Amrapali Leisure Valley Developer Pvt. Ltd.
11. Amrapali Centurian Park Pvt. Ltd.
12. Amrapali Dream Valley Pvt. Ltd.
13. Amrapali Homes Project Pvt. Ltd.
14. Hi-Tech City Developer Pvt. Ltd.
- D 15. Sangam Coloniger Pvt. Ltd.
16. Shalimar Coloniger Pvt. Ltd.
17. Amrapali Infrastructure Pvt. Ltd.
18. Amrapali Aerocity Pvt. Ltd.
19. Amrapali Mahi Developer Pvt. Ltd.
20. Amrapali Buddha Developer Pvt. Ltd.
- E 21. Amrapali Hospitality Pvt. Ltd.
22. Amrapali Biotech Pvt. Ltd.
23. Amrapali Health Care Pvt. Ltd.
24. Amrapali Hospitality Pvt. Ltd.
25. Amrapali Power & Cement Pvt. Ltd.
- F 26. Stunning Construction Co. Pvt. Ltd.
27. Kapila Build Home Pvt. Ltd.
28. Gaurisuta Infrastructure Pvt. Ltd.
29. Gaurisuta Infra Solution Pvt. Ltd.
30. MSB Software Pvt. Ltd.
31. MVG Techno Consultant Pvt. Ltd.
- G 32. Noida Text Fab Pvt. Ltd.
33. Navodya Properties Pvt. Ltd.
34. AHS Joint Venture
35. Amrapali Homes
36. Amrapali Grand
- H 37. HIMS Pvt. Ltd.

38. Amrapali Spring Valley Pvt. Ltd. A  
39. Amrapali Patel Platinum  
40. Amrapali Media Vision Pvt. Ltd.

6. The order passed by this Court of depositing 250 crores of rupees has not complied. There is an admission already made by Amrapali Group that there was a diversion of more than 2765 crores of rupees from six projects to other projects. In the circumstances, we direct the Bank accounts of all the aforesaid 40 companies be frozen forthwith. We forthwith attach the entire immovable properties of these 40 group of companies. They shall not be entitled to deal with the same in any manner whatsoever without the express permission of this Court. B C

7. There was a diversion of the funds, prima facie it is apparent that when the money was paid by the buyers for the purpose of investment in the particular project, it could not have been diverted. That would prima facie tantamount to a criminal breach of trust. We are not expressing any final opinion in this regard at this moment. However, at the same time, we propose to take a call on this after hearing the parties on this aspect. However, so as to further ascertain the extent of internal and external diversion from all the projects. The names of all the Chartered Accountants of all the aforesaid 40 companies be disclosed to us and their reports from 2008 till today be placed on record by tomorrow. D E

8. The individual Bank accounts of the Directors of all the 40 companies are also freezed and they shall not be entitled to operate the same with immediate effect. Let details of all Bank accounts be furnished by tomorrow of companies and their Directors and of personal accounts of Directors. The properties in the individual names of the Directors are also attached and the same shall not be disposed of or alienated in any manner without the express order of this Court. F

9. Let the matter be listed tomorrow, i.e., on 2.8.2018 at 2.00 p.m. Mr. Anil Kumar Sharma, Mr. Shiv Priya and Mr. Ajay Kumar of Amrapali group of companies to remain personally present in this Court tomorrow, along with the aforesaid officials.” G

14. It was stated by Secretary, Ministry of Housing and Urban Affairs that he was not aware of the order passed by this Court on H

A 17.5.2018, appointing promoters and time frame and stated that he never intended to violate the order passed by this Court. On 2.8.2018, we have recalled the order dated 17.5.2018, considering the dubious and unfair conduct of the Amrapali Group of Companies and on each and every day they have been shifting their stand. Earlier, they have filed affidavits making certain representations and now want to wriggle out of it. Following

B order was passed on 2.8.2018, recalling the order dated 17.5.2018:

C “1. Pursuant to the order passed yesterday, i.e., on 1.8.2018, Mr. Durga Shankar Mishra, Secretary, Ministry of Housing and Urban Affairs, has stated that a Committee has been constituted by the Government of Uttar Pradesh under his chairmanship to look into the problems of three lakhs home buyers of Noida, Greater Noida, and Yamuna Expressway. The Committee has been constituted so as to take a policy decision so as to solve the problems of the home buyers. On 25.6.2018, the first meeting of the then Chief Executive Officers (CEOs) of the Noida and Greater Noida, real estate representatives, etc. was held and thereafter, second meeting was held on 10.7.2018, which was attended by 32 persons, inter alia including certain representatives of the Flat Owners Welfare Association, Joint General Manager, ICICI Bank, AGM of the Bank of Baroda, General Manager of HDFC Bank and Chairman of CREDAI had also attended the meeting. Thereafter, no meeting of the Committee has been held. However, a discussion with the Chairman of representatives of the four builders, i.e., Amrapali Group, Jaypee Infratech Ltd., Three C Group and Unitech Limited was held on 18.7.2018, along with details of the housing projects promoted by their companies and with the specific plans as to how earliest they could deliver the flats/houses to the home buyers who have made payments towards their companies. It was also stated by the Secretary that he was not aware that this Court has passed an order on 17.5.2018 appointing promoters etc. and the time frame within which the projects have to be completed. He has also stated that he never intended to violate the orders passed by this Court. The statement made by Mr. Mishra is placed on record.

H 2. It was also submitted that NBCC issued advertisement on 30.7.2018 and the Chairman of the NBCC has informed us that the said advertisement was not issued specifically for Amrapali Group of companies. Similar advertisements have been issued

earlier too. However, it was stated by the Chairman that they are ready to undertake the Amrapali Group projects and to complete them, after making the detailed study of the stage and investment which is required to be made in the projects that are incomplete. A

3. Pursuant to the directions issued by the Court, Amrapali Group has placed on record the account numbers and other details of 38 of Amrapali Group of companies only, but not that of the personal accounts and the accounts in names of its Directors, as per the order passed by this Court on 1.8.2018. They have furnished the details of 38 companies out of 40. They are contained in Annexures marked as X-1 and X-2. B

4. We direct the Registry to apprise the concerned Banks along with the text of the order and the account numbers so furnished. Let the copy of the order be sent to the Banks for its due compliance. C

5. It was stated that the personal Bank accounts in the names of the Directors of aforesaid 40 companies are in the process of compilation and that the account numbers shall be furnished to this Court by Monday, i.e., 6th August 2018. On the account number being furnished, the Registry is directed to intimate the order to the said Banks also regarding the order passed by this Court on 1.8.2018. D E

6. Two applications, i.e., I.A.Nos.82917/2018 and 92775/2018 in W.P.(C)No.942/2017 have been filed by the Amrapali Silicon City Flat Owners Welfare Society and Heartbeat City for modification of order dated 17.5.2018. It was also pointed out that one of co-developer, IIFL, has backed out, thus, it was not possible to comply with the order dated 17.5.2018 and same requires modification. The sum of Rs.250 crores has also not been deposited. An application has been filed so as to waive that requirement also. When we see the conduct of the promoter on the various stages, it is apparent that on 18.7.2018 on behalf of the promoter it was stated before us that the Committee has been constituted by the Government of Uttar Pradesh under the Chairmanship of the Secretary, Ministry of Housing & Urban Affairs, as such we should wait for the outcome of same. Yesterday, i.e., on 1.8.2018 it was stated before us that NBCC is now considering to take over the entire project of Amrapali Group as it has issued an advertisement F G H

A for the purpose and as such the Court should stay in our hands. In  
the circumstances, it is apparent that the Amrapali Group does  
not intend to abide by order dated 17.5.2018 and its conduct is  
dubious. Thus, we have no hesitation in recalling the order dated  
17.5.2018 permitting Amrapali Group to complete the projects.  
B We hereby recall the order entrusting the project to the Amrapali  
Group of companies for completion, along with co-promoters, and  
we place it on record that the conduct of Amrapali Group of  
companies is wholly unfair and on each and every date they have  
been shifting their stand before us and it was absolutely improper  
on their part to do so. They have violated our order also. They  
C have earlier filed affidavits making certain representations and  
now want to wriggle out of that. Be that as it may. We recall the  
order dated 17.5.2018 under the aforesaid circumstances.

7. In the circumstances, as the Chairman of the NBCC is present  
before us and has shown willingness to undertake the projects,  
D the matter cannot be left at that. Let the NBCC complete the  
projects, let it undertake the study and work out the details. Though  
the time of 45 days was prayed, considering the urgency of the  
matter, we grant 30 days' time, as the people are deprived of  
basic necessities of life, and they are residing in some incomplete  
E buildings. We appreciate the gesture of the Chairman of NBCC,  
who has assured us to complete the projects as may be directed  
and to submit a proposal in this Court within 30 days. Let a proposal  
be submitted in 30 days before us.

8. In the circumstances, we direct the promoters and also request  
F Mr. M.L. Lahoty and two other representatives to be nominated  
by home buyers to assist and submit the details and all requisite  
documents to the Chairman, NBCC as also to the Chairman of  
the Committee. Noida authority and Greater Noida authority shall  
also furnish to them all the documents which are in their possession.  
Let promoter, Noida authority, Greater Noida authority and buyers  
G furnish all the documents/pleadings they have submitted to this  
Court, within three days from today.

9. We also place on record the appreciation to the offer made by  
the Chairman, NBCC, and also by Mr. Mishra, Chairman of the  
H Committee. Let them make an endeavour to form policy and to  
solve problems of other groups of companies also. However, the

matters are pending in the Court, they have to appraise this Court of their proposals and only thereafter to take steps in this regard. A

10. Mr. Anil Mittal, the Chartered Accountant of Anil Ajay & Company, who is the statutory auditor for most of the companies, is present in the Court. Similarly, Mr. Ravi Kapoor, the Chartered Accountant of Serva Associates is also present in the Court. It is pointed out that the information furnished by them is contained on page 6 and 7 of the compilation Annexure X-1. It is stated by Mr. Anil Mittal that his engagement as statutory auditor has begun in the year 2008 and continued up to 2015. He was the auditor from 2008 and has also stated before us that after 2015 no papers have been given to him. It was stated by Mr. Gaurav Bhatia, learned counsel, that at present S.N. Dhawan & Company is doing the audit of the Company. B C

11. Since we find that various documents have been placed on record indicating transfer/diversion of the fund by the Amrapali Group itself, the Amrapali Group has admitted that out of the six projects, there was transfer/diversion of Rs.2765 crores. Though it was submitted that the amount was transferred to other projects, in our opinion, this was clearly diversion of funds. The amount given by the home buyers for the completion of their projects/houses could not have been diverted before the completion of the projects. We request the auditors to find out how much money has been so transmitted/diverted to other projects and how it has been used. Let projectwise information of all projects be furnished. The Amrapali Group of Companies shall furnish the requisite information and documents and shall cooperate with the statutory auditors. Let the auditor certify how much money has been diverted from which project and how it has been used in other projects, including the projects of Heartbeat city. The internal auditor is requested to assist Mr. Anil Mittal in this regard. D E F

12. It was stated before us that the bank accounts of Amrapali Healthcare Pvt. Ltd. have also been frozen and it is necessary to run the hospital to keep the accounts operational. Considering the fact that the hospital requires money on a day-to-day basis, we order de-freezing of account of Amrapali Healthcare Pvt. Ltd. only. However, at the same time, we direct that let the details of the bank account(s) of it be placed before us right from 2008 till H

A date. Interim order dated 1.8.2018 to continue unless otherwise ordered.

13. For the purpose of assessing the proposal to be submitted by the NBCC and to pass requisite orders in this regard, we fix the hearing on 4.9.2018 at 2.00 p.m. Let the aforesaid reports be submitted by Mr. Anil Mittal and Mr. Ravi Kapoor, Chartered Accounts before 4.9.2018.

For further order of other IAs. and arrangement of funds to be provided to NBCC and regarding furnishing of accounts, let matters be listed on 8.8.2018 at 2.00 p.m. Personal presence of Secretary, Housing and Urban Affairs and Chairman, NBCC, is dispensed with.”

15. There are various order sheets indicating how the wrong and incomplete information had been submitted on behalf of Directors of Amrapali Group of Companies.

D 16. The National Building Construction Corporation Ltd. had been appointed by this Court to complete the construction vide order dated 12.9.2018.

17. Vide order dated 8.8.2018, this Court had directed the Directors of various companies including the Managing Directors to file affidavits regarding immovable properties and moveable properties and their valuation. We had earlier asked the statutory auditors of Amrapali group of companies to conduct the audit. However, it was pointed out on 4.9.2018 that there was the necessity of appointing independent auditors so as to conduct a forensic audit. On 6.9.2018 this Court directed the forensic audit. Following order was passed on 4.9.2018 :

F “We have heard learned counsel for the parties. A proposal has been submitted by the NBCC in the booklet form. Let it be placed on record along with an affidavit of a responsible officer of the NBCC. Let a copy of the same be circulated to the learned counsel appearing for the parties.

G Let Amrapali Group of Companies file a response to the NBCC’s proposal for completion of the project.

We have heard Sh. Gaurav Bhatia about the property which can be sold. He has attracted our attention to the affidavit of Shri Anil

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Kumar Sharma in terms of the Court's order 10.5.2018 filed with respect to I.A. No. 7366 of 2018 in W.P. No. 942 of 2017. A

He has submitted that Saleable Area Commercial is described at page 20 of the affidavit. The value is given as per the development model, not the Distress Sale Value. Let Distress Sale Value be also stated on affidavit and with respect to the fact that what are the encumbrances and also the dues of Noida/Greater Noida Authorities as against the property as mentioned at page 20 of the affidavit. B

He has also attracted our attention to the list of encumbered property on page 27 of the affidavit and list of unencumbered property on page 28. C

Let affidavit be filed specifically stating with respect to the nature and extent of encumbrances with respect to encumbered property and how much is the amount due and what are the documents executed. D

With respect to list of the unencumbered property also mentioned at page 28 there are certain dues of Noida/Greater Noida Authority that may be clearly specified and let affidavit also specifically state that these properties are otherwise unencumbered properties. Affidavit in detail be filed in this regard too. E

With respect to the audit, the accounts for three years have not been made available to statutory Auditor as pointed out by Mr. Anil Mittal of Anil Ajay & Co., appointed by this Court.

Mr. Maninder Singh learned senior counsel has urged that there is the necessity of appointing independent auditors so as to conduct a forensic audit. He has prayed for time to suggest the names in this regard. It was also pointed out by the learned counsel appearing for the Bank of Baroda that certain audit exercise has been undertaken on behalf of the Bank of Baroda with respect to the transaction entered into with Bank of Baroda which was the subject matter of other proceedings. Let the names of Auditor be suggested so as to conduct a deep and pervasive forensic audit of the Amrapali Group of Companies. F  
G

Suggestions be made on the next date of hearing.

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A Mr. Shyam Diwan and Mr. Siddharth Luthra learned senior counsel have pressed I.A. Nos. 124711-124712 of 2018 and I.A. No. 36562 of 2018. These I.As are to be considered after forensic Audit is concluded and a report is received.

List on 6th September 2018.”

B 18. This Court appointed Mr. Ravi Bhatia of M/s. Bhatia & Co. and Mr. Pawan Kumar Aggarwal of M/s. Sharp & Tannan Company to conduct the forensic audit, which was ordered to be conducted with effect from the year 2008 till date, to be completed within two months. On 12.9.2018, a list of properties was submitted which was to be sold by  
C the Debt Recovery Tribunal, Delhi, (DRT) and the details of properties, title deeds and maps were to be submitted to the DRT. This Court directed statutory Auditor, Mr. Anil Mittal, to hand over the original records of Amrapali group of companies vide order dated 12.9.2018. This Court also directed remaining records from 2008 till date, be handed over within  
D 10 days. Amrapali group of companies were also directed to hand over the documents required by the forensic auditors. The matter was taken up by this Court on 26.9.2018. Considering the non-cooperation of the Directors, the following order was passed by this Court on 26.9.2018 :

“Heard the learned counsel for the parties.

E It was pointed out by Mr. M.L.Lahoty, learned senior counsel that there are certain existing Directors, namely, Mr. Anurag Sanghai, Mr. Vinay Vishal and Mr. Sankalp Shukla, particulars of their properties, etc. have not been filed as ordered by this Court and there are several other existing or former directors whose names have not been disclosed. Let the names of all the directors  
F be disclosed without remiss before the next date fixed along with details of asset etc. as already ordered by this Court.

G It was also pointed out by Mr. Lahoty in I.A. No.116688/2018 that ‘O’ 2 valley particulars have not been disclosed by the group of companies. Let reply to the said I.A be filed by the Amrapali Group of companies and details of ‘O’ 2 Valley be also disclosed.

H It was also pointed out that DRT has initiated the proceedings and has directed the production of the original documents, sanctioned plans and other relevant documents available with Amrapali Group of Companies. It was also submitted that valuation has also been

ordered. We direct the Amrapali Group of companies and the Directors *viz.* Mr. Anil Kumar Sharma, Ms. Shiv Priya, and Mr. Ajay Kumar to submit Maps clearly delineating an unencumbered portion of their properties and other details which have been asked by the DRT. Let them be present before the DRT on each and every date until and unless it is specifically dispensed with by the DRT. Let the order of DRT be complied with by the Amrapali Group of the company before 4.10.2018. A  
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With respect to the handing over the documents by the Statutory Auditors as well as by the Amrapali Group of companies, we note it regrettably that order passed by this Court has been violated and the documents have not been handed over in spite of clear and categorical direction to hand over the documents to forensic auditors within ten days. However, it was pointed out by Mr. Gaurav Bhatia, learned counsel that statutory auditors are going to hand over the document, etc. *w.e.f.* 2008 to 2015 by tomorrow to the forensic auditors. Let all the necessary documents which may be in possession of Amrapali Group of companies in addition to statutory auditors be also handed over from 2008-2015 and also all the papers of Amrapali Group of companies 2015-2018 by tomorrow. We make it clear that the documents with respect to 2015-2018 shall be handed over by the Amrapali Group companies along with all the original documents necessary to do audit shall be handed over to the forensic auditors by tomorrow. Let account books in whatever status they are, at present, be also handed over. C  
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We request the forensic auditors to send their representative on the next date of hearing to apprise us of compliance of this order. F

Before IRB certain proceedings are pending for recovery of dues and inter alia, there are dues of Bank of Maharashtra, etc also as pointed out including that of Bank of Baroda.

Let the details of all the outstanding dues of secured and unsecured creditors project-wise and in total be submitted in this Court in a tabular form. Let total outstanding dues be stated, including that of Noida and Greater Noida authorities supported by affidavit. G

Mr. Anoop Kumar Mittal, Chairman of the NBCC and Ms. Pinky Anand, ASG are present. It was pointed out on behalf of the H

- A NBCC that detailed project report has to be prepared of Group A Project within 30 days and Group B and C Projects within 60 days. It was also pointed out that tenders may be permitted to be floated by NBCC Group A and B projects. The NBCC is permitted to float the tenders and also to go ahead with the preparation of the DPRs and also to submit detailed proposals, terms, and conditions in this Court as prayed by them. Existing architects of Amrapali Group of Companies to ensure cooperation with the NBCC. Non-cooperation shall be viewed seriously by this Court.
- B
- C Let DRT go ahead with the process of finding out the encumbrances. We also permit the Bank of Maharashtra and all other such creditors who may have a charge on the unencumbered property to state their claim before DRT.
- Let reply be filed in IA No.139255/2018, 117300/2018,95140/2018, 135446/2018, 138400/2018.
- D All applications for impleadments to the extent of intervention are allowed.
- List on 9.10.2018.”
- E 19. On 9.10.2018 when despite the orders dated 12.9.2018 and 26.9.2018, orders were not complied with, records were not handed over and there was utter violation of orders passed by this Court, we directed the Police to seize all the documents and to hand them over to the Forensic Auditors from the possession of 46 companies and their Directors. We directed all the Directors to surrender their passports and hand them over to the Police. The observations made by this Court were being misused by Amrapali group of companies, “No coercive action will be taken by any authority with respect to the building where completion is going on under the order passed by this Court”. As observed on 27.3.2018, we clarified that the observations did not deal with any police investigation in any criminal case or in FIR which may have been registered with the Delhi Police, EOW, to make investigation in any case which is required to be made. Police was free to make an investigation. On 10.10.2018 this Court directed the concerned police officers to seal all the seven premises situated at Noida and Greater Noida. On 11.10.2018 certain directions were issued so as to facilitate the forensic audit. After audit work was over for the day, on a prayer
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made by learned counsel on behalf of the three Directors of Amrapali group of companies, they were permitted to stay overnight in Hotel Park Ascent but they shall not be allowed any access to the mobile phone or the facility of telecommunication without permission in writing of the police. This Court also directed issuance of a formal notice on the *suo moto* contempt. A

20. On 24.10.2018 the forensic auditors were present. They have disclosed as to diversion of funds of more than Rs.100 crores to a firm known as GauriSuta Infrastructures Pvt. Ltd. in which Ashish Jain and Vivek Mittal were the Directors. They are stated to be the relatives of the Statutory Auditors. We directed the personal presence of Chander Wadhwa, CFO of Amrapali group of companies on the next date. On 26.10.2018 the Forensic Auditors submitted an interim report. It was pointed out that the tally data of 23 companies, reserves and surplus figures as appearing in the tally data does not reconcile with the reserves and surplus as appearing in the last signed financials. The difference has also been pointed out in a tabular form. There were several advances, investments, utilisations, advances made to suppliers and payments made to Mr. Anil Sharma and Mr. Shiv Priya, Directors of the company for professional charges, etc. It was also pointed out that in spite of repeated reminders, groupings have not been supplied. Grouping is a process to indicate the process between the stage of trial balance, balance sheet, and profit and loss account. All files had not been handed over and Mr. Anil Mittal, the Statutory Auditor had sent one file late in the evening. This Court ordered that in case documents were not handed over, the same shall be viewed seriously and the incumbents punished suitably. The last opportunity was granted to hand over the requisite documents to the Forensic Auditors. We directed Statutory Auditors to comply with the requisition made by the Forensic Auditors. It was also noted by this Court that a sum of Rs.242.38 crores had been handed over to Gaurisuta Infrastructure Private Ltd., Vidhyashree Buildcon Private Ltd., Mannat Buildcraft Private Ltd. This Court observed in para 5 thus : B  
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“5. It has also been pointed out by Shri Pawan K. Aggarwal in his report that so far with respect to four companies, namely, Gaurisuta Infrastructure Pvt. Ltd., Vidhyashree Buildcon Pvt. Ltd., Mannat Buildcraft Pvt. Ltd. And Jhamb Finance & Leasing Pvt. Ltd., only it has been noticed that a sum of Rs.242.38 crores has been G

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A handed over to them and in most of these firms Shri Ashish Jain  
and Shri Vivek Mittal are the Directors. Beside, it was stated  
before us by Shri Anil Mittal, statutory auditor, that his nephew-  
Vivek Mittal joined as a Director on the request made by Shri  
Chander Wadhwa, CFO, to create a company and he has in turn  
B asked Shri Ashish Jain, an employee of his client, to join as another  
Directory of at least 10 companies, created at the request of the  
CFO and Amrapali Group of Companies. It is a shocking state of  
affairs that the statutory auditor himself was responsible for the  
creation of companies in an aforesaid manner. Shri Anil Mittal  
has also stated before us that he was aware that the money was  
C flowing to the said companies through bank statements. However,  
on a specific query made by this Court to him, he has admitted  
that this fact of flow of money was not reflected in the audit  
report, which was signed by him in the audited Balance Sheet, in  
D spite of knowing the fact that money has flown out of the accounts  
of the Amrapali Group of Companies to aforesaid companies.”

D About the creation of companies consisting of his nephew as  
Director on the request made by Mr. Chander Wadhwa, CFO for asking  
Ashish Jain, an employee of his client, to join as another Director. The  
Company agreed at the request of the CFO and Amrapali group of  
E companies.

E 21. Since the CFO did not reply to the questions put by the Forensic  
Auditors to him, his conduct has been noted by this Court thus:

F “6. We regretfully also note the conduct of the CFO, who is  
personally present before us today. His questions and answers  
have been placed on record by Shri Pavan K. Aggarwal, Forensic  
Auditor, along with his report and today we find that Shri Chander  
Wadhwa has contradicted his version which he had made to the  
Forensic Auditor. He has apologized for making wrong statements  
to the Forensic Auditor and has assured us that in future he will  
G render all cooperation to the Forensic Auditors rightly, honestly  
and diligently. He has admitted today that there was appointment  
order as CFO and there was an authorization in writing issued to  
him for dealing with the banks. He has virtually contradicted the  
entire statement which he had made and has feigned ignorance to  
the Forensic Auditors. Be that as it may. We give him the last

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opportunity to come out clean and live up to the reputation of a profession of a Chartered Accountant. Let him cooperate with the Forensic Auditors, supply entire information correctly, truly and diligently. In case any remiss is found, it is made clear not only to him but also to the statutory/internal auditors that we will be compelled to take appropriate action as against them in the aforesaid factual situation, including the one for the professional misconduct.”

22. It was further pointed out by the forensic auditors that there were 23 more groups of companies to whom money had been diverted and these companies had been created by Amrapali group of companies. This Court directed disclosure of these companies in the order dated 26.10.2018 thus:

“7. Shri Pavan K. Aggarwal has also pointed out to us that there are 23 groups of companies to whom the money has been diverted and these companies have been created. Let the names of the companies be disclosed to the Amrapali Group of Companies and we direct the police to seize all the documents of these 23 companies to which money has been diverted and be handed over to the Forensic Auditors.

9. We also direct the Directors of other 23 companies, which have been identified so far by the Forensic Auditors, to file their detailed affidavits in this Court, disclosing the amount received by them, dates of receipt, for what purpose and how it is utilized and invested by them.”

23. We had also directed Mr. Chander Wadhwa, CFO to file affidavit pointing out appointment order, authorisation, authority to sign any voucher and his entire role in the organisation thus:

“13. Let Shri Chander Wadhwa, CFO, file his affidavit in this Court placing the appointment order; authorization made to him from time to time; his authorization letters; details of attendance, if any, at the Board meetings; authority to sign any voucher; and his entire role which he has performed in the organization. Besides, it was also stated by Shri Chander Wadhwa, CFO, that he was one of the Directors of the Amrapali Development UK Ltd. and Saffron LLP, Delhi. Let the details of the Articles of Association

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A of these companies be placed on record and the present composition of the Directors and the entire transactions be disclosed on affidavit, along with the documents of these companies and returns, if any, which have been filed, be also handed over to the Forensic Auditors and affidavit be filed in this Court in this regard.

B 14. It was also stated by Shri Chander Wadhwa that his nephew is one of the Directors in M/s. Rinku Computech, one of the shareholders of the Amrapali Biotech India Pvt. Ltd. His disclosure on affidavit be also made by Shri Chander Wadhwa.”

C 24. We also issued other directions to ensure that laptops and computers were made available to forensic auditors. On 31.10.2018 this Court noted that certain transactions of Amrapali group to Zodiac/J.P. Morgan, Mauritius/Singapore by the creation of various companies. We directed the bank statement of J.P. Morgan from 2008 till date to be filed. With respect to the money received from the Indian companies and in particular from Amrapali group of companies, all monetary transactions of J.P. Morgan, Mauritius and Singapore with Amrapali group of companies be disclosed with details on affidavit. We directed the Amrapali group of companies/statutory auditors as well as Anil Mittal, Ravi Kapoor and S.N. Dhawan and CFO to disclose the names of all the companies in which their family members or acquaintance were included as Director and all the transactions *inter alia* family members and relatives. It was also pointed out by Mr. Chander Wadhwa, CFO that though his salary was Rs.15,000 per month, a car worth Rs.43 lakhs was given to him by the company in lieu of his services. It was also pointed out that an amount of Rs.2 crores has been paid on account of Chander Wadhwa’s tax liability by Amrapali group of companies. Further directions were also issued to make the disclosures. This Court has noted the conduct of non-compliance of the order vide order dated 13.11.2018 thus:

G “4. This Court has drawn suo moto contempt on 12.10.2018 and that is listed on 20.11.2018. In spite of the aforesaid observation made in the order dated 26.10.2018, still there is gross disobedience of the directions issued by this Court and in the affidavit filed in compliance of the order dated 26.10.2018, the various disclosures as ordered have not been made. Besides that, there is a failure to hand over to the forensic auditors, the relevant material as pointed out by them.

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5. The names of all the related companies have also not been disclosed with which the transactions have taken place. No such statement has been made categorically in terms of the order passed by this Court on 31.10.2018 and absolutely vague averments have been made. This tantamount to deliberate noncompliance of the orders of this Court despite several opportunities having been granted. A  
B

7. An affidavit has also been filed by Mr. Anil Sharma of Amrapali Group of Companies in which names of the companies which were ordered to be disclosed have not been disclosed and no statement has been made as ordered on 31.10.2018. It is a gross violation of the orders passed by this Court. There are certain averments in the affidavit which shows that certain properties have been sub-leased, out of Dream Valley, Centurian Park, Amrapali Leisure Valley. The subleases have been created. Full disclosures have not been made as to subleasing since earlier affidavits were contrary to it, it was shown as unencumbered property. we direct the Directors of Amrapali Group of Companies to disclose entire transaction and relevant documents as well as Greater Noida Authorities to file the documents about sub-leases, who is holding the land as on today, its considerations, how it has been used, how much consideration was received and where the amount is lying, and the sub-lease deeds be also placed on record. We order that there shall not be any further alienation of the sub-leased property by anyone. C  
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8. Statements of various bank accounts have also not been furnished besides other particulars. Learned counsel has again surprisingly prayed for three weeks' further time to furnish the details though sufficient time had been given. No direction is being complied with. The Directors are filing the affidavit on each and every date making improvement as the forensic audit progresses. They are not making full disclosures and concealing the facts and have not mentioned in the affidavit what they are ordered to do. It is clear that they are obstructing the course of justice to the best of their ability. This state of affairs cannot be continued any further. For non-compliance of the directions issued from time to time, we have already drawn suo moto contempt and as subsequent orders F  
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- A have also been violated. For the purpose of taking the contempt proceedings to further logical end, before this Court passes any further order, we give an opportunity to the Amrapali Group of Companies and Directors to furnish their reply as to why they should not be punished for the contempt and the violation of the order passed by this Court from time to time by November 19, 2018. The case will be taken up for considering non-compliance of the order and for filing the wrong affidavits before this Court, on 20.11.2018 along with the suo moto contempt that has been registered vide order dated 12.10.2018.
- B
- C 9. We have two affidavits. One of Anil Mittal and another of Chander Wadhwa. Both are passing liability on each other for creating certain additional companies. None want to own the responsibility. We require Amrapali Group of Companies and their Directors to file a reply to the affidavit, filed by their CFO Chander Wadhwa and Anil Mittal. Let the copies of affidavits of Chander Wadhwa and Anil Mittal be furnished to the Advocate on Record, Amrapali Group of Companies. Let para-wise and point-wise reply be submitted as to what has transpired in the Court, as recorded in order-sheets, including what they have stated in their affidavits.
- D
- E 12. It was also pointed out that Computech Pvt Ltd. is in possession of a substantial amount. The forensic auditors are in the process of examining the details. However, at this juncture pursuant to findings of forensic auditors, it was pointed out by Mr. Vikas Singh, learned counsel appearing on behalf of Chander Wadhwa, CFO that a sum of Rs.7.58 crore from Rinku Computech Private Limited and Rs.4.1 crore is lying with Chander Wadhwa, said amount is out of the transactions with the Amrapali Group of Companies. He has volunteered to deposit the amount within three weeks from today. Let it be deposited in the account opened with the Registrar of this court, within three weeks.
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- G 14. From the forensic auditors' report, it is prima facie clear that Amrapali Healthcare Private Limited, as pointed out in Annexure 11 is created out of funds belonging to the Amrapali group. That is extracted hereunder:
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Annexure-11 A

Amrapali Healthcare Private Limited  
 (As per Audited financials 2015-16)

Details of Asset (Figures in crore)

Sl. No.	Asset	Book value	Address
1.	Land	0.53	Amrapali Hospital P2, NH-34 Omega 1, Greater Noida, Uttar Pradesh-201310
2.	Building	4.43	Amrapali Hospital P2, NH-34 Omega 1, Greater Noida, Uttar Pradesh-201310

Date of transaction

Area (sq. meters)-

Constructed area-

Sl. No.	Shareholder' Name	% holding	No. of shares
1.	Ultra Home Constructions Private Limited	99.89 %	93,85,260
2.	Swapnil Shikha	0.03 %	2500
3.	Suvash Chandra Kumar	0.08%	7500
	Total	100 %	93,95,260

\* In FY 2016-17 the shares of Ultra Homes Construction Pvt. Ltd. are transferred in the name of Gaurisuta Infrastructure Pvt. Ltd.

Details of Inter Corporate Deposits (figures in crore)

Sl. No.	Name of company	Amount
1.	Ultra Home Construction Private Limited	5.36
2.	Others	0.32

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## A List of Present Directors

Sl. No.	Name	Begin Date
1.	Swapnil Shikha	27/11/2012
2.	Suvash Chandra Kumar	27/11/2012

B It has also been pointed out that this hospital is, in fact, owned to the extent of 99.89 percent by Ultra Home Constructions Pvt Ltd. and funding has been made by the said company. It is one of the companies out of the Amrapali Group of Companies involved in the case. Thus, it is apparent that this property has to be sold as it has been purchased out of money of buyers, in order to make available the money for the construction of the buildings.

C 17. It is a case where we find ourselves in a situation that the money of Greater Noida and Noida Authorities has not been paid, buyers have also been duped. Other financial institutions have not been paid. Construction has not been completed. Money paid by buyers has been diverted for the creation of various companies and assets have been created. All these assets are accountable and have to be sold as it is not the independent investment made by these directors. It is a patent and blatant fraud which appears to have been played, the way in which the money has been transacted and creation of companies has taken place in connivance with the CFO, statutory auditors. It was also pointed out that there are various related companies in which money has been transferred. We restrain all monetary transactions out of bank accounts or any kind of alienation of the property held by the related group of companies where the money has been siphoned and has been used for the creation of the assets. Any transfer made in any manner shall be illegal, void and inoperative.

F 20. It is also necessary in order to find out the actual amount invested in building activities, out of the funds collected. It also appears that certain companies were created only for the purpose of purchasing raw materials. Whether actual transactions of purchase have taken place is required to be ascertained. Let all the vouchers of the purchase, Bills, orders, etc., which are in possession of Amrapali Group of Companies and the estimates of various raw materials for each and every building without which

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construction of a building is not possible to be undertaken to be A  
positively handed over to the forensic auditors within a week. We  
also request the forensic auditors to propose how the actual  
valuation of the buildings constructed so far by the Amrapali Group  
of Companies on the spot can be made so as to ascertain the  
actual investments made and extent of diversion. Let the estimate B  
and quantities of the bills be also furnished by Amrapali Group to  
the forensic auditors along with the names of all the suppliers and  
mode of payment. They may also collect information/documents  
from suppliers.”

Certain directions were also issued to DRT to make the valuation C  
to sell the property. Other facts were also noted.

25. On 20.11.2018 this Court had noted non-compliance of various  
orders passed by this Court from time to time. Various sub-leases had  
also been created. We issued the directions vide order dated 20.11.2018  
as under:

“3. It appears that various sub-lessees have been created. It was D  
informed to us by the learned senior counsel appearing on behalf  
of the Amrapali Group of Companies that certain structures have  
been raised by the sub-lessees. We have asked them to disclose  
all the information on affidavit, but the order still remains E  
uncomplied. Various directions in this regard have been issued in  
paragraph 7 of the order dated 13.11.2018. There are various  
other directions issued time to time also and compliance thereof is  
still wanting, though time fixed is over.

4. In the circumstances, we give one last opportunity to the F  
Amrapali Group of Companies, particularly to all the Directors of  
the company and also those who have filed a reply in the *Suo*  
*Motu Contempt*. They have to file their further affidavits in  
compliance with the aforesaid directions as to what they have  
done and to make the disclosure as envisaged in various orders.”

We had also directed that any non-cooperation with the Forensic G  
Auditors shall be viewed seriously. Statements of accounts of banks  
were also ordered to be issued by the banks. In order dated 5.12.2018  
this Court observed that let the Amrapali group of companies and their  
Directors Mr. Chander Wadhwa, CFO and Mr. Anil Mittal to explain as  
to why criminal action be not initiated against them on the basis of H

A affidavits, various documents and the statements made in this Court on various dates and why their conduct as projected in the case be not reported to the ICAI to inquire. We directed the production of details of immovable properties as well as the movables etc. This Court also noted that DRT has pointed out that there was non-cooperation and non-compliance on the part of Amrapali group of companies. It was also pointed out to this Court that certain buyers/companies who have booked the flats by making payment of a paltry amount for the purchase of several flats/plots, did not appear to be genuine buyers. We have directed the Forensic Auditors to look into this issue. We also directed all the Directors of companies, their relatives, family members, Mr.Chander Wadhwa, CFO and statutory auditors who were in receipt of money of home buyers, to deposit the same in this Court. The last opportunity was given to do so.

26. On 12.12.2018 in para 4 we have observed thus:

D “4. Pursuant to our order dated 05.12.2018, Mr. Adhikari Devi Prasad, Mr. Bhuvan Pant, Mr. Prasanna Kumar Rout, Mr. Jagannath Sharma, Mr. Tarun Kumar Sharma, and Mr. Sunil Kumar and also Mr. Anil Sharma, Director, Amrapali Group of Companies are present in the Court. We generally asked them how the accounts for the period 2015 to 2018 were prepared by them and submitted in the Court. They have stated that it was based on tally data which was given to them. In addition, E Mr.Prasanna Kumar Rout, who worked as an Accountant with Amrapali Sapphire, stated that he made the entries up to August 2018 in the tally data on the basis of the documents/vouchers which were made available to him. Mr.Jagannath Sharma, who F is a Chartered Accountant and partner in L.D.R. Company stated that they have prepared the balance sheet on the basis of the tally data provided to them for the years 2015 to 2018. However, when cross-checked with the Forensic Auditors, the Court was informed that the data from 2015 to 2018 has not G been made available fully to them. It was also pointed out that there should be supporting documents/material to make these entries other than the Bank statement when these statements have been prepared that should also be clarified by Amrapali Group and supplied to the Forensic Auditors.”

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We also directed details of unsold apartments and flats of the projects to be submitted in this Court. It was also pointed out that the methodology has been adopted by creating sub-leases as a mode of siphoning off the amount of the buyers. This Court noted the following facts and issued the requisite directions: A

“8. Mr. Lahoty, the learned counsel, also pointed out that the methodology which has been adopted for creating the subleases was, by and large, a mode of siphoning the amount. He has given the following details as Annexure E, which is extracted below:- B

“CREATION OF SUB-LEASES

I. Amrapali Centurian Park: (Current Status: 228646 Sq. Mts.) C

As per the lease deed, Lessor here is Greater Noida Authority

1. Lessee here is Amrapali Centurian Park Pvt Ltd (Total Area – 2,72,916 Sq Mts)

2. Sub- Lessee of Amrapali Centurian Park here are: D

o Hawelia Builders Pvt. Ltd (Hawelia Valenova Park – 14920 Sq Mts)

o DSD Homes Pvt Ltd (Novena Green – 14760 Sq Mts)

• In DSD Homes, Mr. Nishant Mukul (brother in law of Chairman Mr. Anil Sharma) Ex-Director of Amrapali Group was also a director. E

o Elegant Infracon Pvt Ltd (Elegant Villa Phase I, III, & IV - 14590 Sq Mts)

• In the Elegant Infracon following are consortium partners with shareholding: F

Vidhyashree Buildcon Pvt Ltd (26%)

Nishant Creation Pvt Ltd (19%)

Anjali Buildcon Pvt Ltd (20%)

Agrawal Associates (Promoters) Ltd (5%) G

Elegant Infracon Pvt Ltd (19%)

Stunning Construction Pvt Ltd (11%)

• Vidhyashree Buildcon is one of the companies as mentioned in an order dated 26.10.2018 page 13, point 5, to whom sum of Rs.242.38 crores has been handed over. Mr. Pankaj Jain (current H

- A director of Amrapali Group) was also a director in Vidhyashree Buildcon Pvt Ltd.
- Sushma Bajaj & Kulbhushan Bajaj (Current directors of Amrapali Group) are also directors in Nishant Creation Pvt Ltd.
- B
- Mukesh Kumar Roy (DIN: 2175661) who is presently director of Amrapali Group (listed in 46 companies LA Residentia) is also director of Anjali Buildcon.
  - In Anjali Buildcon Mr. Sanjiv Kumar (DIN: 03136323) is also one of the directors, who is the director of New Tech La Palacia to whom Shri Balaji Hi-Tech Construction Pvt Ltd (A sublessee of Amrapali Dream Valley) has further transferred the sub-lease of said project.
- C
- Stunning construction is one of the Amrapali Group Company listed in 46 companies.
- D
- Rs 46 Crs (Approx) amount which is to be paid by sublessee/s
- II. Amrapali Dream Valley: (Current Status: 260307)
- As per the lease deed, Lessor here is Greater Noida Authority.
- E
1. Lessee here is Amrapali Dream Valley Pvt Ltd (Total Area – 354298 Sq Mts)
  2. Sub- Lessee of Amrapali Dream Valley Pvt Ltd here are:
    - o M/s Shri Balaji Hi-Tech Construction Pvt Ltd (Total Area – 12479 Sq Mts)
- F
- o M/s K.V. Developers Pvt Ltd (Total Area – 19986 Sq Mts)
  - o M/s J.M. Housing Ltd (Total Area – 33537 Sq Mts)
  - o M/s Samridhi Reality Homes Pvt Ltd (Total Area – 27989)
  - o Sum Total Area is 93991 Sq Mts
- G
- Shri Balaji Hi-Tech Construction Pvt Ltd one of Amrapali Group company (Sr.53 Page 2913 of an affidavit by Mr. Anil Sharma as Affidavit Submitted in terms of order dated 26.09.2018, 31.10.2018. submitted on 12.11.2018, where Mr. Ajay Kumar & Mr. Mukesh Kumar Roy were directors.
- H
- Shri Balaji Hi-Tech Construction Pvt Ltd has further transferred the sub-lease to a new company namely New Tech La Palacia

Pvt. Ltd., which has applied for a revised sanction plan dated 21.01.2013 and it's not yet approved. (page 18 of GNOIDA affidavit) A

● In New Tech La Palacia Mr.Sanjiv Kumar (DIN: 03136323) is a director who is also a director of Anjali Buildcon (one of the shareholders of Elegant Infracon Pvt. Ltd. who is sub-lessee of Amrapali Centurian Park. B

Rs. 91.89 Crs (Approx) amount which is to be paid by sublessee/s

III. Leisure Valley: (Current Status: 396124.20 Sq. Mts C

As per the lease deed, Lessor here is Greater Noida Authority.

1. Lessee here is Amrapali Leisure Valley Pvt Ltd (Total Area – 419519.20 Sq. Mts.)

2. Sub- Lessee of Amrapali Leisure Valley Pvt Ltd here are:

a. M/s Start Landcraft Pvt. Ltd. (Total Are – 23395 Sq Mts) D

Rs.3.2 Crs. (Approx) amount which is to be paid by sublessee/s”

9. We have directed Mr. Anil Sharma, Director of Amrapali Group of Companies and other Directors to explain the sub-leases and place the documents regarding the creation of subleases on record. Mr. Anil Sharma stated before us that approximately a sum of Rs.66 Crores has been received by the creation of these sub-leases and that amount has been accounted for in the accounts of concerned Amrapali Group of Companies. With respect to the money utilization in an aforesaid manner, companies, names of Directors, relationship and activity made by sub-lessee so far, let details be filed on an affidavit. We also request the Forensic Auditors to look into this aspect and submit a report before us on the next date of hearing along with other aspects mentioned in the above-quoted details filed on behalf of the flat buyers.” E F

27. The directions were also issued to DRT to make a further valuation of Tech Park (Hotel) in Greater Noida. On 25.1.2019 we issued certain directions. On 11.2.2019 we directed M/s. J.P. Morgan to disclose the names of the investors and beneficiaries who invested in the Mauritius Fund which had invested in Amrapali INR Rs.85 crores. On 14.2.2019, dues were pointed out against individuals and Directors also. Against H

A Directors there was a report of loans and advances to the extent of Rs.161.51 crores as noted in the order. We issued certain directions with respect to M/s. Golf Link City Projects Private Ltd. as well as M/s. Royal Golf Link City Projects Pvt. Ltd. We directed Mr. Anil Kumar Sharma to deposit an amount; whereas the non-compliance made by Amrapali was also pointed out by the buyers which had been noted. As  
B inability was expressed on behalf of M/s. J.P. Morgan to explain valuation report dated 23.10.2013 submitted by Mr. Sudit K. Parikh & Co., Chartered Accountants, they were ordered to explain the valuation report on the basis of which Rs.140 crores had been withdrawn by M/s. J.P. Morgan. It was also pointed out in this connection that the shares of  
C Amrapali Zodiac were ultimately purchased for Rs.140 crores by M/s. Neelkanth and M/s. Rudraksha Forensic auditors pointed out that two persons namely Chandan Kumar, is a peon of Mr. Anil Mittal, statutory auditor and was working in his office and one is Vivek Mittal, nephew of Mr. Anil Mittal, who was doing petty jobs of sub-contractors, getting a  
D monthly income of Rs.15,000. They were stated to be Directors in the companies, *i.e.*, M/s. Neelkanth and Rudraksha. They were not having any capacity to give Rs.140 crores to M/s. J.P. Morgan. This Court has noted the facts thus:

E “As inability was expressed on behalf of M/s. J.P. Morgan as well as other counsel to explain the report dated 23.10.2013 submitted by Mr. Sudit K. Parikh & Co., Chartered Accountants. In the circumstances, so as to find out the basis of the valuation, it is necessary to call Mr. Sudit K. Parikh [Address : Ballard House, 2<sup>nd</sup> Floor, Adi Marzban Path, Ballard Pier, Fort, Mumbai – 400 001] to explain the valuation report on the basis of which Rs. 140  
F crores had been withdrawn by M/s. J.P. Morgan. Let the Registry send a communication to Mr. Sudit K. Parikh to appear before this Court on the next date of hearing.

G It was pointed out that shares of Amrapali Zodiac were ultimately purchased for Rs.140 crores by M/s Neelkanth and M/s Rudraksha. It is pointed out by forensic auditors that there are two persons, namely, Chandan Kumar, who is a peon of Mr. Anil Mittal, Statutory Auditor, and working in his office and another one is Vivek Mittal, who is the nephew of Mr. Anil Mittal, and is doing petty jobs of sub-contractors and having a monthly income  
H of Rs.15,000/-. It is stated by the learned counsel appearing on

behalf of M/s J.P. Morgan that in one company, Chandan Kumar and Atul Mittal were Directors. M/s Neelkanth and M/s Rudraksha are the private limited companies in which the abovementioned persons are named as Directors. They are not having the capacity to give an amount of Rs,140 Crores to be paid to M/s J.P. Morgan. A

This is a serious kind of fraud apparent from the aforesaid facts. On being asked, Mr. Anil Kumar Sharma has shown reluctance to disclose about Atul Mittal, who was the Director of M/s Rudraksha along with Chandan Kumar. It is apparent that it was not a fair transaction of sale. That fact is required to be gone into. Let Mr. Anil Mittal and Directors of Amrapali Zodiac and Mr. Anil Sharma explain the situation by filing their personal affidavits from where the money came to be paid to M/s J.P. Morgan, who managed the money and how the companies were framed and for what purpose.” B C

28. On 28.2.2019, this Court considered IA No.35430/2019 filed by Deputy Commissioner of Police, EOW, Delhi Police, seeking permission to take into custody various Directors namely Anil Kumar Sharma, Shiv Priya, and Ajay Kumar. This Court has passed the following order: D

“I.A.No. 35430 of 2019 E

This application has been filed by the Deputy Commissioner of Police, Economic Offences Wing, Delhi Police, seeking permission to arrest and take into custody various Directors, namely, Anil Kumar Sharma, Shiv Priya, and Ajay Kumar. They are presently in the custody of Noida Police vide our order dated 11.10.2018. We make it clear that the Delhi Police is free to arrest/take into custody any or all the other Directors of Amrapali group of companies. Any order passed by this Court, in this case, shall not come in their way to do so. F

Let the Police investigate the entire gamut of the scenario of the various projects, as projected in this case and various orders passed and investigate the entire matter. Prima facie, we find that the case requires serious investigation in the facts projected by the Directors, CFO, and the statutory auditors. G

The Police are directed to investigate the role of Mr. Anil Mittal, Statutory Auditor, and Mr. Chander Wadhwa, CFO as well. The H

A Police may interrogate them and find out their criminality, if any, in the matter.

Let various order sheets of this Court as well as the affidavits of Mr. Chander Wadhwa and Mr. Anil Mittal and Directors of Amrapali Group of Companies indicating the operational methods of diversion of funds and creation of companies be also furnished to the Deputy Commissioner forthwith.

B The application is allowed.”

This Court also issued other directions with respect to the persons who were called by the Forensic Auditors but did not report. Other directions were also issued.

C 29. On 9.4.2019 we requested the parties to address this Court how to protect the interests of the buyers so that they can get a clear title after completion of the projects. In view of the dues of Noida and Greater Noida authorities and other secured creditors, such as banks, etc. how to work out equities in the circumstances and requested the parties to address this Court. Amrapali group of companies to address how much investment they have made in the project and what they have done with the money of the buyers and to inform us as to diversion of the money of home-buyers, how to secure it and why they should not be suitably dealt with in accordance with law for what they have done. In view of the aforesaid facts projected in various affidavits of the Directors and the interim report of forensic auditors. This Court listed the case for hearing on various issues. We have heard Forensic Auditors, Mr. Krishnan Venugopal, learned senior counsel and Mr. M.L. Lahoty, learned counsel, on 30.4.2019. Thereafter, we further heard the matter on 1.5.2019. They concluded the arguments. Mr. C.A. Sundaram learned senior counsel was also heard and the learned counsel on behalf of Bank of Maharashtra and Bank of Baroda as well as Ms. Geeta Luthra and Mr. Gaurav Bhatia, learned senior counsel on behalf of Amrapali group. On 2.5.2019 and on 8.5.2019 certain directions were issued. On 10.5.2019 arguments were further heard and the case was reserved for orders.

#### **SUBMISSIONS**

H 30. Mr. M.L. Lahoty, learned counsel appearing on behalf of 49,575 home buyers submitted that under section 8 of the Real Estate Regulation and Development Act, 2016 (for short, ‘the RERA’) and also in view of the provisions contained in sections 13 and 14 of the U.P. Industrial

Area Development Act, 1976 (for short, ‘the Industrial Development Act’), the lease deeds granted by Noida and Greater Noida authorities were ordered to be cancelled. In the lease deed also, there is a specific stipulation as to cancellation clause in case of cancellation and imposing penalty and for such other actions against the builder in case of default. Home buyers further submitted that after payment of first 10% of the lease premium, Amrapali Group has not paid any of the 20 half-yearly instalments from 2010 onwards. The Noida and Greater Noida authorities have been liberal, and not taking any stringent action against Amrapali Group which had been mandated by virtue of the provisions contained in the lease deed. The dues of Noida and Greater Noida authorities cannot be treated at par with the dues of home buyers. Home buyers further submitted that so far as the dues of the banks are concerned, they are not placed on any better footing and Forensic Auditors in their report have stated that but for the connivance of the bank officials, the act of money siphoning on such large scale would not have taken place. Banks have failed to monitor utilisation of the borrowed funds and they acted as mute spectators to the diversion of funds by Amrapali Group of Companies, its Directors and officials. Mr. Lahoty, on behalf of home buyers further submitted that the Reserve Bank of India has issued Master Circulars from time to time since 2014 onwards as to the obligations of the Banks and specifically directed that banks must necessarily monitor the ‘end use’ of the loans granted by them and call for periodical reports thereof. In the case of diversion and siphoning of loan funds, banks must invariably take action against defaulters. Reliance has been placed on RBI’s Master Circulars of July 2009, 2014 and 2015. In case after the cancellation of the leases, they are not able to construct, they may enter into an arrangement with any reputed builder like NBCC or L&T, etc. A roadmap thereof need be drawn to be monitored by a Monitoring Committee which duly represents the interest of the home buyers, may also be directed to be constituted which will not only oversee the work but also oversee the construction activities and also submit a report to this Court so that the needs of the home-buyers are finally achieved. A further audit of connected companies may be ordered. Bank accounts with Bank of Baroda are operationalised towards maintenance and electricity as families are residing in 21 Towers have been regularly depositing the electricity and other dues in their accounts which have become defunct after the discharge of IRP vide order dated 8.8.2018 passed by this Court. The amount be utilised for pending bills from August

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A to October 2018 towards electricity and maintenance services by nominating a Joint Signatory in place of IRP.

31. Mr. Krishnan Venugopal, learned senior counsel appearing for home-buyers has urged that there is the distinction between mortgage and charge as a mortgage involves the transfer of interest, whereas, in  
B case of a charge, there is no transfer of interest. He has further urged that non-production of relevant documents despite the court order, leads to a presumption of an adverse inference. As Amrapali Group has failed to comply with the court's order, an adverse inference may be drawn against them. He has also pressed into service public trust doctrine and  
C submitted that the State or the public authority which holds the property for the public or which has been assigned the duty of grant of largesse, etc. acts as a trustee, and therefore, has to act fairly and reasonably, promote public good and public interest. Public trust doctrine is a part of the law of the land. The doctrine is a facet of Article 21 of the Constitution. The action has to be bona fide. Public property cannot be transferred to  
D private property in case it affects the public interest. General welfare and common good are to be kept in view by the public authorities exercising public power and discharging public duty.

32. Mr. Krishnan Venugopal, learned senior counsel further urged that in view of the findings recorded by the Forensic Auditors, section 8  
E of the RERA has to be invoked. He further submitted that even though Amrapali was defaulting on payments of lease rents, authorities continued to allot further plots to them. The first lease had been granted on 1.5.2007 and the last on 30.7.2010. Despite default, they continued to issue permission to mortgage/NOCs for that purpose between 24.12.2009 and  
F 27.2.2013, in spite of the fact that there was no payment of premium and advance annual lease rent up to date. The authorities have acted in breach of clause 7 of the conditions of the lease deed, they failed to monitor the progress of the project to protect the interest of the public.

33. In reference to banks, Mr. Venugopal submitted that banks  
G were giving loans to finance Amrapali, in spite of the fact that they were diverted to other accounts and not utilised for construction. Banks do not even have effective mortgages because of NOCs. clearly, state that they would become effective only when Amrapali makes up to date payment of the premium and advance annual lease rent, and under the conditional NOCs., the banks were required to obtain confirmation from  
H the authorities as to payment of premium and lease money for the

mortgage to become effective. The banks have not handed over copies of mortgage deeds despite orders. Moreover, the banks have a second charge after all dues of the Noida and Greater Noida authorities are realised. The authority's ownership rights over the plots are paramount. The public sector banks are also subject to public trust doctrine to the extent that they are custodians of public funds and are beneficiaries of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 and Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980 passed in pursuance of the Directive Principles under Article 39(b) and (c) of the Constitution. The facts demonstrate the collusion between Amrapali Authorities and the banks. The home buyers who invested their hard-earned money, cannot be cheated and deprived of their money as well as their houses. Authorities cannot seek to recover any additional amount from the home buyers. They must be directed to complete the construction by realising only the remaining dues from home buyers under their agreements with Amrapali, by selling off unsold inventory of flats, etc. available with it and by selling off excess land allotted to Amrapali. The Committees of home buyers must be set up for each project to monitor the quality and progress of the construction as well as the costs involved so as to ensure that contractors do not engage in fraud or inflate construction costs in the course of completing the projects.

34. On behalf of the home buyers Association, it was submitted that by promoters of the real estate sector in India from 2008-2009, home buyers have been promised the houses of which they have been deprived of on a large scale in spite of the fact that they have paid a substantial amount of money. Construction has not progressed and money has been diverted elsewhere. There is a charge of the money of the home buyers must be treated as the highest priority. They have paid towards dues of Authorities also which amount has been diverted. Banks and authorities have failed to discharge their duties. Banks have granted loans to the projects in some cases which were not sanctioned even on the date of grant of loan. For example, Phase III of Amrapali Adarsh Awas Yojana Project. Banks have released the complete payment amounts to the builder without the construction having been reached even 10 to 20%. As such lending was not permissible. The current scenario is that the construction of the various projects is stalled and the home buyers are without any hope of the promised homes. Certain incumbents who have taken loan are compelled to repay the loan and

A money has been siphoned out. As such appropriate relief be granted to home buyers in view of the facts found in the report of the Forensic Auditors.

35. On behalf of the home buyers, reliance has been placed on the provisions contained in section 4(5) of the U.P. Apartments (Promotion of Construction, Ownership, and Maintenance) Act, 2010 (for short, the 'U.P. Apartments Act, 2010'). It is provided that the completion of the construction works of a building as a whole or the completion of an independent block of such building, as the case may be. The completion certificate can be issued for the blocks which have been completed. Noida and Greater Noida authorities are not issuing NOC for the reason that payment of land dues has not been made by the builder, for which authorities are also responsible. The non-payment of dues by the builder should not come in the way as more than 9000 home buyers are already residing in the buildings. Most of them have paid the entire amount to the promoter. Others are waiting for the completion of buildings.

D 36. On behalf of Noida Authority, learned senior counsel submitted that public trust doctrine is not attracted to the facts in the instant case as there is no breach of trust. The decision to transfer lease at 10% was the carefully thought out policy of Noida approved by the State Government. It was applied uniformly to all and not restricted only to the Amrapali Group. It was submitted that allotment of group housing plots is made by Noida authority in accordance with the prevailing policies and rates which have kept changing with times. In 2007, the allottees were required to pay 10% of the total premium of the plot as reservation money, before formal allotment letter was issued. Then, a further amount of 30% had to be paid within 60 days from the time of allotment. Thus, 40% premium was required to be paid. Balance 60% had to be paid in eight half-yearly instalments along with interest.

G 37. It was further submitted on behalf of the Noida Authority that primarily on account of the global recession in the world economy, in the year 2008 a decision was taken to revise the rate of allotment money to 10%. Thus, the total sum of 20% was to be paid before handing over possession. In the year 2009, the rate of allotment money along with registration money was revised to 10% of the total premium for the possession to be handed over. However, steps were taken to provide (i) facility of re-scheduling of payments in case the allottees intended to complete his project as per agreed policy; (ii) to exit the project; (iii)

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moratorium of two years on payment of balance premium; (iv) facility of sub-division of plots of area larger than 10 acres so as to make the larger projects financially viable. A

38. It was also submitted on behalf of Noida Authority that after 2005, a total of 114 plots had been allotted to various group housing societies. 81 have been handed over the possession on payment of 10% of the total premium. 29 projects, out of these 81, have been completed. Out of other 33 allotted earlier, 11 had been completed, and 7 have obtained part-completion certificates. Noida Authority, being a responsible public organisation, has been diligent in pursuing Amrapali Group, it has not taken the drastic recourse of terminating the lease deed as that would entail demolition of the existing structures as per the provisions of the lease deed. In terms of the lease, home buyers have no title or legal rights to possession of the flats they are occupying. As the projects have been completed to some extent, it would have been unfair to leave the home buyers in the lurch. The occupancy certificate is issued in accordance with the provisions of the New Okhla Industrial Development Area Building Regulations, 2010 (for short, 'the Regulations of 2010'). Clause 20.0 of the Building Regulations requires the allottee to submit a notice of completion of the building, *inter alia*, with a structural safety certificate, NOCs from the Fire Department, Explosives department and Environment department. No building erected, re-erected, can be occupied in whole or in part unless occupancy certificate is issued by the CEO of the Authority as per clause 20.1.1 of the Regulations. The lessee/promoter is entitled to allot the dwelling unit on a sub-lease basis. However, he has to make the payment of premium of the plot to Noida authority when permission to transfer built-up flats or part with possession of the whole or any part of the building which has been constructed is granted. The physical possession of flats can be given to home buyers only after execution of sub-lease deed and sale deed has also to be registered before actual physical possession of the flat is handed over as required under the provisions of Registration Act, 1908. The declaration required to be made under section 12 of the U.P. Apartments Act, 2010 is also to be filed. B  
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39. It was further urged on behalf of the Noida Authority that the Noida Authority had the first charge including those created in favour of banks and financial institutions. The mortgage could have been effected in favour of Banks/financial institutions recognised by the RBI, National H

- A Housing Bank, HUDCO, New Delhi and the charge of such institution shall be the second charge on the dwelling units, thus, being financed. The permission to mortgage shall be effective only on making full payment of premium and up to date annual lease rent of group housing society. An intimation shall be given to the Authority about the creation of the charge by way of mortgage. The mortgage permission shall be granted as per the terms of the lease only on payment of dues of authorities.
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40. It is submitted that it is open to the authority to cancel or terminate the lease. In the case of misrepresentation, suppression or violation of the conditions of lease and in the case of default and at the time of cancellation, an amount equivalent to 25% of the total premium of the plot shall have to be forfeited and possession of plot shall have to be resumed by Noida Authority with structure thereon. In the instant case, no dues certificate had not been issued by the Noida authority nor any sub-lease deed has been executed. The possession by various home buyers in respect of constructed flats is contrary to the provisions of the lease deed. The builder could not have handed over the possession. Any occupation of flats by the home buyers without compliance of mandatory provision of occupancy certificate and without payment of statutory dues, both to Noida Authority and to the Collector of Stamps and without execution of tripartite sub-lease deed may not be termed as legal and as such which could have resulted in their eventual eviction.
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41. It was further submitted on behalf of the Noida Authority that pursuant to order dated 27.11.2017 passed by this Court, on depositing 10% of the dues to issue completion certificate such NOC could not be issued and the order passed by this Court has not been complied with by builder/promoter as such possession could not be handed over. In spite of reiterating the aforesaid direction of this Court on 31.1.2018, it has not been complied with by the promoter/leaseholder. It is submitted by the Noida Authority that its dues to Amrapali group exceed Rs.2191.38 crores till 30.4.2019. It is in public interest to ensure payment of premium/lease money with penal interest etc. so that the development of the various projects at Noida is not impeded. Prayer has been made that in whatever manner practicable and by whatever scheme this Court may think fit and proper, aforesaid dues of the authority may be secured and ordered to be recovered.
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42. On behalf of Greater Noida Industrial Development Authority, it was submitted that its dues were Rs.3,234.71 crores as on 15.1.2019
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in respect of 5 group housing plots of Amrapali group. These dues *inter* A  
*alia* comprise of the amounts payable against the premium plus the penal  
interest for default, additional compensation and interest thereon, the  
lease rent and interest thereon and time extension charges for each of  
the five plots. Title in the flats can pass only by way of execution of a  
registered instrument. However, before that procedural requirements B  
pointed out on behalf of the Noida Authority have to be complied with.  
Once completion certificate is issued, the rights in the flat will pass on to  
the flat buyers and then they would contend that the dues of the authority  
should be recovered from the builders who have defaulted in making  
payment and not the flat buyers. On the basis of that privity of contract, C  
they would contend that the liability to make payment of the premium  
and other dues payable to Greater Noida authority, by lessee/builder is  
between them and they are not parties to the lease deed.

43. It is further submitted on behalf of Greater Noida Authority  
that even with regard to the issuance of completion certificate for a part  
of the projects, the existing policy is that against the part-payment D  
received, completion certificate would be issued in the same proportion  
minus 10%, so that the financial interest of the authority is protected.  
Therefore, sub-lease deeds too would be executed up to 90% of the  
proportion in which part-payment has been received. It was further  
submitted by the Greater Noida Authority that section 19(10) of RERA E  
also provides for taking over of physical possession after issuance of  
completion certificate. The provisions of the U.P. Apartments Act, 2010  
are also similar as well the provisions in the lease deed.

44. It is further submitted on behalf of Greater Noida Authority  
that FAR admissible is 02.75 only and not 3.50. The differential FAR of F  
0.75 is not purchasable. The calculations made by Amrapali based on  
FAR of 3.50 is itself wrong. FAR has not yet been purchased by Amrapali  
group by depositing the charges and submission of consent of two-thirds  
of the apartment owners. Under section 4(2)(1)(D) of RERA, 70% of  
the amount received from home buyers is to be put in a separate account G  
to be maintained in a scheduled bank and is to be used towards  
construction and land cost. The land dues payable to Greater Noida  
authority constitute an encumbrance as provided in section 4(1)(b) of  
the U.P. Apartments Act, 2010. As per section 11(4)(c) of RERA, it is  
the duty of the promoters to certify that all dues and charges have been  
paid. Thus, it follows that money received from the flat buyers is to be H

A spent on construction and payment of land dues. Therefore, payment of land dues cannot be denied to it. Land dues are in the nature of public money. Amrapali group is bound to pay it. The amount is payable in instalments as such same is interest bearing for availing the facility of payment in instalments as such the land cost payable increases. In case of default, penal interest follows. There was no order passed by the Allahabad High Court for staying construction on the leased plots. Amrapali Group was in possession of the allotted land and was proceeding with the construction. For 4 years, it has prayed for zero periods of interest to which the group is not entitled. It would lead to unjust enrichment by Amrapali as they have realised dues from home buyers and have not paid to the Authority. The order passed by the NGT with respect to Okhla Bird Sanctuary case was not applicable to the land in question. The dues payable to the authority are recoverable as the arrears of land revenue. The authority has the first charge. The permission to the mortgage was conditional one, it has not been complied with, in particular, conditions B, C and D. The mortgage had to be renewed every year and is subject to the payment of land premium, etc. The Greater Noida authority has written numerous letters to Amrapali group of companies to make the payment of its dues. In the case of Unitech, yet another Group, the Authority has cancelled the allotment which was questioned in this Court. As the cancellation of the allotment in case of Amrapali could have led to greater complications as construction had commenced with third-party interest created. It would have opened floodgates to litigation. As such cancellation of lease deeds was not resorted to.

45. Ms. Geeta Luthra and Mr. Gaurav Bhatia, learned senior counsel appearing on behalf of Amrapali group of companies, have urged that Amrapali group started its activities in the name of M/s. Ultra Home Construction Pvt. Ltd. in the year 2003 with the purpose of providing low-cost housing to projects in Indirapuram (Ghaziabad) Noida, Lucknow, Indore, Bhilai, and more than 15,000 flats were handed over by the developers to flat owners in 5 different housing projects in Indirapuram and Greater Noida. The balance sheets of Amrapali group of companies at 2007-08 shows that it had carried forward the money earned by the company to launch the projects after 2009-10 upon allotment of plots by Noida and Greater Noida authorities in their respective areas. Immediately after the allotment of land, the work was started and the Allahabad High Court quashed acquisition. It had to be stopped as per the order passed

by the Allahabad High Court. When in 2016 Amrapali group again started to infuse capital and manpower, proceedings were initiated in NCLT by Bank of Baroda as against Amrapali Silicon City Pvt. Ltd. and M/s. Ultra-Home Constructions Pvt. Ltd. There were legal impediments/*force majeure* conditions in completing the projects within the period given in the flat buyer agreement. The Allahabad High Court finally decided the matter in *Gajraj Singh & Ors. v. State of U.P.* on 21.10.2011. The Patwari Village issue was pending before this Court till 2015. On 14.5.2015 this Court finally decided the matter in the case of Savitri Devi v. State of U.P. It was an order passed by the National Green Tribunal with respect to Okhla Bird Sanctuary which also hindered the work. Higher compensation was ordered to be paid by the Allahabad High Court in 2011. The period of litigation ought to have been treated as zero periods for the purpose of payment of dues by Noida and Greater Noida authorities. Amrapali Silicon City was affected on account of litigation and land acquisition issues. The work of Leisure Valley, Dream Valley, and Leisure Park were also affected. There was an issue of the approach road with the farmers with respect to Sapphire Housing Project. Other projects were also affected due to farmers' agitation, want of proper roads, etc. The authority was required to give electricity, sewer and water connections. Proper facilities were not extended timely.

46. It was further submitted on behalf of Amrapali Group that a High-Power Committee has been constituted by the State of U.P. A sum of Rs. 2,715 crores are to be paid to the authorities including the interest and purchasable FSI costs. The outstanding of banks is Rs.985 crores. It was submitted that the projects are viable in case some relief is granted towards land dues of authorities and dues of the banks. The joint inspection indicated that substantial construction had been carried out. The cost of construction to complete the launched projects, as per NBCC is Rs.6827 crores; whereas the cost as per Amrapali group is Rs.5630 crores. Calculation of NBCC is wrong. The projects are divided into 3 categories: (i) where the allottees were living; (ii) advanced stage of construction; and (iii) work is at a nascent stage. The amount defaulted by buyers is Rs.511 crores, total receivables from them are Rs.5,332 crores. The encumbered and unencumbered assets can be sold to complete the project. The valuation worked out by the DRT comes to Rs.7,353 crores considering the maximum permissible FAR of 3.50. The order may be passed in respect of amounts due from Raipur and Bhubaneswar Housing Board which are recoverable from them to

- A deposit in Court. Certain suggestions have also been made on behalf of Amrapali group for arranging the required funds. That home buyer may be directed to pay the cost. Unsold inventory of the launched projects on sale would generate Rs.1,922 crores. In case of any shortfall, there can be a sale of unencumbered assets of the company. Reputed builders may be engaged for undertaking the construction of the various projects.
- B Amrapali has spent Rs.10,630 crores as against Rs.11,652 crores received from home buyers. As per the affidavits dated 16.5.2018 and 3.12.2018, the total cash outflow is Rs.395 crores utilised by the group in the creation of assets whose current valuation as per DRT is Rs.1200 crores. The Noida and Greater Noida authorities have partial registration policies as provided in Building Regulations and the Act and an appropriate Committee may be constituted for supervision. Amrapali group shall extend all help in the building of the projects.
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47. With respect to the report of the Forensic Auditors, it has been submitted that there is no undervaluation in booking the flats. The value of flats depends upon the situation etc. as the flats were booked at different times, they have different prices as per the prevailing market. In certain cases, the customers took possession of various Towers in partially unfinished conditions and managed the pending work by themselves. In some projects, lifts were installed by the customers' associations. In some other cases, interiors of the flats were finalised by the customers themselves. Amrapali group reduced the value of such flats in their books accordingly.
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48. With respect to other amounts recoverable from KMPA/relatives/Directors, as per the affidavit submitted by Shiv Priya on 20.11.2018, Rs.4.3 crores were paid towards his taxes. The same has been adjusted against the salary due of Rs.4.4 crores from various Amrapali group of companies. Salary of Rs.1.6 crores is recoverable by Shiv Priya from Amrapali group of companies. As per the affidavit of Mr. Ajay Kumar, Rs.1.21 crores were paid by the company towards his taxes out of his outstanding salary up to 31.3.2015. Though his salary for the financial years 2016-18 is still to be mentioned in the books of accounts on account of his due salary. A sum of Rs.25 lakhs has been paid by him to Ultra Home Construction Pvt. Ltd.; in addition, a sum of Rs.25 lakhs paid to Yogesh Chand is duly debited in his ledger and as mentioned in his affidavit.
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49. With respect to Amrapali Infrastructure Pvt. Ltd., it was submitted that an advance to Directors of Rs.113.54 crores was used by the Directors to purchase shares of Ultra Home Construction Pvt. Ltd. Ideally, the shares should have been issued in the name of Amrapali Infrastructure Pvt. Ltd. The money moved from Amrapali Infrastructures Pvt. Ltd. to Ultra Home Construction Pvt. Ltd. Precast Factory's valuation is Rs.179 crores. Mr. Anil Kumar Sharma has surrendered the shares in favour of Amrapali Infrastructure Pvt. Ltd. to the extent of INR 73.2 crores. Mr. Shiv Priya has surrendered the shares in Amrapali Infrastructure Pt. Ltd. during 2018-19 of Rs.35.1 crores.

50. With respect to Amrapali Hospitality Services Pvt. Ltd., it was submitted that the company gave Rs.6.62 crores to Directors as advances out of which Rs.6.55 crores were given to Mr. Anil Kumar Sharma and his family. In the financial year 2017-18, Rs.2.25 crores were used by Mr. Anil Kumar Sharma for payment of housing loan of Jay Pee Green Property. Rs.1.25 crores were deposited with this Court by way of Demand Draft, Rs.0.85 crores were paid to settle the bank loan of Leisure Valley Villa and Rs.0.5 crores were transferred for payment of TDS liability of Amrapali hospital.

51. With respect to Hi-Tech City Developers Pvt. Ltd., the Auditor's report indicates that a sum of Rs.4.24 crores was given as an advance to Mr. Anil Kumar Sharma in 2009-10 which was used by him for purchasing shares of Ultra Home Construction Pvt. Ltd. Ideally, the shares should have been issued in the name of Amrapali group of companies. No transfer of money was there. Mr. Anil Kumar Sharma had surrendered shares in favour of Amrapali Infrastructure Pvt. Ltd., during the year 2018-19 but this has not been reflected in the books of the company. With respect to cash in hand, there is no consistency in the report of the auditors. Only Rs.9 crores were available in cash in various group companies. The entire amount was spent on payment of wages due to various labours at different times. With respect to other recoverable advanced to various parties amounting to Rs.234.31 crores, the details are not available in the report. These advances are against genuine business transactions. There is a possibility that such expenses have not been booked and squared off.

52. With respect to the diversion of home buyers amount to the extent of Rs.3,500 crores and bogus billing of Rs.1500-1600 crores, out of the total amount received from home buyers of Rs.11,652 crores

A would leave INR 6,652 crores for carrying out the existing construction at sites. The total sum available for construction purposes comes to Rs.4,352 crores, after deducting the amount of payment to the authorities and banks of Rs.1,000 crores and Rs.1,300 crores respectively. With respect to non-genuine purchases from suppliers, though a sum of Rs.554 crores was given to the income-tax authorities, on appeal the error had  
B been corrected by the income-tax authorities. There was an error in the report of the forensic auditors. The report of the forensic auditors as to non-existing companies is also not correct. It is further submitted that Gaurisuta Infrsolution Pvt. Ltd., which manufactures PVC doors and windows had business transactions with Amrapali group, payment/  
C advances were made to them. It is a fact that parties are related. It does not mean that all transactions are dubious. Law does not prevent such transactions. The short term and long-term loans to third parties were not for diverting loan funds and home buyer funds to group companies.

53. With respect to Auditors' list of 27 companies formed for the  
D purpose of routing the cash of the companies, were formed before demonetisation. With respect to J.P. Morgan Property Mauritius Company-II, Amrapali Zodiac Developers Pvt. Ltd. transferred money to another company to buy-back stake in J.P. Morgan but did not do it directly as share buy-back rules did not permit such transactions. It may  
E be maximum violations of the Companies Act but is not a diversion of money. With respect to FEMA, it is submitted that again it is a violation of ECB guidelines but again it was not a case of diversion of money. Money was needed for construction, therefore, arrangement with J.P. Morgan was made.

54. With respect to doubt of Forensic Auditors as to the genuineness  
F of interest paid by Amrapali Silicon City Pvt. Ltd. to IPFFI and claiming interest @ 17% which is very high, it was submitted that rate of interest depends upon the money lending transactions and is not illegal or prohibited in law.

55. With respect to charging for professional services and fee by  
G Directors, it was stated that a person rendering professional services should have a membership of professional bodies and have some certificate of practice. A lot of companies pay a professional/consulting fee to outsiders to assist them in their business. Amrapali group has also paid salaries and consultation fees to Directors as they were providing

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their expertise and skill. Ultimately prayer had been made to evolve some mechanism for completion of housing projects. A

56. On behalf of Royal Golf Link City Projects Pvt. Ltd., it is submitted that a loan of Rs.50 crores or Rs.48,52,05,100 was paid by Ultra Home Constructions Pvt. Ltd. to Royal Golf. Interest @ 9% amounting to Rs.5,83,42,977 has been paid to Ultra Home. Subsequently, the agreement has been entered into to repay Rs.50,46,78,022 by 31.3.2017 or in lieu thereof 30 Villas have to be allotted by Royal Golf to Ultra Homes. This Court has attached 30 Villas allotted to Ultra Home. It is ready to give 30 Villas by 30.4.2021 or to refund the amount of Rs.48,46,78,022 in 4 equal quarterly instalments in full and final settlement of all claims of Amrapali group. B C

57. On behalf of Bank of Baroda, it has been submitted that Forensic Auditors have made adverse comments without any basis. Bank of Baroda had deployed suitable methods to monitor the utilisation of funds. No diversion of funds was permitted by Bank of Baroda. Monitoring of the loan was done and before sanction of the loan, the net worth of the promoters/Directors of ASCPL was ascertained. Bank of Baroda relied upon a letter dated 29.7.2010 from Noida to ASCPL. The term loan agreement was executed amongst ASCPL, Bank of Baroda, Bank of Maharashtra and Oriental Bank of Commerce “Consortium” for a term loan of Rs.300 crores. After execution of due documents and deeds of corporate guarantee issued in favour of Bank of Baroda, corporate guarantees were submitted by Ultra Homes Construction, Jotindra Steels and Tubes Ltd. along with Vidhyashree Buildcon. Pvt. Ltd. RoC search report of guarantors was also obtained. NOC of Noida dated 21.2.2012 for mortgaging the project site to procure a term loan from the consortium was also obtained. A detailed project report was issued by Solomon Consulting Pvt. Ltd. There was the appointment of independent lender’s Engineer and thereafter accounting was done, post-disbursal of loan by Bank of Baroda. The money was released on the basis of lenders Engineers advice of Rs.49 crores out of Rs.55 crores. Thus, there was no lack of due diligence and considering the progress of construction, steps had been taken by the Bank of Baroda to protect its interests after the account became NPA. Active steps were taken to recover the amount. The similar mechanism had been adopted for Amrapali Infrastructure Pvt. Ltd. With respect to Ultra Homes Construction Pvt. Ltd., also a loan of Rs.75 crores was sanctioned out D E F G H

A of which Rs.65.84 crores were disbursed for the construction and development of an Integrated Information Technology Park, (IT Park), Hotel, Commercial complex, service apartments and residential complex on Plot No.59, Sector Knowledge Park-V, Greater Noida, which were executed by Mr. Anil Kumar Sharma, Mr. Ajay Kumar, Mr. Shiv Priya and Mr. Madan Mohan Sharma. Amrapali Zodiac Developers Pvt. Ltd.

B was granted a loan of Rs.75 crores. It was not utilised for payment of the cost of land or for payment of construction cost. The amount has been repaid and the account has been closed. The money may have been routed through various suppliers and contractors. The remittance of money is nothing but an example of due conduct of business. With

C respect to the release of the corporate guarantee of M/s. Jotindra Steel and Tubes Pvt. Ltd., it is submitted that they were unable to infuse share capital as required and seemed unable to do so in the future as well. The shares due to M/s. Jotindra Steel and Tubes Pvt. Ltd. were also allotted to M/s. Ultra-Homes Construction Pvt. Ltd. Thus, the Bank of Baroda

D granted the request for release of the corporate guarantee in favour of M/s. Jotindra Steel and Tubes Pvt. Ltd. Amrapali group had the right to mortgage the property as per the mortgage deed. There was no bank charge on the property mortgaged by Amrapali group. As per clause 15 of the mortgage deed, the buyer shall have no right after paying all amounts. The developer shall continue to have full authority over the flat

E unless a registered deed is executed in favour of the allottee. It is also submitted that the home buyers are not secured creditors. The home buyers were to acquire the premises on sub-lease basis which was never intended or stated anywhere that a sale would take place. The allottee shall not have any lien or interest on the flat unless sub-lease deed is

F executed. Therefore, they are not secured creditors, they have no right, title or interest or lien on the basis of allotment from flat buyer agreement. It is further submitted that the agreement does not create any rights in praesenti with a promise to enter into a future agreement. It does not create any right, title, interest or claim in the immovable property. In the absence of registration of document under the Registration Act, no rights

G are created in the immovable property in question under section 49 of the Registration Act.

58. With respect to RERA provisions, it has been submitted by Bank of Baroda that section 11(4) of RERA deals with the interaction between repayment to secured creditors and rights of allottees. Sub-

H section (h) of section 11(4) states that the promoter shall not create a

mortgage or charge after an agreement to sell has been executed. A  
Therefore, the promoter is permitted to create such mortgage or charge  
prior to the execution of an agreement to sell. Section 4(2)(1) of RERA  
requires the promoter to disclose the prior encumbrance to the real estate  
authority. Under section 34(b) it is required to publish and maintain a  
website of records. Section 19(4)(1) of RERA provides that if the B  
promoter fails to complete or is unable to give possession of an apartment,  
plot or building, the rights of allottees are restricted to receive the  
compensation from the promoter. The rights of allottees under section  
19 of RERA can be contrasted with the right of the mortgagee who  
secured creditors under section 58 of the Transfer of Property Act, 1882.  
The RERA is restricted to protect the rights and interests of the allottees C  
from the promoters and developers. RERA recognises and protects the  
rights of the lenders and does not in any manner take away any right  
under the existing statutes like the T.P. Act, SARFAESI, etc. RERA has  
not brought any change in the nature of the rights of home buyers. The  
Bank is entitled to receive its money along with interest in the event of D  
failure to repay by builder/ promoter.

**IN RE: FORENSIC AUDITORS**

59. The Forensic Auditors have submitted their report running  
into eight volumes. It has been observed that the Amrapali Group was  
started in 2003 by Mr. Madan Mohan Sharma. Later on, it was managed E  
by his son Mr. Anil Sharma. He gradually expanded his team and Mr.  
Shiv Priya, Mr. Ajay Kumar, Mr. Nishant Mukul, Mr. Chander Wadhwa,  
Mr. Mohit Gupta, Mr. Adhikari Das, and others joined in. By 2010, the  
Amrapali Group was leading real estate development firms, promising  
to offer luxury and comfort. In the beginning, the Amrapali Group has  
constructed and completed certain projects and earned the goodwill of F  
the general public in the real estate business. The Amrapali Group used  
unfair means to promote themselves. It made false promises to lure the  
public to invest in its projects, purposefully delayed construction, cheated  
home-buyers for the title of flats and trapped home-buyers in rental  
returns. The Amrapali Group floated several companies. The public G  
invested their hard earned money in Amrapali projects and the  
shareholders used these funds to infuse capital in other companies/  
entities. Home buyers were cheated by making false promises/claims  
for example selling of flats which were not even part of the master plan  
of projects or unapproved in the master plan, double booking of the same H

- A flat by different customers. The homebuyers funds were diverted to other companies/directors through payment of professional fees, by way of booking of bogus bills of Rs.837 crores, by selling flats as undervalued prices in book and received differential market value in cash, by paying commission and brokerage on bogus booking of flats and by way of granting inter-corporate deposits of Rs.3,000 crores to related entities and Rs.500 crores to unrelated entities/trusted partners for ultimately diverting funds to unapproved uses.

### **SUMMARY OF REPORT OF FORENSIC AUDIT**

60. The summary of report submitted by Forensic Auditors in the Court is as under:

#### **1. Brief Introduction**

- Amrapali Group started its operations in the year 2003 in Delhi. It was started by Mr. Madan Mohan Sharma who managed it for a brief period. Thereafter the operations of the Group were managed by his son - Mr. Anil Sharma. Gradually, he expanded his team and Mr. Shiv Priya, Mr. Ajay Kumar, Mr. Nishant Mukul, Mr. Chander Wadhwa, Mr. Mohit Gupta, Mr. Adhikari Das and other trusted partners/executives joined in. The Group was into the business of construction of residential complexes, townships, offices, commercial complexes. The Group built good reputation in the public and launched several projects in various cities in India. By 2010, the Group was a leading real estate development firms in India and particular in North India, promising to offer luxury and comfort in every project that it takes up. Subsequently, Mr. Mahender Singh Dhoni became brand ambassador of the Group.

- To achieve good standing in the eyes of public, the Group used unfair means to promote themselves. The Group made false promises to lure public to invest in its projects, purposefully delayed construction, cheated homebuyers over title of flats, trapped homebuyers in rental returns, sold flats at exorbitantly low prices and recovered market price in cash from them, among other unfair means adopted by them. The Group floated several companies through its directors, staff, trusted partners which were incorporated solely to divert homebuyers funds. The Group collaborated with external parties like JP Morgan in contravention

of FEMA and distributed returns along with principal amount, even though it did not book gains within the business of the company. Similarly, it collaborated with several other third parties and invested in other projects and built a cycle of returns in the form of unaccounted cash. The Group treated moneys received from home buyers as its own capital and used this money for investing in exclusively personal purposes, for example in constructing Amrapali hospital, hotels, malls, making movies etc. The Group booked bogus expenses and routed funds to trusted partners. The Group also used homebuyers funds for building personal properties, investment in mutual funds, expenses in daughter's wedding, purchase of luxury cars, watches, building luxurious houses for directors etc. The Promoters diversified to different verticals i.e. Education, Entertainment (in making movies), FMCG, infrastructure, Shopping Malls, technology parks, hotel etc. from the diverted Home Buyers funds. The Promoters didn't invest any paisa in such verticals and the whole empire was created out of the diversion.

The Promoters created a web of more than 150 companies (Page No. 16-19 Volume I) for routing the funds and creating assets. About 100 Companies were under the supervision and control of promoters used mainly for the purpose of diversion of funds. The Directors and Shareholders of these Companies were benami and were the trusted junior employees of promoters. CFO and the Statutory Auditors.

It is observed that the Company, i.e. management, CFO, the Statutory Auditors and key managerial persons deliberately and for reasons best known to them did not prepare the accounts till 31st March, 2018 or thereafter as nobody wanted to let anybody know where the funds moved from 31.3.2015 onwards. In absence of Book of Accounts, we are constrained to report that the management deliberately withdrew the Bank Balances for making payments to some person and brought down the huge bank balance to negligible amount.

The management has diverted the Home Buyers' funds from one Company to another Company in a very clever, pre-planned and clandestine manner. The management could not have done this without the full support of its CFO and the Statutory Auditors. As

A per the submissions made, many companies were controlled by CFO and the Statutory Auditors to which huge funds have been transferred. It can therefore, be easily said that both CFO and the Statutory Auditor were Master Mind behind these types of planning for diversion and the misuse of funds. It may be important to mention here that funds were transferred from one Company to another and to third and to fourth and so on thereby absolutely confusing any person to find out the real trail where the money has gone, since there are more than 100 Companies through which these funds have been routed over the period.

C **2. HISTORY OF ALLEGATIONS**



D Bank of Baroda and several other banks filed a petition before NCLT under section 7 of the Code for triggering Corporate Insolvency Resolution process in the matter of Amrapali Group Companies.

Homebuyers filed petition seeking construction and possession of around 42000 flats booked in Amrapali Group



E On 6th September 2018, Supreme Court appointed Mr. P K Aggarwal and Mr. Ravi Bhatia as joint forensic auditors to audit into the matter.

**ACCOUNTING PACKAGE**

F The group was using Tally till March, 2015 for all of its group companies.

In April 2015, it introduced Far Vision an ERP which was not implemented properly. The opening balances were not properly entered.

In November 2016, the group left half way Far vision and started recording partial transaction in tally.

G To avoid the traceability, of the transactions, the Promoters and CFO and Adhikari (G.M Accounts) recorded the financial transactions up to March 2015 in Accounting Package tally, then shifted to FARVISION from April 2015 and continued till March

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2016, and thereafter partially recorded transaction in tally and a for a few companies in FARVISION and thereafter in tally. This was intentionally plan. The companies of the group stopped getting the annual accounts prepared and filing returns to Roc and Income tax. A

**3. Auditors** B

The Following Firms carried out the Audit of the Group Companies during the period:

- Anil Ajay & Co.
- BSR & Co. C
- Deloitte Haskins & Sells
- SN Dhawan & Co.
- Chander Wadhwa & Associates
- Manoj Usha & Co.
- Agarwal Seth & Co. D
- Kumar Chopra & Associates

**4. Non genuine purchases from suppliers**

Purchase bills have been accounted for in the books of accounts without receipt of physical goods and purchase bills have been accounted for of suppliers who do not exist. There was an Income Tax search and seizure on 9<sup>th</sup> September, 2010 and 7<sup>th</sup> August, 2013. During the search held on 7<sup>th</sup> August, 2013, it was held by the Income Tax Authorities that purchases are being made from bogus suppliers without receiving the goods physically. The total amount of purchases from such suppliers as observed by the Income Tax department amounted to **Rs.842.42 Crores approximately..** E F

In order to confirm the genuineness of these suppliers and a few other suppliers we have sent written communication/ letters by speed post to them in order to confirm the transactions with the Amrapali Group of Companies. Most of these letters have been received back with the remarks “No such firm exists at the specified address”. G

In addition to above, there is no system of calling quotations for purchases and there is no internal control with respect to inventory. H

A We have spotted out further certain non-genuine supplies as per details given below:

**(i) M/s B S Promoters**

B There have been sales to M/s B S Promoters amounting to Rs. 21.15 Crores during the period 2013-16 from one Company of Amrapali Group and the same goods were re-purchased into another Company of Amrapali Group at a margin of 5% approximately.

C These transactions seem to be mere accommodation entries, where all purchase/ sales are recorded on a single day only. Further, it was also explained that M/s B S Promoters have made the sales against Bank Letter of Credit which has been discounted by them from their bankers. This seems to be a case of manipulation with the banks also since there is no movement of goods but entries within the Amrapali Group only.

D Further, it is observed the balance outstanding of INR 5.11 Crores due to the B S Promoters as on 31<sup>st</sup> March, 2016, has been adjusted against payment made by home buyers directly to the B S Promoters and by allotting a flat to M/s B S Promoters. However, the authorized representative of the B S Promotor has refuted this fact vehemently and asserted that it has not received any payment from the home buyers of the Amrapali Group, nor it has received any flat. Thus, the flat allotted to B S Promoters on paper needs to be attached and put to sale. Moreover, a sum of INR 1.06 crores as 5% of the margin earned by M/s B S Promoters needs to be recovered from him as they have neither received goods nor supplied any good and only acted as Billing agent for which they need not be claiming INR 1.06 crores as their margin.

**(ii) Kanodia Cements**

G While scrutinizing the purchase bills of this supplier it was noted that the slips of Weigh Bridge in the case of purchase of Bajri trucks show time interval of 4-5 Minutes only. This doesn't seem to be possible that a full truck of Bajri takes only 4-5 minutes to enter into the site and come back on the weigh bridge again with empty truck in 4-5 minutes. No satisfactory explanation has been furnished by the management regarding this issue. Sample of such instances have been enclosed below:

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Challan No.	Truck No.	Net weight in Kg	Date	Time of Gross Weight	Time of tare weight	Time taken
6524	HR74A-5331	30,720	2/3/2015	18:31	18:36	5 Min
6477	HR74A-3499	32,120	2/3/2015	18:34	18:39	5 Min
6437	HR74A-5331	29,230	23/2/2015	18:08	18:12	4 Min
6435	HR74A-8194	31,020	23/2/2015	17:55	18:00	5 Min
6429	HR74A-8194	30,640	22/2/2015	15:50	15:55	5 Min
6289	HR74A/5331	29,150	17/2/2015	15:08	15:13	5 Min
6291	HR74A/8194	30,240	17/2/2015	15:00	15:05	5 Min
6250	HR74-9144	30,710	12/2/2015	18:25	18:30	5 Min
6176	HR55T/5754	30,090	15/2/2015	15:54	15:58	4 Min
6265	HR74A-8194	29,490	15/2/2015	15:52	15:56	4 Min
6179	HR74A-1620	28,270	8/2/2015	16:39	16:43	4 Min
6261	HR74A-8194	30,930	14/2/2015	17:32	17:36	4 Min
6220	HR38T-2855	33,780	8/2/2015	15:43	15:48	5 Min
6227	HR74A-5331	29,290	9/2/2015	15:09	15:13	4 Min
6172	HR55T-5896	29,640	7/2/2015	16:56	17:00	4 Min
6210	HR74A-8194	29,560	7/2/2015	16:59	17:02	3 Min
6169	HR55T 5896	30,910	6/2/2015	15:32	15:36	4 Min
6170	HR55T 8339	31,270	6/2/2015	15:35	15:37	2 Min
6263	HR74A 1680	30,090	14/2/2015	19:09	19:13	4 Min

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As these bills of Kanodia Cements are prima facie held to be bogus, the entire sum of **INR 11.69 Crores** booked as purchases from Kanodia Cements should be recovered from them or from the Management for inflating their purchase by debiting bogus invoices.

**Bogus expense and cash surrendered in income tax search**

Cash has been surrendered by the Amrapali group in the first Income Tax search conducted on 9<sup>th</sup> September, 2010. No source of this cash has been explained by the management.

According to the Balance sheet of Amrapali Sapphire Developers Private Limited examined by us, cash surrendered is shown as miscellaneous income in the profit and loss account during 2010-11 amounting to Rs.1.39 Crores.

A It is further submitted that in the second search conducted by Income tax Authorities on 7<sup>th</sup> August, 2013, the Amrapali group had surrendered an additional income of Rs.125 crores.

B Both these facts clearly depict that Amrapali group was having inflow of unaccounted cash collected from either the Home Buyers or collected cash from Bogus purchases made or by advancing money to various parties and taking cash from them.

C While scrutinizing the Audited Financial Statements of the Companies for the Financial Year 2013-14, it is observed that no additional income has been shown. There is only jugglery of accounting transactions where sales have been shown by way of part completion method and the relevant cost is also debited to this part completion sale by changing the Accounting Method which was being followed by the Amrapali Group of companies in the earlier years. This method of accounting was changed for 2 financial years only i.e. for Financial Year 2012-13 and Financial Year 2013-14. This method was changed just to make adjustment in accordance with the letter of surrender. In fact, there is no surrender of additional income, it only amounts to preponement of sale being shown in these years instead of it in the later years.

D Cash has also been surrendered in the first search conducted on 9<sup>th</sup> September, 2010 and no source of this cash has been explained by the management. This clearly explains that there was flow of un-accounted cash from various sources to the Amrapali Group of Companies.

E A note was also stated in the Audited Financial Statements for the financial year 2010-11 as follows:

F *“Note 6 (A) During the F.Y. 2010-11 Income Tax Search & Seizure operation conducted by the Income Tax Department on the company and company has surrendered a total income of Rs. 13,893,500 i.e. Rs. 10,043,500 for the F.Y. 2009-10 and Rs. 3,850,000 for the F.Y. 2010-11. Accordingly, the total income includes the above said income.”*

G Thus, it is can be easily inferred that the company has been regularly taking cash from its various home buyers but not recording these cash entries in the Books of Accounts. (Volume –I Page No. 205)

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It is unclear how the surrender of Rs.125 crore made during the Financial Year 2013-14 has been accepted by the Income Tax Authorities. In fact, no additional income has been shown on this search. A

Moreover, against the additions relating to Bogus Purchases made in the Assessment order for the Financial Year 2013-14, the Commissioner of Income Tax (Appeal), Central Circle has deleted all these additions. B

We are informed by the management that no further appeal has been preferred by the department before the Income tax Appellate Tribunal as they have no idea of the same so far. C

The bills booked and payments made were just accommodation entries. Many of the parties are not traceable and when we requested the Amrapali Group Management to produce the persons/entities to ascertain the veracities of the claims, they didn't co-operate. D

It appears Prima-Facie that the bogus invoices were booked and cash was taken from these parties. We are of the opinion that if we confront the recipient of the purported charges then last recipient would flatly deny.

It is pertinent to note that Shri Ajay Kumar Aggarwal of BSBK Group in a statement recorded under section 132(4) of the Income Tax Act has admitted that he provided accommodation/bogus bills. E

Till the date of writing this report the amount so identified for bogus bills is **Rs.837.2 crore**. Further, the supplies by Jotindra Steel and Tubes and Mauria Udyog Ltd, having common directors with Amrapali Group Companies, are prima-facie bogus by nature and are under examination amounting to **Rs.450 crore**. (Refer Annexure No. S 4 Page no 2827 Supplementary report). F

**Land Development Charges**

A sum of **Rs.7.3 crore** has been debited to this account on 31st March, 2013 for which the supporting relevant documents are not made available to us for our verification. This amount needs to be recovered from the Directors as there is no supporting evidence or voucher and it is just a book entry. G

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A Total bogus expenses as on date of report have been ascertained to be **Rs. 842.42 crore.**

**Double booking of expense**

B It has been observed that brokerage amounting to Rs 0.25 crore was paid twice; once to HDFC Realty and again to Mr. Alok Ranjan c/o SSS Enterprises on account of same flat bookings in Amrapali Sapphire Developers Private Limited during the FY 2019-10. Mr. Sanjay Kumar, proprietor of SSS Enterprises has already conveyed to GM Finance of Amrapali Group by way of speed post that fake bill for brokerage has been raised under his name

C by Mr. Alok Ranjan. This amount of Rs.0.25 crore should be recovered from Alok Ranjan/ the Management for booking of double expense. (Volume 1 – Page no 213)

**Unsupported Cash Payments**

D The Company has made unusual cash payments by transferring the cash to the site cash during the financial year 2016-17 by way of vouchers which are not supported/authenticated by the site cash in charge. It seems that all these entries have been manipulated to use the cash to decrease the balance as on 08/11/2016 being the date of demonetization. Some instances are as

E under:

Financial Year	Particulars	Amount
30/04/16	Wages Paid	2,754,350
31/05/16	Wages Paid	2,637,050
30/06/16	Wages Paid	2,655,900
F 31/07/16	Wages Paid	2,645,450
31/08/16	Wages Paid	2,643,950
30/09/16	Wages Paid	2,659,450
31/10/16	Wages Paid	2,683,350
30/11/16	Wages Paid	1,259,630
G 06/06/16	Transferred to site cash	3,000,0000
12/05/16	Transferred to site cash	4,100,000

The above are only from one company which is tip of the iceberg and actual amounts may be much higher.

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Further cash payments are being made to number of parties amounting to Rs.20,000 or less which are not supported by payee's receipts on daily basis. Thus, these payments are not genuine. (Volume I- Page 223) A

It is observed that the cash balance available on 8<sup>th</sup> November 2016 was partly deposited into bank and huge amounts were not deposited into bank and was used for payments to staff, suppliers, vendors etc. It is worthwhile to mention that it was not permitted to use Specified Bank Notes (SBN-500, 1000 denomination Notes) for making payments to these parties. B

Further there has been an Income tax Survey on 17/11/2016. We understand Income Tax Authorities have recorded the statement of Directors and also taken the Inventory of Cash in hand as on that date. A copy of the statement recorded and detail of inventory of Cash in hand is not made available to us. C

**Gold bar purchased from Yashika Diamonds** D

It has been observed that the Group Companies purchased Gold bar, other forms of **gold worth Rs.5.88 crore**. The same has been booked as festival expenses. This does not seem to be a normal business transaction but in the nature of personal expenses. Thus, this amount should be recovered from the management of the company. E

**5. Negligence and non- monitoring by bankers**

In view of our detailed report attached, we wish to submit here that the whole process of transfer of funds from one Company to another Company to a third Company and so on and so forth on the same dates would not have been possible without active support by the Bankers. The Bankers, in our opinion, turned a Blind Eye to the various transfer of funds from one account to another for reasons best known to them. They didn't inquire the huge transfer of funds from various accounts which were being routed every day. Had they been slightly more vigilant to monitor and control transfer of funds, the Management would have not dared to launder the money from one Company to another according to their whims and fancies and the Bankers are solely responsible for the negligence on their part. F  
G

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A Banks did not do any monitoring that whether the funds disbursed were used for approved purposes or not. The loan sanctioned as term loan were diverted on the very same day of receipt. The land payment were not paid etc.

B Bank of Maharashtra – Term Loan has been released by transferring the amount to the Current account during the financial year 2009-10 to 2012-13. There has been no monitoring by the bank to ensure the end use of utilization of the funds.

This amount was paid from the Current account for other than business activities of this Company.

C It is observed that there was no monitoring done by the officials of Bank of Maharashtra, Andhra Bank and other banks by releasing of term loan to the Company. Even basic checks as required by the Bank were forgone and not ensured by the Bank Officials regarding the end utilization of the term loan funds for the purpose for which they were granted. It seems that the Bank officials overlooked all these important aspects and granted these loans to them without going into any technical requirements as relating to release of Term Loan facilities to a borrower. **The banks acted as mute spectator to unapproved diversion which was almost happening evidently in all banking transactions.**

E **Optionally Convertible Debentures**

F ICICI Prudential Asset Management Company Limited had given a sum of INR 74 crores approximately on account of debentures issued by Amrapali Sapphire Developers Private Limited during the financial year 2011-12. These debentures carried interest rate @ 17% Per annum.

G There has been a gross non-compliance of Investors cum-shareholders agreement dated 16th Day of December, 2010 with respect to following:

- a. Non appointment of directors
- b. Non operation of bank account by joint signatory of investor
- c. Non utilization of funds as per clause no. 7.5 of Investment cum Shareholders Agreement dated 16th December, 2010.

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d. Sale of flats at less than Rs 3,420 per square feet of saleable area and many other clauses of this agreement neither followed nor ensured by the Investor. A

It is very clear that a Debenture Subscription Agreement and Investment cum Shareholders Agreement both dated 16<sup>th</sup> day December, 2010 were merely sham documents which were never complied with and both i.e. Amrapali group of Companies and **ICICI Prudential Asset Management Company Limited were in connivance with each other in diversion of funds for non-specified purposes.** B

**Foreign investment** C

The company has received the sum of **Rs. 140 Crores** during the financial year 2012-13 from IPFFI Singapore PTE Limited under Foreign Direct Investment Scheme. As per FEMA rules this amount was to be invested in Real Estate construction projects only. D

The amount received in Axis Bank of Rs.85 Crores was transferred to Amrapali Centurian Park Pvt. Ltd. (ACPPL) as under:

On 7.8.2012	-	Rs.5 Crores	
On 8.8.2012	-	Rs.50 Crores	E
On 18.8.2012	-	Rs.30 Crores	
<b>Total</b>	<b>=</b>	<b>Rs. 85 Crores</b>	

ACPPL on receiving Rs.85 Crores, allotted Equity Shares worth Rs. 85 lakhs to ASCPL and balance Rs.84.15 Crores were treated as Share Premium Account. There is no Valuation Report available as to how this share premium of Rs. 84.15 Crores has been calculated. This transfer of fund by ASCPL to ACPPL is absolutely violative of FDI Rules and Agreement. F  
G

The Second amount received in BOB Escrow Account was transferred from 8.8.2012 to 28.9.2012 on various dates in the Account of BOB, Sansad Marg Branch, and New Delhi and also used for payment of Term Loan Instalments of OBC and Bank of Maharashtra for repayment of their Term Loan instalments. H

A It will therefore, be observed from the above, that **the Company (ASCPL) did not use money for the project for which it was received from IPFII Singapore but transferred Rs.85 Crores to Amrapali Centurian Park Pvt. Ltd. and Rs.55 Crores to repay Bank Loan Instalments and Repay the outstanding creditors provided for in the books and standing in the books. The said payments made by ASCPL are, therefore, in contravention of FDI norms and rules and for which the money was brought in India.**

B **Moreover, ASCPL has paid interest of Rs.58.81 Crores @ 17% (which is a highly abnormal rate) so far to IPFII, Singapore during the last 3 years.**

C

- Year 31.3.2013	<b>Rs.14.41 Crores Paid</b>
- Year 31.3.2014	<b>Rs.22.20 Crores Paid</b>
- Year 31.3.2015	<b>Rs.22.20 Crores Paid</b>

D

<b>Total</b>	<b>=</b>	<b>Rs.58.81 Crores</b>
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a) It is very clear that all such violations are being made with the knowledge of the IPFII Singapore and they are in Connivance with the ASCPL.

b) As per Schedule 4 of the agreement CCD's (Compulsory Convertible Debenture) were subject to the following terms and conditions.

F 1) On expiry of 5 years from the date of allotment, the CCD shall be fully monetarily and compulsorily converted into class B shares of the company

G 2) The CCD's shall be converted into such number of class B shares arrived that by dividing the aggregate face value of CCD's by Rs.2,734.30.

**But these CCD's were not converted into class B shares as per agreement but entered into another agreement to extend the term of CCD's from 5 years to 7 years. By this way , The fund has continued to be a creditor otherwise**

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**after conversion to equity, it will not be eligible for interest and principal.** A

**Current liabilities not payable**

Security deposits from contractors and intercorporate deposits accepted from non group companies are in the nature of unsecured loans. There have been no business transactions with the company except movement of funds. The list of such liabilities is under preparation which are not payable. B

Inter-corporate deposits accepted by the Group are Non-Interest-bearing unsecured loans. There are no business transactions with these companies. It is not understood as to why a person will give interest free loans without any considerations. Thus, we are of the view that these are accommodation entry only in lieu of consideration given to them indirectly by the management. C

Hence, we are of the view that all the aforesaid amounts are not payable. D

In our opinion, this is a case of **Money Laundering** as the generic term of Money Laundering is defined to describe the process by which Criminals disguise the original ownership and control the proceeds of the criminal conduct by making such proceeds to have derived from a legitimate source. E

Money Laundering is the process of concealing the origin of money obtained illegally by passing it through a complex sequence of Banking transfers or commercial transactions. The main process is accounting for the proceeds without raising the suspicion of law enforcement agencies. In the instant case too, Amrapali Group of Companies have defied all laws to transfer small and big amounts from one account to another to a third and so on and so forth on a single day with the connivance of the Bank officials and financial institution officials and thereby Committed act of Money Laundering on a large scale. F  
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**6. Lands allotted to consortium and flats sold to homebuyers**

Several companies were formed with consortium partners which were just dummy companies and were part and parcel of Amrapali group. To comply with the condition of minimum 3 partners, these companies were created in the names of office boys and peons. H

- A Technically the allotments at the initial stage itself were void ab-initio. In most of the companies, the amount received from homebuyers was sufficiently more than the amount spent on construction and for payment of land. Had the promoters paid amount received from homebuyers to the authorities on time there would not have been any liability of land dues. Further there was
- B no need to avail any loan from banks, Private equity funds as well as from investors. The sole objective of taking loan was to divert the funds to other ventures to create assets in the name of family members, make movies, to satisfy the ambitious desires of family members and to build hospital. Villas were bought at tourist
- C destinations for fun at the expense of middle class and low income group peoples abodes. Many parties joined them in the looting of hard earned money of homebuyers to take their share of the cake in the form of unbelievable return on investment, profits, land, FSI and flats and facilities at throwaway prices. Bogus expenses were
- D booked and the promoters were having no fear of the law of the land. They could execute many transactions of transfer of properties, booking of expenses, funds transfer, even when the petition was accepted and was pending for disposal before the Honourable Supreme Court. Companies in which land was allotted to consortium partners are as under:
- E
- Amrapali Leisure Valley Pvt Ltd
  - Amrapali Centurian Park Pvt Ltd
  - Amrapali Homes
  - Amrapali Grand
- F
- Amrapali Eden Park Developers Pvt Ltd -Iftikar Ahmed and Rakesh Mahajan jointly hold 49% in the said company
- (i) There is no substance in the nature of transactions carried on by the company. The funds are merely routed from one entity to another for hidden objective.
- G
- (ii) Banks were financing not the construction activity but loans and advances to third parties.
- (iii) Mr. Rakesh Mahajan and Mr. Ifthikar Khan were grossly involved in the wrongdoings in the company's project and
- H

equally conspired in the delay and diversion of home buyers funds and they being 49% shareholders and active directors in the company should be held responsible for the deficit in completion of the project amounting to Rs.20 crore. A

Further, Amrapali Infrastructure had given an advance of Rs.1.5 crore to Nirala Infracity Ajmer Pvt Ltd - a project controlled by Rakesh Mahajan and Iftikar Ahmed. This amount is recoverable from Nirala Infracity Ajmer Pvt Ltd. B

**7. Companies created solely for the purpose of routing funds**

The intention of Amrapali Group was to divert funds to other projects/income sources in the name of family members of the promoter and the trusted employees, friends of the promoters as well of the executives, auditors and their relatives. For this purpose, several companies were incorporated for routing funds. These companies did not have any material transaction as per the main object for which they were incorporated and did not have business since their incorporation. These companies did not have any employees also. These companies are shell companies used only to route interest free funds from one company to another. List of such companies identified so far is as under: C D

**a) Jhamb Finance & Leasing Private Limited** - The company didn't have any operations/income/expenses except for FY 2014-15 and had only movement of funds from one related party/interested party to the other. It means the company was used merely for routing the funds and not for doing any business. E

Since incorporation, loans (liability) and loans & advances (asset) increased as under, without booking of any expense/income: F

As on	Loans (liability) Amount (RS. )	Loans & advances (asset) Amount (RS. )
1 <sup>st</sup> April 2014	83,00,000	1,12,39,917
1 <sup>st</sup> October 2014	35,33,00,000	34,67,39,917
31 <sup>st</sup> March 2015	312,93,32,906	313,11,55,392
31 <sup>st</sup> March 2016	859,77,32,906	863,58,50,776
31 <sup>st</sup> March 2017	877,57,22,906	883,24,00,776

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A It is pertinent to note that starting from the FY 2015-16, the loans given and taken increased three folds without having any corresponding increased on the income and assets side on account of interest. Whereas starting from FY 2015-16, the employees started leaving the organization and the construction at sites was at standstill. The directors in the company are having no knowledge or an iota of idea about the transactions carried out. The company's operation were under the controlled and supervision of CFO Chander Wadhwa.

B Further, it received Rs.18.95 crore from Suspense- unidentified persons/parties and paid Rs.24.41 crore to Suspense- unidentified persons/parties, leaving balance payable of Rs.5.46 crore to Suspense- unidentified persons/parties. The said transactions of Rs.18.95 crore details were not made available to us.

C **b) Gaurisuta Infrastructure Private Limited** – It lent and received funds from several parties without doing any business. Details of Rs.25 crore received from third parties are as under:

S.no.	Name of party	Amount	Since date
1	Ams Powertonic Pvt Ltd	50,00,000	07-05-2012
2	Anuj Buildcon Pvt Ltd	50,00,000	10-05-2012
3	Asv Garments Pvt Ltd	50,00,000	07-05-2012
4	Bij Buildcon Pvt Ltd	50,00,000	10-05-2012
5	Carona Infra Projects Pvt. Ltd.	2,20,00,000	Received on various dates From 16-05-2013 to 16-09-2014
6	Charuvilla Apartment Behl	8,31,000	08-07-2011
7	Financial World Pvt. Ltd	57,00,000	11-07-2012
8	Function Distributors Pvt. Ltd.	50,00,000	03-08-2012
9	Green Value Agro Farm Pvt. Ltd	30,00,000	01-08-2012 & 03-08-2012
10	Infotech India Pvt Ltd	1,00,00,000	03-07-2012

BIKRAM CHATTERJI & ORS. v. UNION OF INDIA & ORS.  
[ARUN MISHRA, J.]

397

11	Kabir Enterprises Pvt Ltd	50,00,000	06-06-2012
12	Ladli Ji Enterprises Pvt Ltd	2,00,00,000	15-05-2012
13	Leisure Buildcon Pvt Ltd	50,00,000	25-04-2012
14	M/S Naksha Properties Pvt.Ltd	84,00,000	19-04-2012
15	M/S Shravni Infrastructre	3,20,00,000	Received on various dates From 19-04-2012 to 11-07-2013
16	M/S Soulful Heart Solutions	22,00,000	Received on various dates From 19-04-2012 to 17-07-2013
17	Ram Rahim Trading Co. Limited	70,00,000	01-08-2012 & 02-08-2012
18	Randhir It Solutions Pvt Ltd	50,00,000	07-05-2012
19	Rayan Garments Pvt Ltd	1,40,00,000	26-04-2012 & 07-05-2012
20	R N Sangahi	24,37,480	11-04-2011 ; 02-07-2011 & 18-12-2012
21	S A Corrugators Pvt Ltd	20,00,000	01-08-2012
22	Sadbhavana Properties Pvt Ltd	4,00,00,000	08-06-2012
23	SpbPropcorn Pvt. Ltd.	50,00,000	25-04-2012
24	Technicare Biomed India Pvt Ltd	40,00,000	25-04-2012
25	Utkarsh Properties Solution	28,00,000	26-04-2012 ; 16-09-2014 & 17-09-2014
26	Vendure Agents Pvt Ltd	50,00,000	01-08-2012
27	Zarf Infra. Development Pvt Ltd	1,45,00,000	Received on various dates From 26-04-2012 to 04-08-2012
28	Zoom Building Materials Pvt Ltd	1,00,00,000	10-05-2012 & 11-05-2012
<b>TOTAL</b>		<b>25,08,68,480</b>	

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- A **The above companies were used for the purpose of money laundering and required a detailed investigation.** Further the amount as shown above is not payable to the party as indicated against. None of the parties as above has lodged any claim so far therefore it strengthens our charge.
- B As on 31<sup>st</sup> March 2017, the company is having interest free loans and advances amounting to Rs.703 crore without any movement with a paid up share capital of merely Rs.0.01 crore and the directors are employees and junior employees of statutory auditors. The company is used as a conduit in diverting home buyer funds to Amrapali Healthcare (Noida Hospital) and buying shares in different group companies from the funds of home buyers. The entire shareholding should be attached and be made up for sale.
- C
- D **c) Neelkanth Buildcraft Private Limited** - It was formed in the year 2013 having a capital of Rs.0.01 crore for the specific purpose of buying shares from JP Morgan. Mr Chandan Kumar, director of Neelkanth Buildcraft Private Limited is an office boy in the office of Statutory Auditor of Amrapali Group, Mr Anil Mittal and the other director Mr Vivek Mittal is nephew of Statutory Auditor Mr Anil Mittal & does small time jobs.
- E **d) Stunning Construction Private Limited** – The Company is holding 19.75 % shareholding in LA Residentia Developers Pvt. Ltd. is a consortium partner in the project since beginning. LA Residentia project has 3200 flats LA Residentia should surrender either 19.75% of land or 632 flats. It was formed only for payment of Statutory dues of Amrapali Group of Companies, its directors and their relatives including senior employees of the Amrapali Group of Companies. The company was under the direct control of CFO Chander Wadhwa and Company Secretary Pankaj Mehta. The amount of taxes paid by the company on behalf of promoters, directors, executives and their family members is Rs.17.43 crore (net) and gross up is Rs.24.9 crore is recoverable from promoters, directors, executives and their relatives.
- F
- G **e) Kapila Buildhome Private Limited** – The company did not undertake any business. A sum of Rs.392.68 Crores was advanced as loan or advances to the various group Companies. Further, it accepted non-interest bearing inter corporate deposits from
- H

non group companies with whom no other transactions were undertaken. We are of the view that these are accommodation book entries only in lieu of consideration given to them indirectly by the management. List is as stated hereunder: A

Name	Amount In Rs.	Date of Acceptance
Ample Hotels and Resorts	20,000,000	20/04/12
Justify Vaniya Private Limited	4,000,000	22/06/12
Ladli ji Enterprises Private Limited	5,900,000	25/04/12
Madhav Fincap Private Limited	15,000,000	24/04/12
Pan Realtors Private Limited	100,000,000	23/08/10
<b>Total</b>	<b>144,900,000</b>	

The above companies were used for the purpose of money laundering and required a detailed investigation. Further the amount as shown above is not payable to the party as indicated against. None of the parties (except PAN Realtors that also when we requested them otherwise they were silent for last 8 Years) as above has lodged any claim so far therefore it strengthens our charge. D

**f) Rudraksh Infracity Private Limited-** Shri Chandan Kumar, an office boy and employee of CA Anil Mittal, Statutory Auditor and Shri Atul Mittal, relative of CA Anil Mittal were inducted in the board. The basic purpose of this Company was only for money laundering and was incorporated to receive Funds from Mannat Buildcraft Private Limited. After receiving money (Rs.25 Cr.) from Mannat Buildcraft Private Limited, the same was transferred to J.P. Morgan Investments for purchase of Equity Shares of Amrapali Zodiac Private Limited at an exorbitant price. There are no transactions before or after these transfers of money and the same have been camouflaged to make it look with business transactions on the basis of the Valuation Report. E F G

It was also observed that there are no transactions at any date during the period but the bank account has only been used for diversion of funds.

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- A **g) Mannat Buildcraft Private Limited** - Shri Pankaj Mehta is Company Secretary of Amrapali group of Companies and now Partner of Mr. Chander Wadhwa, CFO in Saffron Consultants LLP and Mr. Ashish Jain who is also Partner of Mr. Chander Wadhwa, CFO in Saffron Consultants LLP, were inducted in the board. The basic purpose of this Company was only for money laundering (Rs.120 Cr.) and was incorporated to receive Funds from Amrapali Zodiac Developers Private Limited.
- B
- C The whole racket of money laundering and receiving money from these Companies i.e. Mannat Buildcraft Private Limited, Rudraksh Infracity Private Limited and Neelkanth Buildcraft private Limited are the brain child of Mr. Chander Wadhwa, CFO and Anil Mittal, Statutory Auditor of Amrapali Group of Companies. Both these Companies are controlled by both of these persons and had been formed only for this Money Laundering Business. There are no transactions before or after these transfers of money and the same have been camouflaged to make it look with business transactions on the basis of the Valuation Report.
- D
- E **h) Amrapali Magadh Developers Pvt Ltd** - The company has not carried out principal business activities. There is no bank account. The purpose of creating the company is not clear. The shareholders paid the share application money in cash. The company is a dormant company & did not have any significant transaction.
- F **i) Amrapali Mahi Developers Pvt Ltd** - The company received share capital in cash and all the expenses were paid in cash only. Mr. Mahendra Singh Dhoni, husband of Ms. Sakshi Singh Dhoni (director of company) was the brand ambassador of Amrapali group and have carried out a number of transactions with respect to endorsement of Amrapali group's projects. He entered in agreements with other group company.
- G **j) Amrapali Spring Valley Pvt Ltd**- the company is created for diversion of funds and Rs.186 crore was diverted from Amrapali Smart City Pvt Ltd to buy shares of Ultra Home Construction Pvt Ltd and shareholders are promoter directors without doing any investments.
- H

Most of the above companies will qualify to be NBFC, which was reported neither by the management nor by the statutory auditors (except Jhamb Finance & Leasing Pvt Ltd). It is recommended that RBI shall investigate the affairs and compliances of the above companies. A

**Amrapali Media Vision Pvt Ltd** was also incorporated with a purpose to route funds for making movies to satisfy the ambitious desires of directors/family members. Most of the marketing and advertisement business of the group companies was given to the company with a profit margin on the cost. The group could have done this advertisement directly. But because there was need to make movies, the funds were diverted to the company directly in the form of loan as well by availing the services indirectly from these companies. The Company was freely availing funds of homebuyers from other group Companies in the form of ICD and spent it on making movies. B C

**Hawthorne Intellect Management Solutions Pvt Ltd** – Company was providing Management Consultancy Services (Recruitment Services) and taking nominal professional fee. In turn, the Company has incurred more expenses in the last few years on account of Salary, Wages and other administrative expenses thereby resulting in net loss to the Company which has accumulated to **INR 2.33 Crores** as on 31.03.2015. D E

All these entries seem to be in nature of dubious entries and no voucher are available. This amount of loss of 2.33 Crores needs to be recovered from the Directors as they have wiped of the amount of the Home Buyers funds diverted as Home Buyers Money to the Company. F

Apart from the above companies, there were several companies which were incorporated by employees, auditors of Amrapali group. Shareholding as well as investment/assets of these companies shall be attached G

#### **8. Companies created for building assets**

The following companies were created by the Group for building assets from homebuyer funds without contribution of any rupee by promoters and their relatives. The shareholding is held by the H

A group companies and/or by shell companies and/or the trusted partners including individuals.

● Ultra Home Construction Pvt Ltd- Shareholders did not bring capital of their own, but used funds of home buyers in other entities/ projects to pay for allotment of shares in UHCPL. Mr. Anil Kumar Sharma was allotted shares at premium for an amount of Rs.22,82,40,810 on 4th Nov 2010 and Rs.25,84,05,470 on 2nd March 2011 by adjusting receipts from Amrapali Infrastructure Ltd which further received from Amrapali Sapphire Developers Pvt Ltd, which received from homebuyers. Few instances are hereunder:

Received in Amrapali Sapphire Developers Pvt Ltd primarily from home buyers	Transferred to Amrapali Infrastructure Ltd	Transferred to Ultra Home Construction Pvt Ltd
INR 5.47 crore as on 4 <sup>th</sup> March 2010	INR 2 crore on 5 <sup>th</sup> March 2010	INR 2 crore on 5 <sup>th</sup> March 2010
INR 1.90 crore on 5 <sup>th</sup> and 6 <sup>th</sup> March 2010	INR 2 crore on 8 <sup>th</sup> March 2010	INR 2 crore on 8 <sup>th</sup> March 2010
INR 1.13 crore on 8 <sup>th</sup> March 2010	INR 2 crore on 9 <sup>th</sup> March 2010	INR 2 crore on 9 <sup>th</sup> March 2010

● Amrapali Homes Projects Private Limited –It has been observed that Mr. Prem Mishra was given INR 12.40 crore (under several ledgers) for purchase of land since 1st April 2008, out of which INR 10 crore are still receivable from him. The project was sold by Prem Mishra to various parties and received amount in his name. We are yet to complete the audit of Prem Mishra in Indore project. The company transferred funds to and fro with several parties which do not have any substance. It has several small and big debit balances as on date.

● Amrapali Biotech India Pvt Ltd – Land & Building, Plant & machinery, a factory at Rajgir (Bihar)

● Amrapali Healthcare Pvt Ltd – Hospital at Noida

● Noida Texfab Pvt Ltd – Amrapali International Institute of Hotel management, Noida

● Neelkanth Buildcraft Pvt Ltd – bought shareholding from JP Morgan in Amrapali Zodiac developers Pvt Ltd.

● MVG Techno Consultants Pvt Ltd – Tower at Noida

● Amrapali Infrastructure Pvt Ltd – recast factory at Greater Noida A

● Sangam Colonisers Pvt Ltd- The Company has received an amount of Rs.10.51 crore as advance against plots. However, despite repeated requests we have not been provided with the complete data base reflecting Number of Plots, Name of the buyers, Amount of Sale Consideration, Amount Received, Amount Outstanding, Unsold plots etc. Hence, we are not in the position to comment upon the same. As informed to us during the course of audit, the remaining portion of the land available with the Company has been attached by Hon’ble Supreme Court of India and put to auction by DRT. B C

● Navodaya Properties Pvt Ltd – Building corporate tower 2, Noida

● Amrapali Power & Cement Pvt Ltd – Land from Charu Rai yet to be identified, Land from UPSIDC yet to be identified. D

● Amrapali Buddha Developers Private Limited – Shopping complex cum Mall at Gaya

● MSB Software Technology Private Limited – Tower 1, Noida

● Gaurisuta Infrsolution Private Limited –Flats in Amrapali Silicon City Private Limited, booking of bogus expenditure of Rs.1.07 crore. E

● Amrapali Hospitality Services Private Limited- Hotel at Deogarh, Jharkhand

● Mums Mega Food Park Private Limited- FMCG Factory at Buxar, Bihar, Land Building and Plant & machinery F

● RudrakshInfracity Private Limited - bought shareholding from JP Morgan in Amrapali Zodiac developers Pvt Ltd.

● MannatBuildcraft Private Limited - bought shareholding from JP Morgan in Amrapali Zodiac developers Pvt Ltd. G

### **Serious Observation**

Our investigation reveals that this company has been used to perpetuate a fraud enabling JP Morgan Investments to sell its shares of Amrapali Zodiac Pvt. Ltd. to other Group Companies

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A of Amrapali group namely, RudrakshInfracity Pvt. Ltd. and Neelkanth Buildcraft Pvt. Ltd. at a valuation amounting to INR 140 crores which is not justified. This company has been used as a tool to transfer the money to other Amrapali Group companies. The following persons seems to be involved in this organized fraud:

- B
- i. Amrapali Zodiac Developers Pvt. Ltd.
  - ii. RudrakshInfracity Pvt. Ltd.
  - iii. Neelkanth Pvt. Ltd.
  - iv. JP Morgan Investments
  - v. MannatBuildcraft Private Limited
  - vi HDFC Bank

C Chander Wadhwa, Adhikari dash and Anil Mittal incorporated 27 Additional companies identified so far, which may be many more, and became consortium partners from the funds of the home buyers. In the process, they appointed peons and junior employees of auditors office as directors who were totally unaware of the transactions. These companies were used for depositing cash during demonetisation. The companies were formed/acquired for routing funds and were not in any business. These were sham companies whose share capital was mostly subscribed in cash and the transfer of shares was also in cash leaving no audit trail.

E **9. Misuse of funds by directors involved in scam**

F The directors and executives colluded with each other and diverted homebuyers funds. Directors received huge amount of money in the form of salary as well as professional fee, both together. A person could have been either in whole time employment of the company or render services as consultant. However, a person cannot enjoy salary income and earn professional income at the same time and also both cannot be earned at the same time from same company. But directors of Amrapali group withdrew sums using all possible ways, be it salary, professional fee, reimbursement of expenses, use of luxury cars or loans and advances to self/relatives/self controlled entities/trusted partners or booking of bills of self controlled entities/trusted partners.

G Further professional fee was booked without any agreement or proof of service. It had no correlation with the amount of work

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done by the directors. Professional fee was booked as per wish and desire of directors and did not have any fair basis. There were standing instructions to transfer company funds to the individual directors bank accounts when the balance was reaching to the specified set minimum balance limit. A

The Professional fee paid to the directors, relatives of directors, and senior managers was a unique way of diverting money. Huge amounts were paid without any agreements at the whims and fancies of the directors and managers. Moreover it was tax free and the tax liability was discharged by another group company. The whole of professional fee received by the directors (as stated hereunder) is recoverable from them. (Volume –II, Page no 416-417). B C

Name of director	Professional fee received (as per affidavit)
Anil Kumar Sharma	29,13,23,580
Shiv Priya	26,43,64,571
Ajay Kumar	5,76,90,240
Suvash Chandra Kumar	5,11,21,752
Amresh Kumar	68,11,110
<b>Total</b>	<b>67,13,11,253</b>

 D E

Professional fee was under disclosed to the tune of is Rs.33.4 crore (Anil Kumar Sharma 8.75 cr + Shiv Priya 24.65 cr) in affidavits filed on 3<sup>rd</sup> Dec 2018 (Volume –II, Page no 414-415). The Difference was found of from the affidavit file and the tax returns. F

It shall be noted that directors did not share company wise receipts in the affidavit and also books of accounts of directors were not provided. G

Directors along with their trusted partners and relatives cheated and did criminal breach of trust with the home buyers. They transferred the funds from the projects to the companies which were closely held by the directors, their family members and/or by their trusted associates. The objective was to create assets in H

A the closely held companies and leave the home buyers on the road. For example, Eklavya Building Solutions Pvt Ltd acquired property in Goa amounting to is Rs.2 crore through funds received from Amrapali group, 27 other companies further invested Amrapali funds in Amrapali projects (For example Many Flats in IT Park at Greater Noida);

B The directors spent homebuyers funds on wedding of daughter of director, foreign travels, expensive watches, jewellery, purchasing luxury cars for use by directors. The homebuyers funds were also used for investment in mutual funds, creating personal properties , payment of housing loans, investment in shares & securities. The directors created discreet projects for personal income for example In the name of Amrapali Hospitality a hotel at Deogarh was constructed out of funds received from homebuyers without their knowledge of it. They used homebuyers funds in the form of construction of assets for other projects,

C examples constructed mall at Muzzafarpur, Bareilly etc, Hotel at Deogarh, Bareilly, Hospital at Noida etc.

**Few particulars of diversion of funds received from Amrapali group are as under:**

**By Anil Kumar Sharma**

Particulars	Amount
Amount Paid for Housing Loan of Plot no 88, 2057/7 resi Magos Village, Goa	3,137,000
Amount Paid for Housing Loan of Jaypee Green E-11 Plot, Sector 128, Noida	3,796,452
Amount paid for purchasing shares	59,600,000
Purchased Jewellery	33,921,575
Purchased Car	5,613,572
Investment in LIC and Star Union Daichi – Insurance Policies	18,238,326
Expense done during wedding of Daughter Swapnil Shikha	13,500,000
Transfer to Surabhee Advertising Maharani Bagh Property	38,500,000
Transfer to Quality Synthetic Industries Limited Surekha Group	30,000,000
Transfer to others (Chander Wadhwa, Shashank Manohar, etc)	18,600,000
transfers to family members	107,310,878
Payment by Stunning Construction Pvt Ltd of direct tax	44,510,320
<b>Total</b>	<b>376,728,123</b>

**By Shiv Priya**

A

Advance against property to Gaursons India Ltd	51,00,000
Bathroom products and Marble for home	38,92,668
Furniture	74,76,644
Helicopter services	6,20,000
Watches	19,45,500
Lights, art designing, Bed linen	38,26,290
Jewellery	33,44,475
Quality Synthetic Industries Ltd	1,50,00,000
Cozy Habitat Builders Pvt Ltd	15,00,000
SN Dubey	10,00,000
Stamp duty for registry of Jaypee Green Villa	32,50,000
Payment for LIC	3,49,96,654
Investment in mutual funds	8,86,50,409
Payment of loan for Pearl Gateway Towers	30,84,952
Payment of loan for Jaguar	23,13,800
Payment of loan from bank of Maharashtra	46,65,200
<b>Total</b>	<b>18,06,66,592</b>

B

C

D

**By Ajay Kumar**

Yogesh Chand	25,00,000
Transferred to Sweep Account	1,33,00,000
Ozone GSP Infratech	50,00,000
Quality Synthetic Industries Ltd	40,00,000
Investment in mutual funds	2,25,00,000
Payment of housing loan for IRS Colony, Abhay Khand, Indirapuram	56,31,000
Payment of housing loan for Pelican Villa Jaypee Green	37,55,784
Payment for LIC	2,56,53,384
<b>Total</b>	<b>8,23,40,168</b>

E

F

Funds transferred from Amrapali group of companies was withdrawn in cash from personal accounts of directors and diverted to undisclosed people. In case of Anil Kumar Sharma, it is seen that an amount of is Rs.10.38 crore was withdrawn from June 2008 to May 2012 within a few days of transfer to bank account of Anil Kumar Sharma in Bank of Maharashtra. Several times, description of source of receipt or person to whom payment was made were not clear and such sources or application could not be identified.

G

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- A Several companies were incorporated to create assets or to hold investment in the group companies or outside the group companies having assets. The promoter directors or their family members became the shareholders in these companies without investing any paisa. Homebuyer funds were diverted to these companies and then these companies bought shares from the funds so diverted
- B in the companies having assets for example Noida hospital in Amrapali Healthcare Pvt Ltd, 5 star hotel in Ultra Home Construction Pvt Ltd, Institute of hotel management in Noida Texfab Pvt Ltd etc.
- C Investment from JP Morgan and other funds availed for the purpose of construction which were not required at all because the funds paid by homebuyer were in most of the cases were higher than the cost of construction and land payments, were diverted on the day of receipt itself to the closely held companies and to the companies created for the sole purpose for using them as a conduit for diversion and to the suppliers of bogus supplies. It is very surprising that when funds were borrowed a high rate of interest was paid ranging from 14 -18% to so called investors and the same investors were given loans to their group companies without charging any interest. In such a scenario, the possibility of taking cash in the form of interest cannot be ruled out.
- D
- E Directors sold number of flats at low prices as compared to the prices existing on or near to those dates and on which rates sales were made to other home buyers. It is further submitted that some of the flats have been sold even at rates as low as is Rs.1,000 - is Rs.1,400 per square feet which is even lower than the cost of construction. Possibility of taking cash outside the books of accounts cannot be ruled out.
- F
- Instances of misuse of funds are hereunder:
- Anil Kumar Sharma**
- G Mr. Anil Kumar Sharma received funds from Amrapali group of Companies which was used for acquiring personal properties, as stated hereunder:
- a. Property located at Plot no 88, 2057/7 Resi magos village Goa-(Housing loan was paid for this property out of amount received from Group companies)
- H

- b. Property located at Jaypee Green E-11 Plot, Sector 128, Noida -(Housing loan was paid for this property out of amount received from Group companies) A
1. Mr. Anil Kumar Sharma purchased shares and securities amounting to is Rs.5.96 crore out of moneys received from Amrapali group Companies. B
2. Mr. Anil Kumar Sharma purchased following assets out of amount received from Amrapali group Companies:
- a. Jewelries worth is Rs.3.39 crore
- b. Car through AMP Motors: is Rs.0.56 crore C
- c. Life Insurance Policies: is Rs.1.82 crore (based on bank statements available, although in total amount invested in insurance policies amounted to is Rs.4 crore)
3. Mr. Anil Kumar Sharma made following personal expenses of is Rs.1.35 crore for wedding of his daughter out of amounts received from Amrapali Group of Companies: D
- a. Payment made to Event Management Companies: is Rs.0.90 crore
- b. Payment made to hotels: is Rs.0.45 crore E
4. Mr. Anil Kumar Sharma made payment of is Rs.8.71 crore to following third parties out of amounts received from Amrapali Group of Companies:
- a. Chandan Homes Pvt Ltd: is Rs.10,00,000
- b. Kalpana Kumari: is Rs.10,00,000 F
- c. Sapphire Digital Printers: is Rs.25,00,000
- d. Shashank Manohar: is Rs.36,00,000**
- e. Rajesh Malhotra : is Rs.20,00,000
- f. Manas Nursing Home: is Rs.25,00,000 G
- g. Amresh Kumar Anand: is Rs.27,00,000
- h. Surbhaee Advertising Pvt Ltd: is Rs.3,85,00,000**
- i. Quality Synthetic Industries Limited: is Rs.3,00,00,000 H**

- A            **j. Chander wadhwa:** is Rs.25,00,000  
              k. Mrityunjay Kumar: is Rs.8,00,000
5. Mr. Anil Kumar Sharma made payments of is Rs.10.73 crore to his family members out of amounts received from Amrapali group of Companies:
- B            a. Deepshikha (Daughter): is Rs.93,50,000  
              b. Ritik Kumar Sinha (Son in Law): is Rs.1,40,00,000  
              c. Swapnil Sikha (Daughter): is Rs.8,39,60,878
- C            6. Mr. Anil Kumar Sharma received RS. 6.55 crore in his bank account from Amrapali Hospitality during the month of June and July, 2018 for sale of **Bareilley mall** to Vaishnavi Vahini Mount Life Hospitality Pvt Ltd. The said amount was immediately disbursed to family members:
- D            a. Self: Rs.4,77,00,000  
              b. Pallavi Mishra (Wife) Rs.60,00,000  
              c. Swapnil Shikha (Daughter) Rs.48,00,000  
              d. Raj Dulari devi (Mother) Rs.52,00,000
- E            e. Ranjit Kumar Rs.9,90,000
7. Unexplained cash deposits of Rs.5.73 crore were received by Mr. Anil Kumar Sharma in his bank accounts from November to December, 2016 i.e during demonetization period.
8. Mr. Madan Mohan Sharma (Father of Anil Kumar Sharma) received Rs.2 crore from Amrapali Grand during month November and December, 2007.
9. Unexplained cash deposits of Rs.0.13 crore were received by Mrs. Raj Dulari Devi (Mother of Anil Kumar Sharma) during from April to July, 2018.
- G            10. Following are the details of lockers held by family members of Anil Kumar Sharma:
- Pallavi Mishra –  
                  a) in UCO bank account no 1557010000618

H

b) in HDFC Bank account no 50100162844761 locker no 9250500004564240 A

- Raj Dulari Devi in Yes Bank account no 8599300000716, Locker no 11606082018

11. There are substantial transactions with Amrapali Aadya Trading in his bank account of **IndusInd Bank Account no.100028567700** as per details given below: B

Date	Particulars	Receipts	Payments
16/07/2014	Neft-Amapali Aadya Trading	2,500,000	-
14/08/2014	Neft-Amapali Aadya Trading	1,000,000	-
14/11/2014	Neft-Amapali Aadya Trading	2,500,000	-
21/01/2015	Neft-Amapali Aadya Trading	500,000	-
15/04/2015	RTGS- Amapali Aadya Trading	-	1,000,000
15/04/2015	Neft- Amapali Aadya Trading	-	1,000,000
24/04/2015	RTGS- Amapali Aadya Trading	-	2,000,000
29/04/2015	RTGS- Amapali Aadya Trading	-	1,000,000
06/05/2015	RTGS- Amapali Aadya Trading	-	2,000,000
08/05/2015	RTGS- Amapali Aadya Trading	-	2,000,000
13/05/2015	RTGS- Amapali Aadya Trading	-	2,000,000
27/05/2015	RTGS- Amapali Aadya Trading	-	2,000,000
19/05/2015	RTGS- Amapali Aadya Trading	18,500,000	-
23/06/2015	RTGS- Amapali Aadya Trading	-	1,000,000
30/07/2015	RTGS- Amapali Aadya Trading	-	1,500,000
21/08/2015	RTGS- Amapali Aadya Trading	-	2,000,000
25/08/2015	RTGS- Amapali Aadya Trading	-	2,500,000
27/08/2015	RTGS- Amapali Aadya Trading	-	400,000
27/08/2015	RTGS- Amapali Aadya Trading	-	3,600,000
09/09/2015	RTGS- Amapali Aadya Trading	-	1,500,000
20/08/2016	RTGS- Amapali Aadya Trading	1,500,000	-
<b>Total</b>		<b>26,500,000</b>	<b>25,500,000</b>

- **Note:** He has not disclosed his association With Amrapali Aadya Trading in his various affidavits furnished to the Hon'ble Supreme Court of India.

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**A**      **Shiv Priya**

1. Mr. Shiv Priya received funds from Amrapali group of Companies which was used for acquiring personal properties, as stated hereunder:

**B**            a. Property located at L 801, Pearl Gateway Towers, Sector 44, Noida -(Housing loan was paid for this property out of amount received from Group companies)

b. Vehicle- Jaguar XJ having registration number UP16BA2001- (Loan was paid out of amount received from Group companies)

**C**            2. Mrs. Sonali Suman (Wife of Shiv Priya) made investments in different mutual funds amounting to Rs.8.86 crore out of amounts received from Amrapali group of Companies.

3. Mr. Shiv Priya purchased following assets out of amounts received from Amrapali group of companies:

**D**            a. Jewelleries: Rs.33,44,475

b. Life Insurance Policies Rs.3,49,96,654

c. Watches Rs.19,45,500

**E**            4. Mr. Shiv Priya made following personal expenses of Rs.2.74 crore out of amounts received from Amrapali group of companies:

a. Expenditure made for Residential property (Marbles, bathroom products, lights etc) Rs.56,53,268

b. Helicopter services Rs.6,20,000

**F**            c. Art designing Rs.10,00,000

d. Bed Linen, Table linen and art designing Rs.20,36,290

e. Wooden doors and Furnitures: Rs.74,76,644

f. Payment made for clearing dues of American Express Credit Card: Rs.1,06,78,273

**G**            5. Mr. Shiv Priya made payment of Rs.1.75 crore to following third parties out of amounts received from Amrapali Group of companies:

a. Quality Synthetic Industries Limited Rs.1,50,00,000

**H**

b. Cozy Habitat Builders Pvt Ltd Rs.15,00,000 A

c. S N Dubey Rs.10,00,000

6. Unexplained cash deposits of Rs.6 crore were received by Mr. Shiv Priya in his bank accounts during December, 2016 i.e during demonetization period.

B

7. Mrs. Sonali Suman (Wife of Shiv Priya) re-paid loan from bank amounting to Rs.0.45 crore out of amount received from Amrapali group of Companies. It is to be seen what the purpose was for which the bank granted loan for 6 months for the said amount.

8. Shiv Priya is holding demat account no 1206420001934748 and Sonali Suman is holding demat account no 1206420001936308 with HDFC bank, of which details have not been provided to us.

C

9. Mrs Sonali Suman holds mutual funds with HDFC mutual funds Folio no 11707520/73, which have market value amounting to Rs.0.65 crore as on 28<sup>th</sup> February 2019.

D

10. A sum of Rs.0.45 crore was paid by M/s Royal Golf Link City Projects Private Limited to Mr. Shiv Priya during the financial Year 2016-17 which was not declared by him in the various Affidavits filed in the Hon'ble Supreme Court.

11. There was an income tax search in the premises of Amrapali Group of Companies and the residence of the directors in the month of 7<sup>th</sup> and 8<sup>th</sup> August, 2013. During this search operation unaccounted cash was seized from the residence of directors namely Shri Shiv Priya amounting to Rs 1 Crores. Unexplained jewellery was also seized from the residence of Mr. Shiv Priya amounting to Rs 0.58 Crores. Thus, it apparently shows that he has unaccounted cash.

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F

**Ajay Kumar**

1. Mr. Ajay Kumar received funds from Amrapali group of Companies which was used for acquiring personal properties, as stated hereunder:

G

a. Property located at Plot no: A-014 Savanna Villas, Jaypee Greens Sector-128, Noida; the property was not disclosed in affidavit submitted on 3<sup>rd</sup> December, 2018 -(Housing loans was

H

- A paid for this property out of amount received from Group companies)
- b. Property located at IRS colony, Abhay Khand, Indirapuram, Ghaziabad- Rs.1.38 crore.
- B c. Property located at Plot No: A-014, Pelican Villa Jaypee Green Noida 201301- Rs.1.11 crore.
2. Mrs. Seema Kumari (Wife of Ajay Kumar) made investments in different mutual funds amounting to Rs.**2.25 crore** out of amounts received from Amrapali group of companies during August to September, 2018.
- C 3. Mr. Ajay Kumar made investments in Life insurance Policies of Rs.2.59 crore out of amounts received from Amrapali group of companies.
- D 4. Mr. Ajay Kumar made payment of Rs.1.25 crore to following third parties out of amounts received from Amrapali Group of Companies:
- a. Yogesh Chand Rs.25,00,000
- b. Ozone GSP Infratech Rs.50,00,000
- E c. Quality Synthetic Industries Ltd Rs.50,00,000
5. Mr. Ajay Kumar made investment of Rs.1.12 crore in Ultra Home Construction as Share Capital out of amounts received from Amrapali group of companies.
- F 6. Mr. Ajay Kumar made payment of direct tax of Rs.0.11 crore out of amounts received from Amrapali group of companies.
7. Mrs Seema Kumari holds mutual funds with HDFC mutual funds Folio no 14756739/01, which have market value amounting to Rs.0.48 crore as on 28<sup>th</sup> February 2019.
- 8. Bank Statement of Anandi Singh of IndusInd Bank Account no.150019032006**
- G A sum of **Rs.1.73 crore** has been transferred from Seema Kumari on 09/08/2018.
- H Further a sum **Rs.2.25 crore** has been invested in Mutual Funds as per details given below:

Date	Particulars	Amount	
16/08/2018	Mirae Asset MF	5,000,000	A
16/08/2018	Aditya Birla Mutual Fund	5,000,000	
18/08/2018	Kotak Mutual Fund	5,000,000	
11/09/2018	HDFC Mutual Fund	5,000,000	
12/09/2018	Tata Mutual Fund	2,500,000	
<b>Total</b>		<b>22,500,000</b>	B

Note: This amount can be attached and recovered by encashment of these investments.

**Sunil Kumar and Sunita Kumari (wife of Sunil Kumar)**

1. While scrutinizing the Accounts of Gaurisuta Infrsolution Private Limited in which Mr. Sunil Kumar was the Director, it was observed by us that bogus commission of **Rs.1.07 crore** was booked. This amount of Rs.1.07 crore should be recovered from Mr. Sunil Kumar. C

2. A sum of **Rs.0.50 crore** has also been paid as Salary to Mrs. Sunita Kumari in M/s Gaurisuta Infrsolution Private Limited which is not genuine as per detailed report given in the case of M/s Gaurisuta Infrsolution Private Limited. This Amount of **Rs.0.50 crore** should also be recovered from Mrs. Sunita Kumari. D

**Mr. Sudhir Kumar Choudhary** E

He is director in Amrapali Biotech India Private Limited & Gaurisuta Infrsolution Private Limited. As per his statement recorded, he was forced to become the director in first week of august 2018 with effect from 06th July 2018.

We are of the view that this planning has been done by the Amrapali Management after the order of the Hon'ble Supreme Court to accept the resignation of Mrs. Seema Kumari Wife of Sunil Kumar from the Directorship and to appoint Mr. Sudhir Kumar Choudhary as the director of the company. F

It was further explained by him that he was a mere employee only and by virtue of threat by the Amrapali Group of Companies, he was forced to become the Director of Amrapali Infrsolution Private Limited. G

Apart from above specific points, it shall be noted that we had got access to the email of the Accounts department of Amrapali Group H

A of Companies with Id [accounts@amrapali.in](mailto:accounts@amrapali.in) for a short period after interrogation from an Ex-employee. We could download few instances of Cash transactions which are enclosed as a sample in **Annexure 26-B**. The access to this mail was stopped immediately. We requested the management to give the access to this mail to enquire into the further such mails related to the cash and other accounting adjustments contained in this Email Account. But this access was not made available to us.

B However, the access had been made available after the orders of the Honorable Supreme Court dated 28th February, 2019. Now, all the mails relating to receipt of cash from the various home buyers have been deleted. Thus, the management of the company has tampered with the evidence which were available earlier. (Page No. 205 Volume-I)

C Further an amount of Rs.113.5 crore paid by Amrapali Infrastructure Pvt Ltd to directors is recoverable as on 31<sup>st</sup> March 2018 and this amount is on account of shares allotted of Ultra Home Construction Private Limited to the directors without receiving any money from the directors during the Financial Year 2010-11. This seems to be a dubious transaction by the directors of the company in manipulating the accounts in this manner by allotting the shares without actual consideration. These amounts are not disclosed by the Directors in their Affidavits. Hence, the Affidavits filed by the directors are incorrect to this extent.

#### **10. Executives who colluded with directors**

F The executives of the Group colluded with the management to avoid proper recording of transactions in books of accounts. To avoid the traceability of the transactions, the executives recorded the financial transactions up to March 2015 in Accounting Package tally, then shifted to FARVISION from April 2015 and continued till March 2016, and thereafter partially recorded transaction in tally and a for a few companied in FARVISION. At the time of switchover, even the opening balances were not properly entered, thereby leading to a huge difference in the data provided to us. In November 2016, the Group left Farvision half way and started recording transactions for partial period in tally.

H

The executives intentionally recorded transactions by switchover of accounting package improperly so that complete trail could not be established. Subsequently, the companies of the group even stopped getting the annual accounts prepared and filing returns to ROC and Income tax A

The Sales and Marketing head Mohit Gupta, CFO Chandar Wadhwa, Accounts head Adhikari Das, Company Secretary Pankaj Mehta and the Architect Vaibhav Jain along with their immediate coterie extended helping hand to the management in planning and execution of the scam. B

**Mr. Mohit Gupta – Marketing Director** C

He was responsible for the whole marketing department, Customer Relationship Management of the Amrapali Group and he did not cooperate during the entire process of forensic audit.

It is pertinent to note that till now a list of flat wise possession has not been provided to us. D

At first he did not submit us the customer data inspite of number of reminders. Subsequently, the customer data submitted was not correct. We found the following–

(i) The inventory of vacant flat submitted by him was incorrect. E

(ii) We found 401 flats (**Refer Annexure S-5 page 2828 2836 Supplementary report**) which were either lying vacant and were available in inventory because the flat buyers were shifted out of Amrapali Group to the other project of other builders. Mr. Mohit Gupta also did not disclose the details of flats booked in the name of various parties without receipt of any amount from them just by passing journal entry. F

(iii) From the above it is clear that it defies the order of Honorable Supreme Court and has violated the order and is responsible for the gross contempt of the Honorable Court. G

**Mr. Adhikari Debi Prasad Dash- GM/DGM Accounts**

It is found that Mr. Adhikari authorized (**Refer Annexure S-6 page 2837-2841 Supplementary report**) most of the payments regarding payment of professional charges, raw materials, H

- A contractor dues and other direct/indirect expenses. It is pertinent to note that he was also involved in diversion of funds from Amrapali group and equally responsible in the conspiracy of cheating with home buyers and diversion of funds.
- B He was responsible for the whole accounts department and he did not cooperate during the entire process of forensic audit. He was authorized to receive payments in cash and was submitting on day to day basis cash receipt status to Mr. Shiv Priya. After a clearance from him, a possession slip or no due certificate is issued.
- C He continuously replied that he is not aware of anything and for everything there were Chartered Accountants for respective companies. This is not a correct statement and he contradicted his own statement many times. He was in possession of final accounts of group companies and did not share with us.
- D Adhikari Dash also did not disclose the details of flats booked in the name of various parties without receipt of any amount from them just by passing journal entry.
- From the above it is clear that it defies the order of Honorable Supreme Court and has violated the order and is responsible for the gross contempt of the Honorable Court.
- E He along with his brother exercised direct control over below companies:
- (i) Teks Tech Inspection India Private Limited
  - (ii) Teks Tech IT Services India Private Limited
  - (iii) Vinayaka Square Private Limited
  - (iv) Shri Vinayaka Buildspace Private Limited
  - (v) Milestone Highrise Private Limited
- Vinayaka Square Private Limited
- G ● The company has a commercial project named “Beta Plaza” at Greater Noida which received funds from Teks Tech Inspection India Private Limited (controlled by Mr. Adhikari), APJ Finmart Private Limited, Opulent Inn Private Limited, Tasty Feast Private Limited, Opulent Holidays and Travels (P)
- H

Limited. The chairman of four companies CA Pankaj Mittal appeared before us and could not explained the reasons for giving loans @ 6% p.a. to a real estate project whereas the bank rate on FDR is 7% and more. A

- The company has purchased this land for the project at Greater Noida in FY 2015-16 amounting to Rs.17.09 crore B
- Vinayaka Square received Rs 1 crore from Amrapali funds routed through Teks Tech Inspection India Private Limited and received Rs.2.56 crore from Shri Vinayaka Buildspace Private Limited. This is a project funded by Amrapali's Funds and shall be attached. C

**Mr. Chander Wadhwa CFO Amrapali Group of Companies**

It has also been observed that a sum of **Rs.5 crores** was transferred by M/s Amrapali Homes Project Private Limited to Mr. Amit Wadhwa, nephew of Mr. Chander Prakash Wadhwa. As per the affidavit filled by Mr. Chander Prakash Wadhwa the said sum was invested by him in M/s Three Platinum Softech Private Limited. The Heartbeat city projects is partly owned by three Platinum and Amrapali group has invested in the projects in the name of Chander Wadhwa. D

As per Statement of Mr. Sanjeev Kumar Director of La Residentia Developers Private Limited recorded by us, he Informed that a sum of **Rs.4 crores** Approximately, was paid as fees for use of Amrapali Brand Name to Saffron Propmart Private Limited (This Company is controlled by Mr. Chander Wadhwa CFO). No Bills have been provided by him. E F

Statutory Auditor CA Anil Mittal and Shri Chander Wadhwa CFO were in connivance with each other and payments were made by Shri Anil Mittal to Chander Wadhwa CFO for sharing fees received from Amrapali group for the work awarded to Anil Mittal Chander Wadhwa is one of the masterminds along with the other promoters directors behind the whole scam. He facilitated movement of funds by creating a web of companies within and outside the group. His relatives were made partner investor in LA Residentia and Heart beat city projects. Funds were invested in Patel Advance JV (Neo Town project Noida) and Euphoria Sports City. G H

A Furthermore, it is observed that the Company Management as well as Statutory Auditors and CFO have failed in their duty to follow the Accounting Standards relating to recording the valuation of Work in Progress as per ICAI guidelines applicable to Real Estate Companies. It is also pointed out that the CFO has not signed any Audited Financial Statements for reasons best known to them. But according to the statement recorded by us of various employees and suppliers as well as home buyers, we are informed that he was the main person handling Finance and every meeting was held with him only. (page no 209 Volume 1)

B

C **Mr. Pankaj Mehta –Company Secretary**

He was responsible for the secretarial compliances of the companies. He incorporated more than 50 additional companies to create a cobweb. He was a director in many of these companies and was an important link in the transfer of funds through various group companies.

D He was also signatory to the bank account of Stunning Construction Private Limited. He resigned from the services of the Company in December, 2016. However even after his resignation, on the instructions of Mr. Chander Wadhwa, CFO, he continued to operate the Bank Accounts of Stunning Construction Private Limited.

E After his resignation in the Amrapali Group, he started working as a partner of Saffron Consultants LLP with Mr. Chander Wadhwa. Also Mr. Anil Kumar is still working as an employee with Mr. Chander Wadhwa.

F On the instructions of Mr. Chander Wadhwa CFO manipulative entries were recorded for adjustment of payment dues of Mr. Pankaj Mehta against his Flat No. E-1502, Silicon City, Sector - 76, Noida.

G **11. Non compliance of statutory obligations**

(i) The group companies have not filed annual returns and Audited Financial Statements after 31<sup>st</sup> March, 2015. The Registrar of Companies has already disqualified the Directors namely Mr. Anil Kumar Sharma, Mr. Amresh Kumar, Mr. Shiv Priya, Mr. Ajay

H

Kumar and Mr. Suvash Chandra Kumar for a period of 5 years from 1/11/2017 to 31/10/2022 u/s 164(2) of The Companies Act, 2013. A

(ii) The company has not been regular in payment of TDS and Service tax and has also not filled relevant returns of TDS/Service tax after 31st March, 2015. There is also no follow up available from the Concerned departments. B

Latest information regarding status of default in respect of TDS/Service tax is not made available to us. There may be huge demands outstanding against the company due to non-payment and non-filing of TDS/Service tax returns. C

(iii) No Statutory records have been maintained by the Amrapali group companies and produced before us relating to the following:

- i. Register of Directors and shareholders
  - ii. Register of related party contracts
  - iii. Minute book of Director and Shareholders
  - iv. Fixed Assets Register
  - v. Charges register in respect of loans taken from Banks and others
- D

(iv) Transfer entries are recorded in Inter Corporate Deposit accounts by transferring the amount from one Amrapali group company to another Amrapali group company in contravention of section 269SS/269T of The Income Tax Act, 1961. E

(v) Depreciation has not been provided on the building in contravention of the provisions of the Companies Act, 1956, now Companies Act, 2013 in Navodaya Properties Private Limited. F

It is highly surprising that in spite of such glaring discrepancies regarding non-Compliance of statutory compliances, the Statutory Auditors have not pointed out any such discrepancies in their Statutory Audit Reports. G

There are many other glaring short comings in the Audited Balance Sheet & Financial Statements

a) I – Page 214)

H

**A**      **12. Anil Mittal - Statutory Auditor**

While scrutinizing the affidavit submitted by Shri Anil Mittal Date 12/11/2018 before the Hon'ble court we have noted the following:

- B
- a) CA Anil Mittal was paid Rs.0.56 crore (Rs.0.66 crore less Rs.0.10 crore recovered) during the period 2011 to 2018. These payments have been shown in the nature of cheques given /credit card payments which have been never been recovered.
- C
- b) Statutory Auditor CA Anil Mittal and Shri Chander Wadhwa CFO were in connivance with each other and these payments have been made by Shri Anil Mittal to Chander Wadhwa CFO for sharing fees received from Amrapali group for the work awarded to CA Anil Mittal. CA Anil Mittal blindly signed all the accounts and is grossly involved along with Mr. Chander Wadhwa in making various manipulation in the accounts.
- D
- c) Audit files handed over by Shri Anil Mittal Statutory Auditor are grossly deficient and they do not contain the documents which are normally required in the statutory audit files as per guidelines and directions issued by The Institute of Chartered Accountants of India.
- E
- d) Statutory Auditor CA Anil Mittal has received the payment on account of professional charges in the name of the companies in which his relatives are directors. This fact has not been disclosed in audited financial statements.
- F
- e) A sum of Rs.52.07 crore was adjusted against the payment due on account of Flat number P-1203 in Amrapali Princely Estate on account of professional fees due and to be paid on account of Audit fees.
- G
- f) Further a sum of Rs.16.36 crore was also adjusted against the flat number P-1104 in Amrapali Princely Estate on account of Professional fees due and to be paid on account of Audit fees.

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**13. Diversion of homebuyers funds**

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Amrapali Group was engaged in diversion of home buyer funds from one project to another project, other group companies, directors and senior executives of the group. There is also a diversion of funds to various suppliers where advances were made without any further adjustment/ transactions.

B

There is not only diversion of funds, there is siphoning of funds also by way of booking undervalued transactions in respect of sale of flats, by way of booking of expenses, and making purchases from the bogus suppliers/service providers.

In addition to this they adopted fraudulent practices also by way of double booking of flats. There are also instances of adjustment of amounts payable to suppliers/brokers with the amount due from the home buyers such trade creditors have denied having any knowledge of such transactions.

C

We have traces of receiving of Cash from the home buyers/ others as shown by the email of the accounts department of the Amrapali Group of Companies which is not accounted for in the books of accounts.

D

There is also allotment of shares without inward movement of funds by making manipulative entries in the books of accounts.

E

The homebuyers funds were diverted **Rs. 5,619.47 crore** to other companies/directors:

(i) through payment of professional fee to directors Rs.100.53 crore;

F

(ii) by way of booking of bogus bills including commission Rs.842.42 crore;

(iii) by selling flats at undervalued prices in books and received differential market value in cash Rs.321.21 crore; (it is a tip of iceberg)

G

(iv) by way of granting inter corporate deposits to related entities and unrelated entities / trusted partners for ultimately diverting funds to unapproved uses.

Summary of diversion of funds is as under:

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Name of Company	Details of amount diverted (Amount in crores)				
	First Diversion	Bogus Expense page no 2827 of supplementary report	Advances recoverable from third parties (Rs.234.21 crore plus Rs. 326 crore Volume IV, page no 1015-1019)	Undervalued flats page no 2811 of supplementary report	Cash
ULTRA HOME CONSTRUCTION PRIVATE LIMITED	-	333.00	87.68	30.87	0.22
AMRAPALI HOMES PROJECTS PRIVATE LIMITED	-	4.41	55.01	-	0.23
AMRAPALI PRINCELY ESTATE PRIVATE LIMITED	186.99	56.78	-	6.70	5.02
AMRAPALI SAPPHIRE DEVELOPERS PRIVATE LIMITED	113.98	85.45	73.06	76.02	0.11
AMRAPALI SILICON CITY PRIVATE LIMITED	391.57	97.87	50.41	73.05	3.58
AMRAPALI EDEN PARK DEVELOPERS PRIVATE LIMITED	-	12.67	3.02	-	2
AMRAPALI ZODIAC DEVELOPERS PRIVATE LIMITED	286.00	70.60	28.07	6.75	3.84
AMRAPALI CENTURIAN PARK PRIVATE LIMITED	518.78	5.20	-	43.12	7.45
AMRAPALI DREAM VALLEY PRIVATE LIMITED	445.33	5.63	3.23	24.11	8.02
AMRAPALI LEISURE VALLEY DEVELOPERS PRIVATE LIMITED	237.53	26.45	19.67	5.88	0.23
AMRAPALI LEISURE VALLEY PRIVATE LIMITED	431.11	16.20	51.62	8.53	9.79
AMRAPALI SMART CITY DEVELOPERS PRIVATE LIMITED	538.59	39.27	17.20	18.97	10.79
SANGAM COLONIZERS PRIVATE LIMITED	-	-	0.36	-	0.15
SHALIMAR COLONISERS PRIVATE LIMITED	-	-	-	-	-

A

HI-TECH CITY DEVELOPERS PRIVATE LIMITED	2.42	1.96	8.91	-	0.46
AMRAPALI HEALTHCARE PRIVATE LIMITED	-	-	0.22	-	-
AMRAPALI HOSPITALITY SERVICES PRIVATE LIMITED	-	0.02	13.55	-	0.01
AMRAPALI INFRASTRUCTURE PRIVATE LIMITED	-	65.61	40.24	-	3.16
MSB SOFTWARE TECHNOLOGY PRIVATE LIMITED.	-	-	-	-	0.70
MUMS MEGA FOOD PARK PRIVATE LIMITED	-	-	1.29	-	-
MVG TECHNO CONSULTANTS PRIVATE LIMITED	-	-	-	-	0.13
NAVODAYA PROPERTIES PRIVATE LIMITED	-	-	-	-	0.24
NOIDA TEXTFAB PRIVATE LIMITED	-	-	-	-	0.13
AMRAPALI AEROCITY PRIVATE LIMITED	-	-	0.01	-	-
AMRAPALI BIOTECH INDIA PRIVATE LIMITED.	-	-	-	-	1.5
AMRAPALI BUDDHA DEVELOPERS PRIVATE LIMITED	-	0.65	0.47	-	-
AMRAPALI MAGADH DEVELOPERS PRIVATE LIMITED	-	-	-	-	-
AMRAPALI MAHI DEVELOPERS PRIVATE LIMITED	-	-	-	-	-
AMRAPALI MEDIA VISION PRIVATE LIMITED	-	-	4.96	-	9.67
AMRAPALI POWER AND CEMENTS PRIVATE LIMITED	-	-	0.91	-	-
AMRAPALI SMART CITY PRIVATE LIMITED	-	8.02	0.95	-	0.5
AMRAPALI SPRING VALLEY PRIVATE LIMITED	-	-	-	-	-

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A	HAWTHORNE INTELLECT MANAGEMENT SOLUTIONS PRIVATE LIMITED	-	-	0.17	-	0.01
	NEELKANTH BUILDRAFT PRIVATE LIMITED	-	-	-	-	-
B	GAURISUTA INFRASTRUCTURE PRIVATE LIMITED	-	-	0.46	-	0.02
	KAPILA BUILDHOME PRIVATE LIMITED	-	-	0.41	-	0.03
	STUNNING CONSTRUCTIONS PRIVATE LIMITED	-	-	15.04	-	0.17
	JHAMB FINANCE AND LEASING PRIVATE LIMITED	-	-	5.93	-	-
C	MANNAT BUILDRAFT PRIVATE LIMITED	-	-	0.99	-	0.20
	RUDRAKSH INFRA CITY PRIVATE LIMITED	-	-	-	-	-
	GAURISUTA INFRA SOLUTION PRIVATE LIMITED	-	-	1.24	-	0.01
D	LA RESIDENTIA DEVELOPERS PRIVATE LIMITED	-	-	23.35	-	0.3
	<b>Amrapali Grand</b>	-	3.98	29.17	-	0.5
	<b>AHS Joint Venture</b>	-	0.08	15.81	-	-
	<b>Amrapali Homes</b>	-	2.86	21.41	-	0.19
	<b>Amrapali Patel Platinum</b>	-	-	7.85	27.31	-
E	Hi Tech City Developer Pvt Ltd	-	7.30	-	-	-
	<b>Total</b>	<b>3,152.30</b>	<b>842.42</b>	<b>582.68</b>	<b>321.31</b>	<b>69.36</b>

	Particulars	Amount in crores
	Grand Total	4,968.07
F	Further Gaurisuta Infrastructure Private Limited gave Rs 25 crore advances to various parties as listed on page no 92-93 Volume I	25.00
	Further in Gaurisuta Infrastructure Private Limited, inventory of Rs 89 crore unidentifiable page no 96 Volume I	89.00
G	FDR as on 31st March 2015 page no 175 Volume I	61.97
	Professional Fees Paid to Directors	100.53
	Taxes paid by Stunning Construction on behalf of promoters and family	24.90
	More than 700 flats given to so called suppliers	350.00
H	<b>Total diversion identified</b>	<b>5,619.47</b>

**14. J P Morgan**

A

Amrapali Zodiac Developers Private Limited has financed this transaction by its own shares through Group Companies by incorporating new Companies. These transactions enable Amrapali Zodiac Developers Private Limited to avoid the provisions of The Companies Act, 1956 applicable for buying its own shares.

B

It is also relevant to point out that Shri Anil Mittal at any stage of time has not reported his interest or disclosed about his relatives of Director and Junior Employee. Both the directors and shareholders of the company i.e Mr. Atul Mittal (Relative) and Mr. Chandan Kumar (Junior Employee), are relatives/employee of Anil Mittal, the Statutory Auditor of the company.

C

a) Rudraksh Infracity Private Limited- Shri Chandan Kumar, an employee of CA Anil Mittal, Statutory Auditor and Shri Atul Mittal, relative of CA Anil Mittal were inducted in the board. The basic purpose of this Company was only for money laundering and was incorporated to receive Funds from Mannat Buildcraft Private Limited which Company was incorporated by CFO Chander Wadhwa through his close associates. After receiving money from Mannat Buildcraft Private Limited, the same was transferred to J.P. Morgan Investments for purchase of Equity Shares of Amrapali Zodiac Private Limited at an exorbitant price. As per details furnished hereunder, the Valuation Report was also made to suit to the requirement of J.P. Morgan Investments as the M/s Sudit K. Parikh & Company, Chartered Accountants were appointed by J.P. Morgan officials for the said valuation. They have admitted that valuation work was done on the basis of information provided by J.P. Morgan Investments after applying some basic checks.

D

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The whole racket of money laundering and receiving money from these Companies i.e. Mannat Buildcraft Private Limited and Rudraksh Infracity Private Limited are the brain child of Mr. Chander Wadhwa, CFO and Anil Mittal, Statutory Auditor of Amrapali Group of Companies. Both these Companies are controlled by both of these persons and had been formed only for this Money Laundering Business. There are no transactions before or after these transfers of money and the same have been

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A camouflaged to make it look with business transactions on the basis of the Valuation Report.

B JP Morgan invested Rs.85 crore in the year 2010 with an understanding to have a preferential claim on profits called distributable surplus in the ratio of 75% to JP Morgan and 25% to promoters namely Amrapali Homes Project Private Limited and Ultra Home Construction Private Limited with the following main condition in Shares Subscription Agreement dated 9<sup>th</sup> September, 2010 amongst Ultra Home Construction Private Limited, Amrapali Homes Project Private Limited, JP Morgan & Amrapali Zodiac Developers Private Limited

C **The Company shall provide evidence of the aforesaid investment in the Investee Company to the Investor. (Rs. 60 Cr. in Leisure Valley Developers)**

D (A) There was a prescribed methodology and procedures defined of computation of Fair Market Value at the time of the exit to be worked out in the agreement on Page No 51, schedule 6 of Shareholder's Agreement, which was not followed at the time of any of the exits.

E Clause 4.2 (iii) – The Company shall grant an interest free loan of Rs 85,000,000 (Rupees Eighty Five Million Only) to UHCPL.

F **Clause 4.2(iv) – The Company shall remit Rs 600,000,000 (Rupees Six Hundred Million Only) to the Investee Company for subscribing to 0.01% compulsorily convertible Preference shares of the Investee Company (“Investee Company Shares”)**

(B) Distribution of profit was agreed between the Investor i.e., JP Morgan & the Investee i.e., Amrapali Group to share the profits from the project in the agreed ratio as per clause 7.3 & Clause 7.5.1 Page No 19 of Shareholder's Agreement.

G (C) Clause 7.1 - The Company agrees and undertakes that it shall, and the Investor and Developers agree that **they shall cause the Company to first utilize the revenues (less the cost of construction of the project, provision for future consideration cost of the Project, payment of Project Land cost and interest thereon, annual lease rent payment to New**

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**Okhla Industrial Development Authority and one time land lease cost) towards payment of applicable taxes and payment of interest to the lenders, if any, in accordance with the provisions of Law.** A

Clause 7.2 – Post the payment of taxes and interest to the lenders, as aforesaid, the Company shall make payments of all principal amounts accrued and payable to the lenders, if any, at applicable seniority. B

(D) In clause 2.12 of Page No 12 of Shareholder’s agreement it was agreed that the aggregate advances outstanding from the Amrapali Zodiac developers Private Limited to **its affiliates will not exceed Rs 25 crores excluding Amrapali Infrastructure Private Limited.** It was also in the knowledge of JP Morgan vide clause 2.14 of Page No 12 of Shareholder’s Agreement that advances to Amrapali Infrastructure Private Limited which was **Rs 51 crore on 31<sup>st</sup> July, 2010 will be** restricted to Rs 15 crore. C D

(E) Clause No 10.4.3 in page No 21 of Shareholder’s Agreement mentions that no action can be taken without investor’s approval in relation to 10.4.3(xi) any payments made to related parties.

**(F) It was also mentioned in the agreement that statutory auditor and internal auditor cannot be appointed and removed without the approval of JPMorgan.** E

**(G) The following points indicate very clearly that JP Morgan was having full control on Amrapali Zodiac Developers Private Limited project and no material decision could have been taken without JP Morgan approval.** F

**On Page No 60 of Shareholder’s Agreement in Note 1 it was agreed & accepted that any surplus cash flow from the project will be first utilized for payment of land cost to Noida Authority.** G

Documents to be submitted by Amrapali Zodiac Developers Private Limited to JP Morgan:

(i) Monthly progress report signed by director & CFO.

(ii) No delay report in specified format. H

- A JP Morgan insisted that the cost shall be restricted to Rs 425 crore and any additional cost over and above Rs 425 crore shall be brought in by Amrapali Group promoter. **The additional cost considered was Rs 125 crore to be brought in by promoters.**
- B (H) **Zodiac has followed recognition of revenue on the basis of Project Completion Method – Accounting Standard - 7 (Construction Contracts).** As per Project Completion Method as given in Accounting Standard – 7, the profit cannot be recognized until the project is completed and as per Clause No 7.3 of Shareholder’s Agreement the distributable amount is the balance amount representing the aggregate of all profits, after considering the payments referred to in clause 7.1 and 7.2, including any amounts transferred to the reserves accounts of the Company shall for the purpose of this clause 7 are referred to as the “Distributable Amount”.
- C
- D (I) From the above it is clear that in absence of recognition of profit in the agreement there cannot be any distributable amount for distribution.
- E (J) **It was accepted by Mr Suraj Chhabria of JP Morgan (Apollo) that the money invested by them in Amrapali Zodiac Developers Private Limited was not utilized in the project. He also accepted that it was in their knowledge that money invested by them was not going to be utilized in Amrapali Zodiac Developers Private Limited project and it is contracted that Rs 60 crores to Amrapali Leisure Valley Developers Private Limited, Rs 8.5 crores to Ultra Home Construction Private Limited be transferred.**
- F (K) **JP Morgan was in knowledge of that the Company Amrapali Zodiac Developers Private Limited has paid the money received from the Home buyers to tthe other Companies of Amrapali Group.**
- G (L)JP Morgan permitted a transfer of Rs 140 crore to Mannat Buildcraft Private Limited and from Mannat Buildcraft Private Limited to Neelkanth Buildcraft Private Limited and Rudraksh Infracity Private Limited for buying shares from JP Morgan of Amrapali Zodiac Developers Private Limited. **There were always**
- H **advances exceeded than the limits specified in**

**Shareholder's Agreement but JP Morgan did not ensure bringing back** the money from the affiliates though it was having its board representation in the ratio 3:2. A

**JP Morgan did not ensure** that the funds for additional cost were brought in and in valuation it was assumed that additional cost of Rs 125 crores will be brought in by the promoter for the last lag of the construction for its IRR (Internal Rate of Return) working. B

**(M) JP Morgan was getting return at the rate of more than 20 % on its investment of Rs 85 crore & was agreeing with Amrapali Zodiac Developers Private Limited to invest in Amrapali Leisure Valley Developers Private Limited a substantial part of its investment i.e., 60 crore out of Rs 85 crore at the rate 0.01%. It categorically demonstrates that JP Morgan invested Rs 60 crore in Amrapali Leisure Valley Developers Private Limited without complying FEMA (Foreign Exchange Management Act) for its investment of Rs 60 crore in Amrapali Leisure Valley Developers Private Limited. It is not out of place to mention that Amrapali Zodiac Developers Private Limited was a project where home buyers were required to pay on the basis of progress of the construction of the project. Meaning it was construction linked payment project.** C  
D  
E

**(N) We found that most of the time customers have paid more than what was spent in the project. The Amrapali Zodiac Developers Private Limited diverted home buyer's money & there was no need of any investment from JP Morgan. It was accepted by Mr Suraj Chhabria that there was no restriction on the Company to invest the money in the project & it was in his knowledge & the knowledge of JP Morgan that the money has been diverted, Transferred** F

**Valuation** G

**(A) The valuation did not follow the correct methodology of DCF (Discounted Cash Flow). The valuation is without any sanctity & validity. The valuation was carried out to cause wrongful loss to the homebuyers of Amrapali Zodiac Developers Private Limited and to give advantage to JPMorgan.** H

A (B) Name of the firm – Sudit K. Parekh & Co.

Chartered Accountants

Name of the Partners–

I. Mr. Durgaprasad Khatri

B II. Mr. Tanwir Shirolka

III. Mr. Srikant V Jilla

IV. Ms. Deepti K.Ahuja

C Ms Ahuja, then partner in SKP&Co.Chartered Accountants informed that JP Morgan, Mumbai office in Andheri/ Santacruz did not allow to take any of the details/ abstract from the share purchase agreement. It is to note that at the time of exit, it was predetermined that Zodiac Developers would not pay the lease rent as well as the installment due to Noida Authorities as clearly explained in the cash flow statement provided by the SKP&Co in

D 4 no. of valuation certificates from 2010-2015.

	Valuation Report date	No of shares	Face Value	Value per share *	Total amount	Date of FC-TRS	Sold to
	9/09/2010	785715	10	1081.8172	85,00,00,00	20/10/2010	JP Morgan
E	23/10/2013	436508	10	2290.9	99,99,99,26	30/12/2013	Neelkanth Buildcraft Private Limited
	9/09/2014	97000	10	2577.25	24,99,93,20	30/09/2014	Rudraksh Infracity Private Limited
F	10/04/2015	34365	10	2910	10,00,02,10	29/07/2015	Rudraksh Infracity Private Limited
G	10/04/2015	17180	10	2910	4,99,93,800	6/10/2015	Rudraksh Infracity Private Limited

(C)

**Source:** Data from Form FC-TRS

*From the table above it is clear that valuation exercise was done backwardly. For instances first we paid Rs 100 crores, then Rs 25 crores, then Rs 10 crores and finally Rs. 5Cr..*

H **EXTRACT from FEMA RULES;**

FEM (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000 A

“4. Restriction on an Indian entity to issue security to a person resident outside India or to record a transfer of security from or to such a person in its books.

Save as otherwise provided in the Act or Rules or Regulations made thereunder, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person: Provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary. B C

Transfer of shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle] by a person resident outside India D

(1) Subject to the provisions of sub-regulation (2), a person resident outside India holding the 2[shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle] in accordance with these Regulations, may transfer the 3[shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle] so held by him, in compliance with the conditions specified in the relevant Schedule of these regulations. E

Further, subject to minimum lock-in period of one year or minimum lock-in period as prescribed under Annex-B of Schedule 1 whichever is higher, a person resident outside India holding the shares or convertible debentures or warrants] of an Indian company containing an optionality clause in accordance with these Regulations and exercising the option/right, **may exit without any assured return**, subject to the following conditions: F G

(i) In case of listed company, at the 6[market price prevailing on the floor of the recognized stock exchanges]

(ii) In case of equity shares, preference shares or debentures of unlisted company, at a price **not exceeding that arrived at as** H

A **per any internationally accepted pricing methodology for valuation of shares on arm's length basis, duly certified by a Chartered Accountant or a SEBI registered Merchant Banker. The guiding principle would be that the non-resident investor is not guaranteed any assured exit price at the time of making such investment/agreements and shall exit at the price prevailing at the time of exit, subject to lock-in-period requirement.**

B

(2) (i) A person resident outside India, not being a non-resident Indian or an overseas corporate body, may transfer by way of sale or gift the shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle] held by him or it to any person resident outside India;

C

(ii) A non-resident Indian may transfer by way of sale or gift, the shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle] held by him or it to another non-resident Indian only;

D

(iii) A person resident outside India holding the 6[shares or convertible debentures or warrants of an Indian company or units of an Investment Vehicle] in accordance with these Regulations,

(a) may transfer the same to a person resident in India by way of gift;

E

(b) may sell the same on a recognized Stock Exchange in India through a register broker.”

In the valuation working, it is shown that all **project cost was incurred by June, 2013. It is only additional cost of Rs 125 crore & marketing cost of Rs 6.85 crore shown as to be incurred after that.**

F

(A) JP Morgan personnel have never met the buyer. Both the Companies Neelkanth Buildcraft Private Limited & Rudraksh Infracity Private Limited were formed in the year 2013 having a capital of Rs 0.01 crore each for the specific purpose of buying shares from JP Morgan.

G

(B) No person from Mauritius travelled to India and no person from India travelled to Mauritius. Indian people signed the contract

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in India and Mauritius people signed the contract in Mauritius. A  
Buyer did not carried out any due diligence nor it appointed any  
valuer.

(C) The Sales agreement was drafted by JP Morgan team, buyers  
are not aware of it.

(D) We spoke to the director of Neelkanth Buildcraft Private B  
Limited & Rudraksh Infracity Private Limited namely Vivek Mittal  
& Chandan Kumar. Both of them refused meeting with any  
person/entity from JP Morgan. They are not aware of that any  
time they have bought these shares.

No substantial fundswere used in the construction of the project. C  
The address of the Company who purchased share from JP  
Morgan is the address of Group Statutory Auditor Mr. Anil Mittal.

(A) Mr Chandan Kumar, director in Neelkanth Buildcraft Private  
Limited & Rudraksh Infracity Private Limited is an office boy in  
the office of Statutory Auditor Mr Anil Mittal. D

(B) Mr Vivek Mittal, another director in Neelkanth Buildcraft  
Private Limited is nephew of Statutory Auditor Mr Anil Mittal &  
does small timejobs

**Facts**

Amrapali Zodiac Developers Pvt Ltd incorporated on 18<sup>th</sup>  
December 2009. As per the Share Subscription Agreement dated  
9<sup>th</sup> September, 2010, JP Morgan invested 85 crore on 20<sup>th</sup> October  
2010 with an understanding to have a preferential claim on profits  
called distributable surplus in the ratio of 75% to JP Morgan and  
25% to promoters namely Amrapali Homes Project Private Limited  
and Ultra Home Construction Private Limited. The said investment  
was repatriated to JP Morgan as under: E

- RS. 100 crore on 30<sup>th</sup> December 2013;
- RS. 25 crore on 30<sup>th</sup> September 2014; G
- RS. 10 crore on 29<sup>th</sup> July 2015; and
- RS. 5 crore on 6<sup>th</sup> October 2015.

H

A **FEMA****Extracts of Master Circular no.8/2010-11 dated July 01, 2010 on External Commercial Borrowings and Trade Credits**

B External Commercial Borrowings ('ECBs') refer to commercial loans in the form of bank loans, buyers credit, suppliers credit, securitized instruments (eg floating rate notes and fixed rate bonds, non convertible, optionally convertible or partially convertible preference shares) availed of from non-resident lenders with a minimum average maturity of 3 years.

C ECB can be accessed under 2 routes

- a) Automatic route and
- b) Approval route.

**A) Under Automatic route**

D ● Eligible borrowers can be corporates, including those in the hotel, hospital, software sectors (registered under the Companies Act 1956) and Infrastructure Finance companies, Housing Finance companies and Non Banking Finance Companies.

E ● Recognised lenders can be international banks, suppliers of equipments, foreign collaborators and foreign equity holders

● All in cost ceilings for ECBs under automatic route are:

● Average maturity period 3 to 5 years- 300 basis points over 6 months London Interbank Offered Rate ('LIBOR')

F ● Average maturity period more than 5 years – 500 basis points over 6 months LIBOR

● ECBs are eligible for end use for investment for import of capital goods, industrial sector, infrastructure sector and specified service sectors. However, proceeds of ECBs should

G not be used for acquisition of land in any of these permitted uses.

● **ECBs are not permitted to be utilized for real estate sector.**

H

**B) Under Approval route** A

- Certain ECBs which are not under automatic route are under approval route.

**ECBs are not permitted to be utilized for real estate. However, the term real estate excludes development of integrated township** as defined by the Ministry of Commerce and Industry, DIPP, SIA (FC Division), Press Note 3 (2002 Series) dated January 4, 2002. As per the said press note, development of integrated township includes housing, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit systems and manufacture of building materials. Development of land and providing allied infrastructure will form an integrated part of township's development. B  
C

Hedging required:

Minimum mandatory hedging is required @70% of principal plus interest (both) of ECB where Minimum Average Maturity Period is less than 5 years. Minimum tenor should be one (1) year thereafter to be rollover till expiry of ECB D

Compliance under FEMA

ECB Compliance

Borrowers are required to submit a report about signing of loan agreement with the lender for obtaining Loan Registration Number (LRN) within 7 days of the signing it to RBI in form ECB. E

Borrowers are required to report monthly about actual ECB transactions through form ECB-2 to AD Category I bank within 7 days from close of the month. F

**Companies Act 1956**

Amrapali Zodiac Developers Pvt Ltd could not have **bought back** its own shares from JP Morgan as a company cannot buy back its own shares as per the provisions of section 77 of the Companies Act 1956. G

Section 77 states *“(1) No company limited by shares, and no company limited by guarantee and having a share capital,*

H

A *shall have power to buy its own shares, unless the consequent reduction of capital is effected and sanctioned in pursuance of sections 100 to 104 or of section 402.”*

Even otherwise, as per Section 77A, a company can purchase its own shares from

B (i) free reserves; Where a company purchases its own shares out of free reserves, then a sum equal to the nominal value of the share so purchased shall be transferred to the capital redemption reserve and details of such transfer shall be disclosed in the balance-sheet or

(ii) securities premium account; or

C (iii) proceeds of any shares or other specified securities. A Company cannot buyback its shares or other specified securities out of the proceeds of an earlier issue of the same kind of shares or specified securities.

**Conditions of Buy Back**

D (a) The buy-back is authorised by the Articles of association of the Company;

E (b) A special resolution has been passed in the general meeting of the company authorising the buy-back. In the case of a listed company, this approval is required by means of a postal ballot. Also, the shares for buy back should be free from lock in period/non transferability. The buy back can be made by a Board resolution If the quantity of buyback is or less than ten percent of the paid up capital and free reserves;

F (c) The buy-back is of less than twenty-five per cent of the total paid-up capital and free reserves of the company and that the buy-back of equity shares in any financial year shall not exceed twenty-five per cent of its total paid-up equity capital in that financial year;

G (d) The ratio of the debt owed by the company is not more than twice the capital and its free reserves after such buy-back;

(e) There has been no default in any of the following  
i. in repayment of deposit or interest payable thereon,

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- ii. redemption of debentures, or preference shares or A
  - iii. payment of dividend, if declared, to all shareholders within the stipulated time of 30 days from the date of declaration of dividend or
  - iv. repayment of any term loan or interest payable thereon to any financial institution or bank; B
- (f) There has been no default in complying with the provisions of filing of Annual Return, Payment of Dividend, and form and contents of Annual Accounts;
- (g) All the shares or other specified securities for buy-back are fully paid-up; C
- (h) The buy-back of the shares or other specified securities listed on any recognised stock exchange shall be in accordance with the regulations made by the Securities and Exchange Board of India in this behalf; and
- (i) The buy-back in respect of shares or other specified securities of private and closely held companies is in accordance with the guidelines as may be prescribed. D

**Misrepresentation of facts by investing the funds in the form of private equity in the project namely Zodiac and then diverting it from there to promoters and the promoters associated companies** E

As ECBs were not permitted in real estate sector under automatic route, JP Morgan gave the said borrowings, the nomenclature of equity shares having different return on investment as compared to other equity shareholders. In fact JP Morgan remitted Rs.60 crore to Amrapali Leisure Valley Developers Pvt Ltd as ECB without obtaining approval from competent authority. Immediately on receipt of funds by Amrapali Leisure Valley Developers Pvt Ltd, the funds were transferred to promoters and associate companies of the group. F G

Had JP Morgan invested in the form of ECB, following would have been the compliances to be fulfilled by recipient:

- a) obtaining Loan Registration Number from RBI;
- b) file ECB-2 returns every month to the RBI;

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- A c) withhold tax on interest payment to JP Morgan under section 195 of the ITA. As per Article 11 of the Avoidance of double taxation agreement between India and Mauritius tax shall be charged @7.5% of the gross amount of interest.
- B d) In fact JP Morgan would have to file its income tax return u/s 139 of ITA in India due to withholding tax on its interest income borrower.

Relevant questions from FAQ issued by RBI with regard to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 dated November 7, 2017 as amended from time to time:

- C **“Q.29: What is the concept of downstream investment and Indirect Foreign Investment?”**

**Answer:** Downstream investment is investment made by an Indian entity which has total foreign investment in it or an Investment Vehicle in the capital instruments or the capital, as the case may be, of another Indian entity.

- D If the investor company has total foreign investment in it and is not owned and not controlled by resident Indian citizens or is owned or controlled by persons resident outside India then such investment shall be “Indirect Foreign Investment” for the investee company.”
- E

**“Q.41: What is an investment vehicle?”**

**Answer:** Investment Vehicle is an entity registered and regulated under relevant regulations framed by SEBI or any other authority designated for the purpose. For the purpose of Schedule 8 of FEMA 20(R), an Investment Vehicle is a Real Estate Investment Trust (REIT) governed by the SEBI (REITs) Regulations, 2014, an Infrastructure Investment Trust (InvIt) governed by the SEBI (InvIts) Regulations, 2014 and an Alternative Investment Fund (AIF) governed by the SEBI (AIFs) Regulations, 2012. It does not include a Venture Capital Fund registered under the erstwhile SEBI (Venture Capital Funds) Regulations, 1996.”

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**SUMMARY- NET SURPLUS/DEFICIT**

1) Amount Realisable from the sale of the unsold inventory and from home buyers (Residential and commercial) in various projects and its extent.

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**Net surplus/deficit**

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S.No	Name of company	Total Receivable from Buyers	Estimated Cost still to be incurred	Refund/ Shifting	Cost to Complete by NBCC	Net Surplus/ (Deficit)
1	Amrapali Princely Estate Pvt.Ltd.	38	-	-	44	(6)
2	Amrapali Eden Park Developers Pvt.Ltd.	12	-	-	5	7
3	Amrapali Zodiac Developers Pvt.Ltd.	70	-	-	61	10
4	Amrapali Leisure Valley Pvt.Ltd.	1,887	267	-	1,586	35
5	Amrapali Centuiran Park Pvt.Ltd.	575	-	2	769	(196)
6	Amrapali Grand	16	-	-	-	16
7	Ultra Homes Construction Pvt.Ltd.	580	40	3	26	511
8	Amrapali Homes Project Pvt Ltd	7	-	-	-	7
9	Amrapali Dream Valley Pvt Ltd	1,435	-	-	1,657	(222)
10	Amrapali Silicon City Pvt Ltd	558	-	-	477	81
11	Amrapali Smart City Developers Pvt Ltd	489	-	-	846	(357)
12	Amrapali Leisure Valley Developers Pvt.Ltd.	309	-	-	322	(13)
13	Amrapali Sapphire Developers Pvt Ltd	69	-	-	90	(20)
	<b>Group Total</b>	<b>6,046</b>	<b>307</b>	<b>5</b>	<b>5,882</b>	<b>(148)</b>

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A **Refer ANNEXURE XXIII**

The unsold Inventory in the various schemes where forensic audit was carried out is to the tune of **Rs 1,958.82crores spread-over in 5,229Flats.**

B \*Unsold inventory of Amrapali Centurian Park Private Limited comprises of three projects namely- Amrapali Tropical Garden, Amrapali Terrace Homes, O2 Valley.

C We have not been provided the inventory details of O2 Valley, the data mentioned here and included in calculation of surplus/deficit is agreed in discussion with CMD, Amrapali Group.

Unsold units of O2 Valley is 223.

D The unsold Inventory in respect of the commercial shop space amounts to Rs.162 crores spread-over in 5schemes.

\*487 units are available in commercial project Tech Park which are yet to be examine. The detailed list of inventory is attached in ANNEXURE XXII.2.

E **15. Sale of Flats at lower prices (Under-Valued Transactions)**

F While scrutinizing the record for sale of flats, we have observed that number of the flats were sold at low prices as compared to the prices existing on or near to those dates and on which rates sales were made to other home buyers. It is further submitted that some of the flats have been sold even at rates as low as RS. 1,000 - RS. 1,400 per square feet which is even lower than the cost of construction. No satisfactory explanation has been given to us for the same. Possibility of taking cash outside the books of accounts cannot be ruled out. Total Amount involved in under-valued transaction is enclosed Annexure 26-A (Volume III Page no 584-586 ) & at Annexure S-7 (Supplementary Report page no 2842-2893). The amount shown below is the minimum and it may be in the range of 1,000 crore. Since the sample size is 5856 against the total number of more than 42,000 flats.

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S.no.	Name of the company	Number of Units	Amount (In Crores)	Refer Page Number	
1	*Amrapali Sapphire Developers Private Limited	315	76.02	205 - Point No. 1	A
2	*Amrapali Leisure Valley Developers Private Limited	70	5.88	222 - Point No. 1	B
3	*Amrapali Smart City Developers Private Limited	261	18.97	232 - Point No. 1	
4	*Amrapali Silicon City Private Limited	468	73.05	257 - Point No. 1	C
5	*Amrapali Dream Valley Private Limited	1,752	24.11	248 - Point No. 1	
6	#Amrapali Leisure Valley Private Limited	122	8.53	2811 (Supplementary Audit Report)	D
7	#Ultra Home Construction Private Limited	524	30.87	2811 (Supplementary Audit Report)	
8	#Amrapali Centurian Park Private Limited	1,912	43.12	2811 (Supplementary Audit Report)	E
9	#Amrapali Princely Estate Private Limited	146	6.70	2811 (Supplementary Audit Report)	
10	#Amrapali Zodiac Developers Private Limited	107	6.75	2811 (Supplementary Audit Report)	F
11	#Amrapali Patel Platinum	179	27.31	2811 (Supplementary Audit Report)	
<b>Total</b>		<b>5,856</b>	<b>321.31</b>		G

Note: \*These calculations are based upon the rates, where the sale consideration of the flat is less by more than 25% of the average sale price of the project.

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A # These calculations are based upon the rate of Rs.2000/- per sq. ft. and where flats were sold lesser than the rate of Rs.2000/- per sq. ft.

**16. Group investment in other projects**

B The group started demerging and delinking the good projects from the brand name “Amrapali” though these projects were initially launched as Amrapali projects. The said projects identified till the date of writing of the report are La Residentia, Vinayaka square, Heartbeat City, O2 Habitat.

**La Residentia**

C A big project having more than 3,200 dwelling units was launched in 2010-11 having an **equity shareholding of 19.75% in the name of Stunning Construction Pvt Ltd.**

D • Stunning Construction Private Limited (‘Stunning’), an Amrapali group company, holds 19.75% shares in the company. Stunning has been a consortium partner since beginning and land was allotted by Noida Authorities to the 5 members consortium including Stunning. The project was launched as an Amrapali group project and was marketed accordingly. As per the discussion with directors of La Residentia Developers Private Limited, they broke up with Amrapali group in 2017. 2017 is the year when writ petition was filed before the Honorable Supreme Court. It is informed to us that a marketing agreement was entered into between La Residentia Developers Private Limited and Amrapali group (name of the company not known) that Amrapali group would market its project for a consideration of Rs.16 crore. It was informed by E Mr. Sanjeev Kumar (director of La Residentia Developers Private Limited and a very old friend of Mr. Shiv Priya, director, Amrapali group) that though the agreement was signed but Amrapali group didn’t provide a copy of the agreement. It proves that Amrapali director were having significant influence on La Residentia Developers Private Limited that they had an authority even not to give a copy of the agreement to a person/entity who has signed it.

F • Out of Rs.16 crore, which were to be paid to Amrapali group as per the agreement, Rs 4 crore were paid to Saffron Propmart Consultancy Private Limited Owned and controlled by CFO

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Chander Wadhwa) under a verbal instruction of Mr. Adikhari, GM/DG accounts of Amrapali group. It is to be noted that directors of La Residentia Developers Private Limited were acting and working under the supervision of Mr. Adhikari who was a middle level management officer. It indicates that the project was conceived by Mr. Anil Kumar Sharma & Mr. Shiv Priya directors of Amrapali group and Mr. Sanjeev Kumar, Mr. Mukesh Kumar Roy and others were only a front.

- it is very clear that there was no contribution of funds from the consortium partners whatever funds contributed by the consortium partners were not only withdrawn within a very short period but over and above that extra funds were given to them in the name of interest free loans and advances.

- Amrapali group companies have transferred some of their buyers to the company. We found that the list of unsold inventory was sent to Mr. Anil Sharma and it was he who decided that the following buyers from Amrapali group companies be shifted to La Residentia this proves that La Residentia was under the direct control of Mr. Anil Sharma and Mr. Shiv Priya and is an entity of Amrapali group.

- The company is also using the Brand name/trademark of Amrapali group on its letterheads.

- The website of the company is following [www.amrapali-laresidentia.com](http://www.amrapali-laresidentia.com).

- When we open the website of the company, advertisement page was hiding details and it is a project of Amrapali group.

### **17. Summary of amounts recoverable standing as debit balances in books of accounts**

Amrapali group of companies had several amounts lying in debit balances in the form of advances recoverable on account of long term loans to third parties, short term loans given to third parties, advances given for purchase of plots, advances given to creditors for materials/others etc.

Amrapali group of companies were mostly diverting loan funds as well as home buyers funds to directors, key managerial

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A personnel, relatives, group companies and third parties. They did construction activity only in part and created a circle for movements of funds vide bogus expenses or hollow transactions. Funds were given to several parties in the garb of advances against purchase of land or for purchasing material for construction and booked as sundry creditors with debit balances. However, in effect such amounts were neither returned nor any expense was booked against them. Such amounts are as old as 2006-07, which have not been returned or no expense has been booked till date. Total of such recoverable amounts to **Rs.582 crore.**

C Top 20 of such parties with their balances are stated hereunder:

	<b>Name of the Company/Entity</b>	<b>Total</b>
	Jaura Infratech Private Limited	34,55,00,000
	Mauria Udyog Limited	22,24,34,199
	Anil Kumar Sharma	16,34,69,224
D	Shiv Priya	11,53,30,097
	Prem Mishra	10,26,03,947
	Vansh Consultants Private Limited	9,75,00,000
	Apex Infraventure Private Limited	7,95,05,000
	Rinku Computech Private Limited	6,69,59,467
	Sapphire Digital Printers	4,46,83,088
E	Heart Beat City Developers Pvt Ltd	4,29,32,000
	Rubi Creations Private Limited	4,26,27,790
	Ajay Kumar	4,05,40,931
	Star Land Craft Private Limited	4,01,85,888
	Heartland City Developers Private Limited	4,01,22,762
F	Vidhya Shree Buildcon Private Limited	4,00,00,000
	Sky Tech Buildcon Private Limited	3,88,53,775
	Skyline Tele Media Services Limited	3,48,02,771
	Shantinath Enterprises	3,24,71,100
	Red Star Tradex P Ltd.	3,00,00,000
	Mohabbat S/o Abbas	2,66,99,000
G	<b>Total of top 20 companies/parties</b>	<b>1,64,72,21,039</b>

It can be seen from records that the recoverable are due since long and there are mostly no movements subsequently either in the form of booking of expenses or receipts. Out of the amounts

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recoverable from parties in case of Ultra Home Construction Pvt Ltd, 20 parties having huge balances recoverable were called for personal interviews. 7 parties appeared and no satisfactory explanation was provided

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(Refer Annexure X.1, Volume IV page no 1015-1019)

**18. Assets created out of diverted funds**

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**Refer Page no 550 to 557 of Volume II**

**19. Cars**

The Company has bought many luxury cars and other cars out of the funds of the homebuyers.

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Many of the cars were transferred in the name of the relatives / employees without passing any entries in the books of accounts and receiving any money from the transferees.

Moreover, the cars were transferred in the name of the persons who was not associated with the company which originally bought the cars. We have already reported the matter in the court hearings and the honourable court has ordered for the sale of the said luxury cars.

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Out of the above 15 cars only 9 were made available for physical verification.

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**20. HOMEBUYERS**

The group constructed and booked/sold residential and commercial units:

- a) before launch of the projects;
- b) at the launch of the projects; and
- c) Continued to book till any inventory was left over in the projects.

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The customers booked the flat for:

- a) Abode;
- b) Investment;
- c) barter in advance;

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- d) adjusting their amounts in respect of work done in same project (creditors of same projects)
  - e) adjusting their amounts in respect of work done in other projects (creditors of other projects)
  - f) booked in the name of unidentifiable/untraceable persons

B entities.

During this procedure, we were informed that the data related to customers was maintained in the software FAR VISION as well as manually of some of the projects. The Data in such fashion is intentionally maintained to avoid findings in future the gaps.

C 1) It is found that the promoters/directors/senior management of the company were treating the inventory of the projects as personal asset and started allotting the unsold inventory to various persons/entities by passing an accounting entry in the Accounting software tally.

D 2) We found that 14 flats were booked in the name of Mr. Rajesh Viz in the project Amrapali Centurion Park, Terrace Homes. The customer data in FAR Vision provided, shows only Rs 10,000/- received for each flat from him as a booking amount. We did not find his name in the tally data of books of accounts of Amrapali Centurion Park Pvt. Ltd. We sent Emails to him to confirm the same but did not get any satisfactory response from him. He did not come and avoided meeting us for last 5 months.

E 3) We found differences in amount shown as per the records i.e. amount received as per Customer data base sheet extracted from software FAR VISION and the amount actually paid by the customer. We came to know about the differences in receivable after sending e mails/ speaking over the phone to the customers. A list of such differences is given on sample basis (Page No. 483)

F 4) We found the following 2 customers who had been handed over the possession but still appearing in the Customer database as undelivered. Both have paid less than 50% as per company records.

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S. No.	PROJECT NAME	CUSTOMER NAME	FLAT NO.	POSSESSION (as per customer)	POSSESSION (as per details provided to us)	
1	Amrapali Zodiac	MR. SAMEER KR. SUNEJA	JP-03	Handed over	Not handed over	A
2	Amrapali Princely Estate	MRS. MRIGANKA PRABHAT	FP-01	Handed over	Not handed over	B

5) For amount received there is a mismatch in the tally records/ FV accounts and customer data in software Far Vision. Amount received from a customer with flat no. though shown in customer database but didn't account for in the tally. List on sample basis is given (Page No. 486)

6) We found a mismatch that the name of customer is different in accounting package (tally& ERP FAR Vision) and customer data record in FAR VISION. We were not explained satisfactorily the reason for the same. (Page No. 489)

7) We found a no. of customers/buyers whose know your customer (KYC) is not available (N/A).For example PAN, e-mail, phone and address (Page No. 490)

**8) The supplier of material and provider of services were unsecured creditors for the amount claimed by them. There are a number of flats booked against the amount claimed as due. All this was done in 2015-17. There are flats allotted to parties (unsecured creditors) in different projects irrespective of whether any service was provided/ material supplied to the same project or not.**

We propose the following order for allotment of flats to the persons/ entity who have booked the flats subject to the verification of their claim:

- (a) For abode;
- (b) For investment without interest and payments made by bank;
- (c) For investment against barter in advance if services rendered/supplies made to the same project;
- (d) To the creditor if services rendered/supplies made to the same project; and

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A (e) The last should be the person/ entities who have supplied and services rendered to the group companies

9) We checked the customer data on the basis of a selected criteria (customers having two or more than two units& customers not having KYC details) and found that no money is received against the sale of those units. The units are booked by just passing a JV. A few examples are shown below. The detailed list of units (project wise) which we checked is also attached. (ANNEXURE-XV.28 page 2646-2658 vol. VIII)

S. No.	Project Name	Customer Name	Unit No	Unit Cost (ex SI)
1	Amrapali Grand	MORPHEUS SECURITY PVT. LTD	T-7-G2	74,16,700
2	Amrapali Grand	SANJEEV KUMAR	T-6-G4	94,76,511
3	Amrapali Grand	MAHESHKUMAR	T-6-G2	84,99,961
4	Amrapali Eden Park	IshwarKhandelwal	D-2102	84,28,450
5	Amrapali Eden Park	AMRENDER KR.JHA/ SUNTA JHA	C-G01	1,40,00,000
6	Amrapali Eden Park	MAHESHKUMAR	C-G02	70,75,000
7	Amrapali Eden Park	SUSHMA RANI/ VIJAY NARAY RAI	C-G03	96,75,859
8	IMT Manesar	SAI Glazing	323	82,09,095
9	IMT Manesar	NOFS Infrastructure	227	87,76,128
10	IMT Manesar	NOFS Infrastructure	234	1,32,02,500
11	Amrapali village	Mrs Pooja	KM-1205	31,35,000

G There have been instances of duplicate allotment of flats i.e. one flat is allotted to more than one person and money is received from both the home buyers. Sample details are given here under. The work relating to duplicate flats allotment is still in the process of being checked.

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BIKRAM CHATTERJI & ORS. v. UNION OF INDIA & ORS.  
[ARUN MISHRA, J.]

451

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S.no.	Name of Project	First Buyer			Second Buyer				
		Flat No.	Date of Booking & Allotment	Name of Buyer	Amount in Rs.	Flat No. & Allotment	Name of Buyer	Amount in Rs.	
1	Crystal Homes	T3-2301	09-11-15	Sulochana Karwa	2,500,000	T3-2301	26-05-16	Aayush Soni	2,013,750
2	Amrapali Princely Estate	M-P01	07-11-15	Nilesh Karwa (HUF)	5,000,000	M-P01	15-10-16	Sanjeev Kumar Goel	6,344,460
3	Amrapali Princely Estate	C-P03	07-11-15	Pramod Karwa (HUF)	5,000,000	C-P03	15-10-16	Shalabh Mittal	3,105,635
4	Amrapali Patel Platenium	A-2303	26-03-10	Pramod Karwa (HUF)	2,000,000	A-2303	20-04-12	Manjul Kumar Tyagi	4,826,991
5	Amrapali Patel Platenium	J-2401	26-03-10	Rajeswari Karwa	1,500,000	J-2401	N/A	Nissa Hussaini	-
6	Crystal Homes	T1-2401	09-11-15	Nilesh Karwa (HUF)	2,500,000	T1-2401	13-06-16	Manish Jain	2,030,400
7	Crystal Homes	T2-2403	09-11-15	Nilesh Karwa (HUF)	2,500,000	T2-2403	28-07-16	Ajit Pal Singh	312,500
8	Silicon City	G1-104	24-03-11	Nilesh Karwa & Seema Karwa	1,250,000	Tower has not been constructed and Fake allotment is been made to Nilesh Karwa & Seema Karwa			
	Silicon City	G1-204	24-03-11	Nilesh Karwa & Seema Karwa	1,250,000				
<b>Total Amount Received</b>					<b>23,500,000</b>	<b>18,633,736</b>			

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Ultra Home Construction Pvt Ltd allotted flats to buyers on false promises and forged documents. An instance being in the case of Mr. Mohammad Kaif where he was allotted 3 flats i.e G-2502, G 2501 and LG-1 vide agreements dated 22<sup>nd</sup> August 2012, 19<sup>th</sup> September 2012 and 9<sup>th</sup> January 2013, through their consortium-Amrapali Patel Platinum and UHCPL received INR 2 crore on assured return basis. However, subsequently, it came to the knowledge that flats mentioned in the buyer agreement never existed as 25<sup>th</sup> floor did not exist in the approved building plan. Further, as per details provided by Mr. Kaif, as on 31<sup>st</sup> March 2017, an amount of INR 1,40,00,000 was payable to him, however, as per books of accounts (in tally data), an amount of INR 1,70,00,000 was payable to him by UHCPL.

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Hi Tech City Developers Pvt Ltd has huge amount of Trade Receivables of INR 1.64 crores

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Whereas , the project under this Company i.e. Amrapali Empire has been completed. Most of the flats have been handed over and registry has been done. We fail to understand as to why the aforesaid amount is still appearing as recoverable from various home buyers.

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This implies it was received in cash and not accounted for. The complete list of all such flat owners along with their sale amount and amount received is enclosed below:

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Sr No	UNIT NO.	BUYER NAME	Total Cost	Total Received	Balance Amount
1	A-1603	Son Pal Sharma/Shashi Sharma	3,135,000	2,380,028	754,972
2	A-1604	Sunil Kumar Jha	2,527,000	1,984,673	542,327
3	A-1803	Sahji Nambiar	3,160,000	3,027,520	132,480
4	A-1904	Himanshu Khurana	2,527,000	2,459,629	67,371
5	B-301	Suresh Chand Sharma	3,135,000	3,055,584	79,416
6	B-1604	Mrs. Niki Rani	2,460,500	1,974,973	485,527
7	B-1703	Rahul Ranjan	2,640,000	485,984	2,154,016
8	B-1803	Ravi Kant Tyagi (STAFF)	3,193,000	2,992,196	200,804
9	B-1903	Monika Thakur	3,696,000	2,000,000	1,696,000
10	B-1904	Neeraj Soni	2,527,000	1,903,967	623,033
11	C-604	Nirmala Devi	1,750,000	1,261,035	488,965
12	C-702	Manish Raj Sharma	1,913,625	1,302,510	611,115
13	C-905	M. A. Khan	2,004,750	1,603,951	400,799
14	C-1604	Bharat Lal Agrahari	1,900,000	1,624,794	275,206
15	C-1701	Sanjay Kumar	2,023,675	1,375,525	648,150
16	C-1705	Syed Sharique Ali	2,308,500	2,035,125	273,375
17	C-1901	Uday Shankar Rai	2,004,750	1,000,185	1,004,565
18	C-1902	Suresh Chandra Mandal	2,004,750	1,414,459	590,291
19	C-1904	Mrs. Annu (Gulshan Driver)	1,645,000	921,525	723,475
20	C-2001	Shailendra Kumar	2,357,800	2,308,500	49,300
21	C-2002	Mrs. Nivedita Singh	2,333,500	871,103	1,462,397
22	C-2003	Dheerendra Kumar/Shailendra kumar	1,111,500	663,834	447,666
23	C-2004	Manjari Smrita	1,148,200	1,111,500	36,700
24	D-102	Prasanna Kumar Das	1,900,000	1,861,637	38,363
25	D-1703	Sri Dhaneswar Dash	2,308,500	2,172,696	135,804
26	D-1903	Virendra Kumar	2,308,500	2,209,508	98,992
27	D-1904	Randhir Kumar	1,900,000	1,805,148	94,852
28	A-303	Manish Kumar	3,382,500	3,302,347	80,153
29	B-403	Anupama Tiwari	3,176,250	2,182,659	993,591
30	B-1902	Md. Merajul Hasan	2,527,000	2,191,025	335,975
31	B-1501	Rajesh Kumar	3,093,750	2,943,106	150,644
32	C-1806	Anand Shankar	1,900,000	1,504,737	395,263
33	C-1704	Sourabh Shandilya	2,100,000	1,702,175	397,825
<b>Total</b>			<b>78,103,050</b>	<b>61,633,638</b>	<b>16,469,412</b>

It is worth mentioning here that of the above 33 home buyers most of them are employees/ ex-employees of the Company. The management has done under-valued registry for all these cases. We are of the view that the management has under-valued these registries to evade the stamp duty to be paid to the government and has taken the money outside the books from these employees and these amounts outstanding in the books are only book entries and should be recovered from the management.

### **21. Misrepresentation of Facts**

As per the information provided and the records made available to us, Flat No C-704 in Amrapali Castle and Flat No D-702 in Amrapali Eden Park were shown as vacant flats and were provided to NBCC for the purpose of sale. However, we have received letters from Mr Manoj Kumar and Mr Maneesh Gaur in Amrapali Castle and Amrapali Eden Park respectively along with many

Annexures. (Payment receipts, NOC, possession letter).that the flats have been booked by them A

9) While scrutinizing the customer data, we found a case where the flat is sold at discount. The total value of the flat is booked as a discount. There may be many more such cases.

Project	Customer Name	Unit No	Area	Unit Cost	Discount
Amrapali Leisure Valley	M/S. AMCON BUILDCON PVT. LTD.	A-002	2525	80,38,484	80,38,484

We are informed that Mr.Adhikari Debi Prasad Das (GM/DGM Accounts) and Mr. Mohit Gupta (Director Marketing) were directly responsible for accounting and collection of receivables and marketing of flats. C

We interviewed both the persons several times. Both kept on changing their stand/answers and did not cooperate in answering our queries. Their answer to every question was that they are not aware. They did not provide many documents and the laptops which are in their possession. In spite of repeated reminders, Mr. Mohit Gupta has not made available the complete data with respect to home buyers/flat owners. D

We found Mr Mohit Gupta and Mr Adhikari Devi Prasad Das directly responsible for all the wrongdoings in booking of receivables, marketing of the flats and in handing over the possession of the flats. E

**Utilities like Milk booth, Nursery schools, Senior secondary schools, Nursing homes allotted to various parties should be cancelled.** F

**LIST OF FLATS (Residential & Commercial) ALLOTTED TO BROKERS AND SUPPLIERS**

833 Flats booked (identified till now) in the name of various vendors should be attached and be released at last till the last home buyers gets his/her flat.If there is a shortfall , then the flats should be treated as inventory and be sold . G

**The following flats should be cancelled.**

These are the 353 flats booked in the name of various vendors parties without receipt of any sum. The flats has not been included H

A in inventory and will be available for sale after giving a chance to the Flat buyer if he/she/it introduce any documents to substantiate the claim. Refer list below:

B It has further been observed that, 75 flats adjustments were made between M/s LA Residentia and Amrapali Group of Companies against the aforesaid Branding Income. These home buyers have already been allotted flats in M/s LA Residentia. Hence, the 75 Flats booked by Amrapali Group in various schemes should be treated as vacant. (Volume-I Page No. 200). The Complete List of all such flat has been enclosed as **Annexure 25-A. (Volume III Page no 582-583)**

C **22. Sureka group**

D Amrapali and Sureka's have a very long and intricate association starting officially with the partnership venture 'Amrapali Homes' in 2006 wherein Ultra Home Construction Private Limited and Mauria Udyog Limited is partner and developed project in name of Amrapali Homes in Indirapuram then Amrapali Grand wherein Ultra Home Construction Private Limited and Bihariji Ispat Udyog Limited were partners, though the land was allotted to Bihariji Ispat Udyog Limited. Initially Amrapali Group ventured like these types of association as he was independently not able to meet the net worth, turnover and other eligibility criteria for land allotment by Noida authorities. They then next associated in Sapphire Project wherein Sureka's family participated as shareholders and directors in the Company. Every Joint Venture used to have an unexecuted profit sharing and investment arrangement. Since the company didn't declared dividend ever, the profits were drawn by Sureka family in the nature of advances which has majorly been squared off against billing from Mauria Udyog Limited, Jotindra Steel and their other related companies. Some of the amount is still lying as advance in the books of accounts of Amrapali Group. In 2012 Amrapali Group invested in 25% stake in Sureka family's three projects Heart Beat City, Pebbles Prolease, Three Platinum Softech. Apart from subscribing to share capital, the further investment was made directly as advance or billing from Amrapali Group to these companies and some through shell companies as well.

H

Further they did a project in Ultra Home Construction Private Limited with Mozambique. This project was planned, coordinated and managed by Mr Navneet Sureka in the name of Ultra Home Construction Private Limited and whatever advance was sanctioned and disbursed by the Government of Mozambique through EXIM bank to Ultra Home Construction Private Limited was eventually diverted to Sureka family through billing from Jotindra Steel and Tubes Limited, Mauria Udyog Limited, etc. A separate bank account of Ultra Home Construction Private Limited was opened in State Bank of Patiala, Faridabad branch where signatory was Mr Akhil Sureka who used to operate the account from there. The entire transactions of LC and EXIM bank was routed from that account. Navneet Sureka visited more in the period of contract finalization to Mozambique

Partner in the following projects:

- Amrapali Sapphire Developers Pvt. Ltd. – 10.52% of shareholding BihariJi Ispat Udyog Limited
- Amrapali Smart City Pvt Ltd – 10% shareholding held by Mauria Udyog Ltd
- Amrapali Homes – 5% - Mauria Udyog Ltd (Rs.20 crore given as an advance before 2008 and is recoverable)
- Amrapali grand – 10% BihariJi Ispat Udyog Limited – We were informed that the land was allotted in the name of Bihariji Ispat Udyog Ltd and construction and development work was done by Amrapali group.

Directors in the following companies

- Amrapali Leisure Valley Pvt Ltd – Akhil Sureka

Cheque signatories in the following companies

- Amrapali Leisure Valley Pvt Ltd
- Amrapali Dream Valley Pvt Ltd
- Amrapali Leisure Valley Developers pvt Ltd
- Amrapali centurian Park Pvt Ltd

From the above, it is clear that Sureka group directors namely Vishnu Sureka, Navneet Sureka and Akhil sureka were promoters

A in amrapali group. They were in equal control of affairs with other promoters (Anil Sharma Shiv Priya, etc.). They not only invested as a promoter heavy amount but also provided the land allotted to Bihariji Ispat a sureka group company. But the amount invested was withdrawn in a very short period by other associate companies in the form of interest, supplies, provision of services etc. it was found out that there were many other suppliers who never interacted with any of the directors/staff but supplied material to Amrapali through Akhil and Navneet Sureka. In our opinion, this was nothing but accommodation bills and a form of withdrawing funds from the group. None of the employess/ directors of the sureka companies knew that Sureka group has supplied ,material to Amrapali group. Though sureka group has a policy and procedure wthat for any item above Rs,. 5,000/- a purchase order would be issued but it was not followed in the case of supplies to Amrapali. Surprising all the transactions worth more than 500 crore has been handled single handedly by Navneet and akhil sureka without involving any of the directors and employees. All the cheques were also signed by Usreka family and not by any other directors.

E It is pertinent to note that the amount paid for FSI purchased by Suraka group companies was taken back on the same day by routing through a number of companies.All such cheques for money laundering were signed by Akhil Sureka Furthermore, it is found that the amount so paid ie Rs. 80 crore was also received from suppliers of the Amrapali group. Therefore in our opinion,not only FSi should be canceled but the amount os Rs. 80 crore is recovereable from them.

G They adopted the same methodoly. Formed various business entities, appointed small time employees the directors in these companies and routed fundsof 100s of crores and it may be in the range of 1000s crores.. None of the directors were knowing about any of the business transactions. Further more most of the directors never attended any board meetings,knew about nature of business the company does, name of other directors in the company and so on. We are not sure who was teacing the fraudulent practices to whom, whether Sureka to Amrapali or vice versa.

H

It was observed Rs.13.44 crore paid to Sureka Public Charitable Trust were transferred to donation account subsequently. It is submitted that Sureka Public Charitable Trust is a group institution of Jotindra Steels & Tubes Limited, which is also under the forensic audit. This should be recovered from the Jotindra Steels & Tubes Limited. A

Sureka group used several companies to route funds from Amrapali group to Sureka group, an example being in the case of Amrapali Infrastructure Pvt Ltd, where the company received Rs.3.23 crore from “Synergy Freightways Private Limited” from 26th March 2015 to 30th March 2015. On 31st March 2015 an amount to Rs.4.18 crore was paid to the said party through 16 separate transactions and thereby leading to a debit balance recoverable from the party amounting to Rs.0.9,5 crore as on 31st March 2015. This amount should be recovered from the Sureka Group. B C

It is worthwhile to mention here that M/s Synergy Freightways Private Limited is an associate Company of M/s Jotindra Steel and Tubes Limited. Further, there are no business transactions with the said party except routing of funds. D

Another example being in the case of Shriv Buildmat Private Limited where one of the directors is common with MauriaUdyog Limited. On scrutiny of ledger accounts of Shriv Buildmat, it was observed that during FY 2014-15 and 2015-16, the said company had almost 100% sales to Amrapali group of companies. It was also observed that one flat was allotted to Mr. Atul Kumar, Director of ShrivBuildmat Private Limited in Verona Heights, against the amount due to the said company. This adjustment is not genuine and the relevant amount should be recovered from Mr. Atul Kumar or his flat may be attached. As per ledger account advance to Amrapali for flat, a sum of INR 34.05 lakhs has been shown as recoverable as on 31st March, 2015. There is no name of the Company to which such advance has been given in the books of the Amrapali Group of Companies. Thus, this amount of INR 34.05 Lakhs is shown as recoverable is not genuine. E F G

A sum of INR 53.21 Lakhs has been debited to Labour Charges Contractors on account of bill no. SBPL/Noida/010 dated 13/3/2013 has been recorded in the books of Amrapali Infrastructure Private Limited on 16/03/2015. H

**A RN Traders**

During the financial year 2016-17 and 2017-18, a sum of **INR 17.63 crores** has been debited to this party and standing recoverable as per Raw Tally Data, till date as per details given below:

<b>Date</b>	<b>Particulars</b>	<b>Amount in lakhs</b>	<b>Remarks</b>
30-11-2016	Bank Payment	0.02	Payment made without any narration on the voucher
13-12-2016	Bank Payment	750	Payment made without any narration on the voucher
19-04-2017	Transfer entry through MauriaUdhyog Limited	1,004	Being Amount transfer as per letter signed by Mr. Anil Sharma
19-04-2017	Transfer entry through Sarvomme Infrastructure Private Limited	960	Being Amount transfer as per letter signed by Mr. Anil Sharma
<b>Total</b>		<b>2,714.02</b>	

Further, there is no Name, Pan or Address available in the records of M/s RN Traders. It was further observed that there are no business transactions with M/s RN Traders. It is possible that this amount of **INR 2,714.02 Lakhs** has been withdrawn by the management for their own personal use and should be recovered from the management.

BiharijiIspat Udyog Limited being one of the partners of Amrapali Grand always had negative capital. They withdrew much more than what they brought into the business. There is no substance in them being called as capital contributors to the business of Amrapali Grand. As on 1st April 2008 they had withdrawn INR 12 crore and invested a capital contribution of INR 1.5 crore. As on 31st July 2018, they have debit balance of INR 1.67 crore and negative capital of INR 30,380. They always withdrew homebuyers funds for misusing for their own agendas apart from the business.

Out of INR 12 crore given to BiharijiIspat Udyog Limited, they returned INR 6.45 crore through bank and the balance amount was adjusted against receivables from Ultra Home Construction Pvt Ltd and against capital contribution by BiharijiIspat Udyog Ltd.

Amrapali Grand gave loans and advances to below parties, which are recoverable as on 31<sup>st</sup> July 2018 amounting to INR 25.73 crore as per Tally data. A

S. No.	Name of the Company/Person	Amount	Date of transaction
1	Anil Kumar Sharma	10,03,55,900	20.11.2007 to 25.07.2018
2	Shiv Priya	7,10,50,000	20.04.2007 to 22.09.2010
3	Madan Mohan Sharma	2,01,00,000	20.11.2007 to 5.12.2007
4	Ajay Kumar	2,74,68,000	23.06.2007 to 31.03.2011
5	Biharijilspat Udyog Limited	1,67,00,000	5.04.2006 to 31.07.2018
6	Amrapali Homes	54,01,519	15.09.2006 to 07.12.2013
7	SuvashChander Kumar	47,11,000	3.01.2008 to 01.12.2009
8	Shiv Priya –Imprest	35,70,480	1.04.2008 to 24.12.2009
9	Amrapali Zodiac Developers Private Limited	19,20,000	27.06.2017 to 13.07.2017
10	Jhamb Finance and Leasing Private Limited	19,00,000	5.11.2015
11	Amresh Kumar	16,86,000	1.04.2007 to 15.09.2008
12	GK International	10,00,000	21.01.2007
13	Pallavi Mishra	6,07,080	12.07.2018
14	Mohit Gupta	5,80,000	25.06.2007 to 11.04.2008
15	P K Choubey	1,50,000	2.08.2007
16	Amrapali Foundation	1,00,000	24.11.2015
17	Suraj pur Sales & Service	1,00,000	1.11.2010
	<b>Total</b>	<b>25,73,99,979</b>	

It has been observed that amounts paid to parties above were mostly routed to Quality Synthetics Pvt Ltd which primarily belongs Sureka family. For example: F

- a) Payment of Rs 2,74,68,000/- has been made to Mr Ajay Kumar from 2007-08 to 2010-11 as advance recoverable. Out of this, Rs 77,00,000 was paid by him for purchase of property located at Jaypee Greens, Noida & Rs 50,00,000 was paid by him to Quality Synthetics Industries Limited. G
- b) Payment of Rs 10,03,55,900 has been made to Mr Anil Kumar Sharma from 2007-08 to July, 2018. Out of this, Rs 3,00,00,000 was paid to Quality Synthetics Industries Limited. H

- A c) Payment of Rs 7,10,50,000 has been made to Mr Shiv Priya from 2007-08 to September 2010. Out of this, Rs 1,00,00,000 was paid to Quality Synthetics Industries Limited.

B While reviewing the books of accounts of Amrapali Infrastructure Private Limited and M/s Jotindra Steel and Tubes Limited, it has been observed that Amrapali Infrastructure has made purchases from M/s Jotindra Steel against Letter of Credit. The letter of credit has been discounted by M/s Jotindra Steel with the banks. The discounting charges of INR 1.30 Crores have been debited by M/s Jotindra Steel to M/s Amrapali Infrastructure. We fail to understand the reason for this treatment. In normal course of business, the supplier is the person who bears the discounting charges in respect of the transactions as the margin when sold on Letter of Credit are generally higher. This amount of **INR 1.30 Crores** on account of discounting charges of Letter of Credit Should be recovered from M/s Jotindra Steel and Tubes Limited.

- D i. It has also been observed that M/s Jotindra Steel and Tubes Limited has issued service invoices for erection, shifting and transportation charges amounting to **INR 96 lakhs** approximately during the financial year 2014-15 as per details given below:

Date	Bill number	Name of the Party	Gross Amount	Tax	Total	Nature of the Service
6/6/2014	JST/FBD/SG/0001	Jotindra Steels & Tubes	5,000,000	618,000	5,618,000	Erection Charges
6/6/2014	JST/FBD/SG/0002	Jotindra Steels & Tubes	2,532,000	78,239	2,610,239	Transportation Charges
12/1/2014	Bill not available	Jotindra Steels & Tubes	247,500	7,648	255,148	Transportation Charges
12/1/2014	Bill not available	Jotindra Steels & Tubes	365,000	11,279	376,279	Transportation Charges
2/1/2015	Bill not available	Jotindra Steels & Tubes	221,400	6,841	228,241	Transportation Charges
2/1/2015	Bill not available	Jotindra Steels & Tubes	182,700	5,646	188,346	Transportation Charges
3/31/2015	Bill not available	Jotindra Steels & Tubes	164,700	5,089	169,789	Transportation Charges
3/31/2015	Bill not available	Jotindra Steels & Tubes	216,000	6,675	222,675	Transportation Charges
<b>Total</b>					<b>9,668,717</b>	

Further, on scrutiny of the invoices issued by the JSTB it appears that the invoices raised for the above services are completely different from the invoices issued regularly and are prima facie non-genuine. Hence, the same should be recovered from JSTB or the Company Management as both the parties have been partnering in various projects.

ii. It is further observed that purchases amounting to INR 7.09 Crores, INR 59.53 Crores and INR 47.04 Crores has been made from this party in M/s Amrapali Infrastructure Private Limited during the financial year 2013-14, 2014-15 and 2015-16 respectively. While sample checking of the purchase bills, it was noted that the goods consignment notes enclosed with the purchase bill are issued by M/s Synergy Freightways Private Limited which is also a group Company of Jotindra Steel and Tubes Limited. Goods consignment note enclosed with the purchase bills don't seem to be genuine in view of the undermentioned observations:

1. We sent a letter to M/s Synergy Freightways Private Limited as per address on record which has been received back as undelivered.
2. Statement of Mr. Akhil Sureka, Managing Director of M/s Jotindra Steel and Tubes Limited was recorded and it was confirmed by him that most of the purchase/ sales transactions are back to back i.e. all such consignments are sent directly from their supplier to Amrapali Group of Companies. In these circumstances it is not understood by us that how the consignment notes of M/s Synergy Freightways Private Limited have been enclosed with most of the purchase bills, if the transactions were back to back for their supplies.
3. **On scrutiny of the tally data/documents of Amrapali Infrastructure Private Limited and JST, it has been observed that no freight has been paid to M/s Synergy Freightways Private Limited either by Amrapali Infrastructure Private Limited or by JST.**

**This clearly establishes that all the GRs issued by M/s Synergy Freightways Private Limited are not genuine.** Further, most of the purchase invoices of JST have been shown as sale on the same date with similar particulars/ quantity by raising the invoice on Amrapali Infrastructure Private Limited.

A We are of the view that these sales invoices raised by JST are also not genuine and are mere accommodation entries only.

Sample details of such transactions for 2 days are enclosed below:

	Sr. No.	Date of the bill	Bill No.	Amt. of Bill (In Rs.)	Date of the GR	GR No.	Time In	Time Out
B	1	07.02.2015	698	1,652,641	07.02.2015	698	15:48	18:12
	2	07.02.2015	699	1,462,037	07.02.2015	699	16:22	17:31
	3	07.02.2015	701	1,136,176	07.02.2015	701	15:52	17:49
	4	07.02.2015	703	1,143,610	08.02.2015	703	16:02	12:19
C	5	07.02.2015	704	1,138,241	08.02.2015	704	10:09	11:57
	6	07.02.2015	705	1,138,241	08.02.2015	705	10:54	14:58
	7	07.02.2015	706	1,382,740	08.02.2015	706	14:43	18:04
	8	08.02.2015	713	892,503	09.02.2015	713	9:20	14:29
	9	08.02.2015	715	952,167	09.02.2015	715	14:28	17:23
D	1	08.02.2015	716	948,647	09.02.2015	716	14:23	17:22
	11	08.02.2015	717	890,025	09.02.2015	717	9:45	14:40
	12	08.02.2015	718	1,032,512	09.02.2015	718	9:52	14:43
	13	08.02.2015	719	368,446	09.02.2015	718	9:52	14:43
	14	08.02.2015	720	1,383,566	09.02.2015	720	10:27	16:08
E	15	08.02.2015	722	1,136,176	09.02.2015	722	10:09	17:11
	16	08.02.2015	726	1,087,502	09.02.2015	-	-	-
	17	08.02.2015	727	223,673	09.02.2015	726,727	11:47	17:13
	18	08.02.2015	728	1,135,763	09.02.2015	728	14:15	18:50

F 4. It has been further observed that there have been unaccounted cash transactions between the Amrapali Group of Companies and JSTB group of Companies as per documents seized during Income Tax Search in the premises of JSTB Group of Companies which are not accounted for in the Amrapali Group of Companies. Complete Copy of the Order of CIT (Appeals) where the observations regarding unaccounted cash were discussed is enclosed herewith as

G **Annexure 34-C.**

## II. M/s Mauria Udyog Limited Ghaziabad

While scrutinizing the ledger of this party it was observed as follows:

H

- a) During the month of December 2015 there were 7 purchase invoices from this party amounting to **INR 0.65 Crores** all dated 18/12/15. A
- b) While scrutinizing the data called from M/s Mauria Udyog Limited it was noted that they have purchased these goods vide 7 purchase invoices dated 17/12/15 for **INR 0.63 Crores**. B
- c) There is no other purchase/Sale by M/s Mauria Udyog Limited.
- d) Similarly, in other months also 100% of the sale is made to Amrapali Group of Companies. Since M/s Mauria Udyog Limited is a group company of Jotindra Steels & Tubes Limited, there is very high possibility of accommodation bills being issued and all their purchases being Non-Genuine amounting to **INR 5.28 Crores** for financial year 2015-16. C
- e) It is further observed that all the payments against these purchases' bills have been made by issuing letter of credit. It seems that the Company is getting the LC's discounted from the bank against these non-genuine bills. D

When we questioned Mr. Navneet Sureka who approached Amrapali group from trust side and who was approached in Amrapali group. He answered "he is not able to recollect". E

He didn't cooperate otherwise how it is possible that such a huge amount donated by Amrapali group companies and he is not able to remember the basic question. We recommend the amount donated should be recovered from the Sureka group. F

We are of the opinion that the supplies and services provided by Jotindra Steel & Tubes Limited (Rs 321 crore) and Mauria Udyog Limited (Rs 128 crore) are prima facie bogus in nature.

1. The 2 directors namely Mr. Akhil Sureka and Mr. Navneet Sureka are equally responsible for companies having shareholding/capital/profitsharing and should be held responsible for shortfall in cost of construction and land dues to Noida authorities. **(Refer annexure S-11 page 2960 Supplementary report)** G

H

- A 2. Mr. Akhil Sureka opened bank account in SBI, Patiala, Faridabad in the name of Amrapali group companies and became a signatory. Amrapali did not have any base at Faridabad but Akhil sureka operates from Faridabad.
- B 3. Jotindra Steel and Tubes Limited agreed to buy used construction equipments from Amrapali Infrastructure Private Limited and paid Rs 8 crore on 13<sup>th</sup> December, 2016 and immediately transferred that funds to group companies of Sureka group namely Jotindra Steel and Tubes Limited and others by routing the funds from Amrapali Infrastructure Private Limited to
- C Ultra Home Construction Private Limited.
- D 4. The FSI's bought by Sureka group (details given in Chart D) without making any payment. The modus operandi was funds were paid from one company and on the same day were transferred to other Sureka group company by routing in 2-3 Amrapali Group companies. This would not have been possible without active involvement of Mr. Akhil Sureka, who is bank signatory. We found on sample basis that the amount of Rs. 80 crore so routed was originally started from Amrapali. The amount so claimed of Rs 80 crore has been routed through various companies. this amount has been paid out of Amrapali group against purchases and payment made to various vendors namely Bhagirathi Tubes
- E (Prop Mr. SHiv Kumar)etc. It was confirmed by supplier that he did not have any knowledge of any of the transactions and stated that all transactions were carried out in good faith under the advice & instruction of Mr. Akhil Sureka. He further submitted that he never visited any of the Amrapali group office, he or his staff including employees has never visited any of the offices or site of
- F Amrapali group. When questioned on supplies of scaffolding material and steel to and purchase sales reconciliation of supplies along with purchase orders and sales orders, he confirmed that it is not available. The amount so paid should be recovered from the **SUREKA group companies**. It was further confirmed that funds movement were also on behalf of Akhil Sureka carried out under good faith.
- G 5. An amount of Rs 55 crore was received from EXIM bank under line of credit for a project was to be done in Mozambique. The group submitted a **bogus bank guarantee for the said**
- H

**advance to Mozambique client from a bank namely International Trade Bank Limited.** Out of the funds of RS 55crore, major amount was transferred to Companies of Sureka group. A

On enquiry from the Amrapali Group we came to know that the bank guarantee was made available by Mr. Navneet Sureka, Managing Director of Mauria Udyog Limited **and that no bank exist/existed by the name International Trade Bank Limited.** It was also informed that the project was under direct control and supervision of Mr. Navneet Sureka. It shows active involvement of Mr. Navneet Sureka in the project. Mr. Prashant Kumar and Mr. Ram Kumar are the persons who were travelling to Mozambique and know about the project but we could not get the contact details of these 2 persons B C

6. Quality Synthetics (Sureka Group) had given a loan to Amrapali Sapphire of RS 3 crore in March, 2009 at the rate of interest of 14% p.a. The company kept on paying to Quality Synthetics when it was having no funds for construction. The Amrapali Group was giving advances to various vendors/parties interest free and taking loan from Quality Synthetics, at the rate of 14% p.a. **It is pertinent to note that the said amount of RS 3 crore along with all interest due totaling to RS 3,86 crore was repaid in March, 2018 when there were no funds available for construction of flat and the case was pending before Honorable Supreme Court. The amount should be recovered immediately.** It is pertinent to note that the company is not doing any business and are used just for the purpose of money laundering. D E F

7. **Sureka group was a promoter and was providing the net worth certificate at the time of allotment of land to Noida/ Greater Noida authorities. At the time of making payment to the authorities for land funds were arranged by them.** G

8. The directors other than the family have come and informed that they were not knowing about the operations of the company and not attended any board meeting and papers were send to their residence for signatures.

H

A 9. There are many other high value transactions which we are in process of examination.

10. Further to our supplementary report dated 30th April 2019. The directors of four companies of Sureka Group appeared before us from 9th May 2019 to 18th May 2019, the directors gave their statement On the basis of interaction in the statement given by them. We found as follows.

B The four companies which bought FSI for the sham companies created for the purpose of money laundering. Neither the shareholders nor the directors of the companies were aware of any transactions carried out by these companies. It is worthwhile to note that Mr. Vishnu Sureka, Mr. Navneet Sureka and Mr. Akhil Sureka were neither the shareholders nor the directors as well didn't attend any board meeting including AGM/EGM. However, out of three who were signatory to the bank in all the companies. Directors were not aware of who have been the signatories. When questioned . Vishnu, navneet and akhil Sureka could not reply why they were the signatories when they were neither shareholders, directors, employees.

C  
D  
Mauria Udyog Limited

E It was submitted in affidavit of Mauria Udyog Limited that Mauria Udyog Limited is a manufacturer and traders. *It is stated that in addition, to manufacturing of LPG Cylinders, MUL also manufactures world class "Terry Towel" and "Apparels". Further MUL also trades internationally & domestically in Steel Products in addition to Ferrous & Non Ferrous metals.*

F *MUL also deals in agro commodities such as soya bean, refined oil & deoiled cake used as fodder for the cattle feed/ poultry industry.(from affidavit of MUL para 5 page 2)* **We scrutinized the annual accounts of Mauria Udyog Limited and found that the product that is TMT bars are supplied only to Amrapali Group companies and a very minuscule quantity to other companies.**

G In the 2010-11, TMT bar supplied for Rs. 52.97 crore and the payment received Rs 29 crore and that is also a major part of the payment of Rs 16.5 crore was received in March.

H

Similarly, in the year 2012-13, supplies were made of TMT bar and the payment was received in the month of March 2012 just before closing of the year. A

Suddenly in the year 2012-13, trend is changed and Ultra Home Construction Pvt Ltd gave an advance of Rs 33 crore on various dates which was returned subsequently in the month of February and March. B

The above transactions are dubious in nature because we scrutinized the supply bills of Mauria Udyog Limited and found that Mauria Udyog Limited has supplied TMT bars only to Amrapali group of companies. It is not an item in which Mauria Udyog Limited has dealt with any other party except a miniscule quantity of 2-3 customers who in turn has also supplied to Amrapali group. There was no purchase order from Amrapali group to Mauria Udyog Limited **even the size of TMT bar was not mentioned on the invoice of Mauria Udyog Limited. The rate charged by Mauria Udyog Limited are higher in the range of 15-20% then the market rate for which no satisfactory explanation was provided to us.** In year 2013-14, Ultra Home Construction Pvt Ltd gave Rs 2.45 crore to Mauria Udyog Ltd which was returned on 29th March. **It is surprising to find out that in the year 2014-15 in the month of May and June, Ultra Home Construction Pvt Ltd has accepted LCs from banks without booking of any purchase of material.** The company's bank account is used for accommodation bills and Mauria Udyog Ltd was paid an excess of Rs 1.16 crore over and above an accommodation bill. In the year 2015-16, **in the month of May Amrapali group started supplying TMT bars to Mauria Udyog Ltd, the purpose of supplies of TMT bars by Ultra Home Construction Pvt Ltd was not explained to us.** In the year 2015-16, total supplies are to the extent of Rs 15.79 crore and in the year 2016-17 amounting to Rs 5.36 crore. In the year 2015-16, payments were made to Mauria Udyog Ltd on behalf of Shri Satguru Metalloys Pvt Ltd and Bhagirathi Tubes of Rs 8 crore and Rs 6.50 crore respectively. We were not explained any reasons for making such payments. C  
D  
E  
F  
G

It is pertinent to note that the company is not doing any business and are used just for the purpose of money laundering. H

A **Shri Narayan Rajkumar Merchants Ltd**

A group company of Sureka group paid Rs 1 crore to Amrapali Sapphire Developers Pvt Ltd. The entire amount along with interest payment of Rs 1.11 crore was paid to Shri Narayan Rajkumar Merchants Ltd, surprisingly Amrapali group didn't charge any interest on payments made to Sureka group of companies but it had paid without fail interest @ 13.45% to Shri Narayan Rajkumar Merchants Ltd. **Further an amount of Rs 2 crore was paid to Shri Narayan Rajkumar Merchants Ltd on 31st March 2018, when the matter was pending before the Honourable Supreme Court. The amount of Rs 2 crore should immediately be recovered from Shri Narayan Rajkumar Merchants Ltd and Sureka family.**

It is pertinent to note that the company is not doing any business and are used just for the purpose of money laundering.

D **Conclusion**

We are of the opinion that this company floated/formed for the purpose of money laundering and FSI sold to these companies were merely accounting and adjustment entries done by them transferring funds from one account to another as reported earlier in our supplementary report. The modus operandi adopted by Sureka family was the same as adopted by Amrapali Group i.e. they formed the companies, their employees who were paid salaries in the range of Rs 20,000-Rs 60,000 the shareholders and directors in these companies. It is pertinent to note that their signatory to the bank are family members.

F Mr. Navneet Sureka and Mr. Akhil Sureka used these companies for the purpose of money laundering of funds of Amrapali Group.

The bank guarantee was bogus and we couldn't find the bank name which issued the bank guarantee, it appears that there was a criminal conspiracy and the bank was not in existence.

G Mr. Navneet Sureka was in full control of Amrapali group companies which is very clear and can be understood from the transactions of donation. On the instructions of Mr. Navneet Sureka, GM/DGM accounts Mr. Adhikari was transferring funds to the trust from various group companies of Amrapali as and when desired by him and instructed by him.

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None of the directors ever attended a board meeting it was informed that the directors signed the paper under the instructions and directions of Mr. Akhil Sureka. The fact was accepted by Mr. Akhil Sureka. This proves that there was non compliances of holding board meetings and AGM as required u/s 174 of Companies Act, 2013. Further, the bank signatories to the bank are Mr. Vishnu Sureka and Mr. Navneet Sureka as an authorized signatory. In what capacity they were the signatory, they could not explain and it was told by Mr. Akhil Sureka and Mr. Vishnu Sureka that the directors were having full faith upon them therefore authorized them as bank signatory surprisingly, directors were not the signatory this is an unique case which is difficult to found in the corporate history.

When there was a transfer of shares from one shareholder to other in full or part of his/her shareholding there was no transactions for consideration through banking channels.

### **23. 27 Additional companies**

(i) Funds invested to become the consortium partners by these 27 companies were from the Amrapali group of companies and these 27 companies were just the face created to comply the conditions of partners and also keeping in mind to demerge a part of the plot in future to the consortium partners. The funds contributed by these 27 companies were originated and routed from the Amrapali group companies.

(ii) These companies were managed by CFO Mr. Chander Wadhwa, Company Secretary Mr. Pankaj Mehta and CA Mr. Anil Mittal.

#### **General:**

1. The companies were formed for the purpose of acquiring the shares in the 47 group companies to gain the position of consortium partner, for villa in Goa, immovable property **E/17 Surajkund Noida, D- 151 , Preet Vihar, NewDelhi, First Floor-E-57, Preet Vihar, New Delhi.** for routing the cash during demonetization and booking flats in IT Park Greater Noida of Ultra Home Construction Private Limited. The cash on Hand of Rs. 1.98 crore. From these companies is not traceable and is misappropriated and be recovered from CA Anil Mittal The

A Directors in these companies are Junior employees of Anil Mittal Statutory Auditors namely

1. Pankaj Mehta Company Secretary of Amrapali group of Companies
2. Vivek Mittal Nephew of Anil Mittal
- B 3. Chandan Kumar Office boy of Anil Mittal
4. Seema Mittal wife of Anil Mittal
5. Chandar Wadhwa CFO
6. Bushan Sharma
7. Ashish Jain employee of Anil Mittal
8. Amit Wadhwa Nephew of Chandar Wadhwa

C List of companies are as under:

S.no	Name of company	Page no
1.	Aptara Infrastructure Pvt Ltd	
2.	Bhavva Housing Projects Private Limited	
3.	Bushells Developers Private Limited	
D 4.	Chintapurni Estates Private Limited	
5.	DH Education Services Pvt Ltd	
6.	Earthwell Developers Pvt Ltd	
7.	Eklavya Building Solutions Pvt Ltd	
8.	Bushells Reality Solution Private Limited	
9.	Saffron Propmart Consultancy Private Limited	
E 10.	GaurisutaBuildhome Private Limited	
11.	Gaurisuta Real Estate and Developers Private Limited	
12.	Kamyani Realtors Private Limited	
13.	Kapila Building Solution Private Limited	
14.	MahamayaBuildcon Private Limited	
15.	Rinku Clothing Creation Private Limited	
F 16.	RRS Properties Private Limited	
17.	Spacewell Developers Private Limited	
18.	StatelinesBuildwell Private Limited	
19.	Mansarovar Textiles Private Limited	
20.	Rainbow Cotton Private Limited	
21.	Kamakshi Buildwell Private Limited	
G 22.	Golden Portfolio Consultant Private Limited	
23.	Double Esh Infrastructure Private Limited	
24.	Aashirwad Linens Private Limited	
25.	Aksh Real Estates Private Limited	
26.	AdhunikBuildtech Private Limited	
H 27.	Rinku Computech Private Limited	

We recommend the forfeiture of the following investment in the group companies by these 27 companies because the funds invested to become the consortium partners were from the group companies and these companies were just the front created to comply the conditions of partners and also keeping in mind to demerge a part of the plot in future to the consortium partners. The funds contributed by these 27 companies were originated and routed from the Amrapali group companies.

S. No.	Name of the Company	No. of Shares	Investment in which Amrapali Group Co.	Paid-Up Capital		% of Equity Shares
				Number of Equity shares of respective co.	Number of Preference Shares of respective co.	
1	Aksh Real Estate Pvt Ltd	8,20,000	Amrapali Centurian Park Pvt Ltd	36,50,000	8,50,000	22.47%
2	DH Education Services Pvt Ltd	5,01,500	Amrapali Centurian Park Pvt Ltd	36,50,000	8,50,000	13.74%
3	Mansarovar Textiles Pvt Ltd	3,71,000	Amrapali Centurian Park Pvt Ltd	36,50,000	8,50,000	10.16%
4	Bhavya Housing Projects Pvt Ltd	1,000	Amrapali Leisure Valley Pvt Ltd	10,000	4,57,334	10.00%
5	Kamayani Realtors Pvt Ltd	1,000	Amrapali Leisure Valley Pvt Ltd	10,000	4,57,334	10.00%
6	Chintapurni Estates pvt Ltd	1,000	Amrapali Leisure Valley Developers Pvt Ltd	10,000	6,00,000	10.00%
7	Aashirwad Linens Pvt Ltd	1,500	Amrapali Dream Valley Pvt Ltd	10,10,000	-	0.15%
8	Rainbow Cotton Pvt Ltd	1,000	Amrapali Dream Valley Pvt Ltd	10,10,000	-	0.10%
9	Rinku Clothing Creation Pvt Ltd	1,429	Amrapali Silicon City Pvt Ltd	10,36,982	-	0.14%
10	Double Esh Infrastructure Pvt ltd	1,000	Amrapali Smart City Dev. Pvt Ltd	6,91,42,401	-	0.00%
11	Earthwell Developers Pvt Ltd	1,000	Amrapali Smart City Pvt Ltd	10,000	-	10.00%
		1,000	Amrapali Smart City Dev. Pvt Ltd	6,91,42,401	-	0.00%
12	Sapcewell Developers Pvt ltd	1,000	Amrapali Smart City Pvt Ltd	10,000	-	10.00%
		1,000	Amrapali Smart City Dev. Pvt Ltd	6,91,42,401	-	0.00%
13	GaurisutaBuildhome Pvt Ltd	200	Murns Megha Food Park Ltd	10000		2.00%
14	Rinku computech Pvt Ltd	23,94,000	Amrapali Biotech India Pvt Ltd	1,20,00,000		19.95%
15	Kamakshi Buildwell Private Limited	500	Murns Megha Food Park Ltd	10000		5.00%

- A Rs. 100 of Crores of home buyers funds in active connivance of CFO Chandar Wadhwa and Statutory Auditors Anill Mittal were routed through

**1. Rinku Computech Private Limited**

B	Patel Advance JV	8,25,00,000
	Case Enterprises Ltd	10,00,000
	Manjeet Singh	16,00,000
	MSB Software Technologies	2,40,000
	Anil Kumar Sharma	9,85,000
C	Bhushan Sharma	34,00,000
	Digital India	19,59,110
	KK Shukla	9,00,000
	RV Consultant Service	95,00,000
D	Sundry Advances	26,99,000
	Sunita Bhagwani	20,00,000
	Saffron Propmart Consultancy Pvt Ltd	7,10,00,000
	<b>TOTAL</b>	<b>17,77,83,110</b>

E	Date	Particulars	Transaction	Balance
	28-03-2018	Balance as on 28/03/2018		4,06,50,815
	29-05-2018	Less: Payment to Saffron Propmart Consultancy Private Limited	3,90,00,000	
F		Less: Payment to Preeti Jaiswal	1,50,000	
		Less: Other Payments	5,90,771	
		Balance before proceeds from FDR		9,10,044
G		<b>Receipts From FDR</b>		
	31-07-2018	Add: Proceeds from FDR	9,86,19,983	
		Balance after proceeds from FDR		9,95,30,027

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		<b>Payments made out of receipts from FDR</b>			A
31-07-2018	Less:	Net Payment to Saffron Propmart Consultancy Private Limited	3,20,00,000		
01-08-2018	Less:	Payment to Vandana Wadhwa	2,00,00,000		B
23-10-2018	Less:	Payment to Ample Hotels & Resorts	1,00,00,000		
23-10-2018	Less:	Payment to Moral Sales	1,00,00,000		
23-10-2018	Less:	Payment to Mahalaxmi Enterprises	1,00,00,000		C
23-10-2018	Less:	Payment to Annex IT Distributors	70,00,000		
23-10-2018	Less:	Payment to Anjali Buildcon	1,00,00,000		D
		Other Payments	1,61,904		
		<b>TOTAL</b>	9,91,61,904		
		Balance as on 28-10-2018		3,68,123	

**24. Misuse of Bank Loan funds (Volume II Page No. 426-457)** E

**Diversion of loan funds for unapproved purposes**

Amrapali group of companies obtained funds primarily from following sources:

- a) Home buyers funds against construction linked progress;
- b) In the form of loans (term loan, working capital/cash credit limits) from banks against construction linked progress; and
- c) Homebuyers also availed housing loans from banks for purchasing flats in Amrapali projects

Banks granted loans to Amrapali group under certain terms and conditions which included utilisation of loan funds for:

- a) Payment of cost of land and lease rental to Noida authorities;
- b) Payment of construction cost of projects.

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**A Observation**

1. The amounts disbursed were not utilised for payment of cost of land or for payment of lease rentals or for payment of construction cost. The **banks did not monitor utilisation of funds granted by them.** In fact, these funds were diverted as loans to related and/or unrelated entities which was ultimately utilised in building assets/purposes which were unapproved by the banks. **The banks acted as mute spectator to unapproved diversion which was almost happening evidently in all banking transactions.**

2. While obtaining loan funds, Amrapali group hypothecated land on which project was being undertaken as well as building under construction as well as material lying at project, leaving nothing with home buyers for recovery of their payments.

3. It is also observed that the loan funds were routed through several bank accounts of the same company and thereafter routed to third parties whereby trying to misguide the flow of funds. It clearly means these transactions had no substance and were made only to mislead.

**1. In the case of Amrapali Zodiac Developers Pvt Ltd:**

Bank of Baroda (Rs.75 crore), Union Bank of India (Rs.50 crore) and Corporation Bank (Rs.25 crore) together approved term loan amounting to Rs.150 crore to develop a group housing project at Sector-126, Noida. These funds were granted against the aforesaid term loan, the banks secured first charge by way of assignment or creation of security interest of-

- (i) All the rights, title, interest benefits, claims & demands whatsoever of the borrower in –
- (a) permits, approval, clearances, etc. in respect of project being financed.
  - (b) any letter of credit, guarantee, performance bond, corporate guarantee, bank guarantee, provided by any party under the project.
- (ii) All the receivables, reserves, book debts, bank accounts, including the Escrow account & all other incomes, present & future pertaining to the projects being financed.

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- (iii) All insurance contracts, insurance proceeds. A  
 (iv) Charge on the specific reserve to be created by Ultra Home Construction Private Limited, the holding company by contributing 10% of their profits to address the contingent liabilities of their subsidiaries.

The banks also secured second charge over the land & buildings (First charge is with Noida Authority). Also hypothecated raw Material, work in progress (pari passu charge over the project assets). B

Immediately on receipt, these funds were diverted to several third parties as stated C

S.No.	Particulars	Amount
1	U Tek Sales Corporation	6,97,39,500
2	Taneja Building material Suppliers	4,24,01,000
3	Devki Nandan Trading Co	3,00,00,000
4	Guru Kripa Traders-2	3,00,00,000
5	Shri Balaji Cement & Hardware	2,89,61,000
6	Investor Clinic Infratech Private Limited	2,00,00,000
7	Mauria Udyog Limited	3,00,00,000
8	Shiva Trders	2,00,00,000
9	Shiv Traders	1,75,00,000
10	Om Traders	1,35,00,000
11	Lakshmi Steel	1,20,81,351
12	Mahaveer Enterprises	1,00,00,000
13	Sidhivinayak Trading Company	1,00,00,000
14	Rama Trading Company	75,00,000
15	Uday Enterprises	69,50,500
16	Orient Trading Company	68,96,800
17	Kartikey Enterprises	68,72,600
18	Dayal Traders	68,42,300

A	19	R.K. Enterprises	67,50,500
	20	MahaLuxmi Traders	67,32,500
B	21	Purnima Steel Syndicate	65,71,972
	22	New Payal Traders	64,50,500
	23	Shyam Sales Corporation	64,38,700
C	24	Kishan Steel Corporation	62,53,700
	25	Shri Ganesh Trading Company	62,50,500
	26	Arhaan Enterprises	62,17,570
	27	Gayatri Traders	59,42,500
D	28	Lakshmi Steels	53,42,600
	29	Guru Kripa Traders	50,00,000
	30	Guru Nanak Trading Company	50,00,000
	31	R R Enterprises	50,00,000
E	32	Rohit Steel	50,00,000
	33	Shree Ji Trading Company	50,00,000
	34	Shri Hari Trading Company	50,00,000
F	35	G.S. Enterprises	49,50,500
	36	A.B Enterprises	48,16,654
	37	Amit Steel	40,00,000
	38	Barnala Steel Industries Ltd	36,72,008
G	39	S.R Steel	34,92,054
	40	Kumar Trading Company	32,45,859
	41	Quality Synthetics Private Limited	25,00,000
H	42	Shri Bankey Bihari Trading Company	25,00,000

43	Jayem Manufacturing Co Pvt Ltd	23,15,400	A
44	SBL Construction Private Limited	22,10,040	
45	ANALCO ( INDIA ) PVT LTD	21,86,728	
46	Kumar Trading CO	19,53,325	B
47	BUILD TECH INDUSTRIES	19,06,800	
48	M. K TRADERS	16,20,370	
49	Shree Ram Plywood	14,79,510	
50	ARUNACHAL TIMBER TRADERS PVT LTD	13,98,400	C
51	Naveen Associates	13,60,217	
52	Deepak Mehta & Associates	13,50,000	
53	Raj Shree Ispat	10,92,584	
54	DREAM INTERIORS & DEVELOPERS (P) LTD	10,00,790	D
55	Aryan Corporate Sololutions Pvt Ltd	10,00,000	
56	Astech Marketing Private Limited	6,81,321	
57	Jotindra Steel & Tubes Ltd	5,00,250	E
58	Amrapali Infrastructure Private Limited	2,94,829	
	<b>TOTAL</b>	<b>51,37,23,732</b>	

Few examples of diversion of funds are as under:

**1. Guru Kripa Traders-2**

RS. 3 crore was paid as advance to them in October 2010 which remained as it is till January 2011, when expenses for purchase of steel were booked against the aforementioned advance. Below is the extract of relevant portion of ledger.

Date	Particulars	Vch/Type	Debit	Credit	Balance
05/10/2010	Bank of Baroda A/C No - 21580200000079	Payment	15000000.00		15000000.00 Dr

A	06/10/2010	Bank of Baroda A/C No - 21580200000079	Payment	5000000.00		20000000.00 Dr
B	15/10/2010	Bank of Baroda A/C No - 21580200000079	Payment	5000000.00		25000000.00 Dr
C	16/10/2010	Bank of Baroda A/C No - 21580200000079	Payment	5000000.00		30000000.00 Dr
	29/12/2010	STEEL	Purchase UP		1105440.00	28894560.00 Dr
D	01/01/2011	STEEL	Purchase UP		1137012.00	27757548.00 Dr
	01/01/2011	STEEL	Purchase UP		1127296.00	26630252.00 Dr
	01/01/2011	STEEL	Purchase UP		1081575.00	25548677.00 Dr
E	01/01/2011	STEEL	Purchase UP		1114169.00	24434508.00 Dr
	02/01/2011	STEEL	Purchase UP		1096914.00	23337594.00 Dr
	02/01/2011	STEEL	Purchase UP		1078802.00	22258792.00 Dr
	03/01/2011	STEEL	Purchase UP		1091563.00	21167229.00 Dr
F	03/01/2011	STEEL	Purchase UP		858603.00	20308626.00 Dr
	04/01/2011	STEEL	Purchase UP		1107007.00	19201619.00 Dr
	04/01/2011	STEEL	Purchase UP		1084429.00	18117190.00 Dr
	05/01/2011	STEEL	Purchase UP		1077003.00	17040187.00 Dr
G	05/01/2011	STEEL	Purchase UP		1062433.00	15977754.00 Dr
	05/01/2011	STEEL	Purchase UP		1054560.00	14923194.00 Dr
	06/01/2011	STEEL	Purchase UP		1112498.00	13810696.00 Dr
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06/01/2011	STEEL	Purchase U.P		1118674.00	12692022.00 Dr	A
07/01/2011	STEEL	Purchase U.P		1034488.00	11657534.00 Dr	
07/01/2011	STEEL	Purchase U.P		1087996.00	10569538.00 Dr	
08/01/2011	STEEL	Purchase U.P		1082110.00	9487428.00 Dr	
08/01/2011	STEEL	Purchase U.P		1054092.00	8433336.00 Dr	B
09/01/2011	STEEL	Purchase U.P		1116534.00	7316802.00 Dr	
10/01/2011	STEEL	Purchase U.P		1109399.00	6207403.00 Dr	
10/01/2011	STEEL	Purchase U.P		1073727.00	5133676.00 Dr	
10/01/2011	STEEL	Purchase U.P		1087996.00	4045680.00 Dr	C
11/01/2011	STEEL	Purchase U.P		1062669.00	2983011.00 Dr	
11/01/2011	STEEL	Purchase U.P		889730.00	2093281.00 Dr	
12/01/2011	STEEL	Purchase U.P		1023600.00	1069681.00 Dr	D
13/01/2011	STEEL	Purchase U.P		1097561.00	27880.00 Cr	
31/03/2012	REBETE & DISCOUNT	Journal	27880.00			
30027880.00				30027880.00		

## 2. Shri Balaji Cement & Hardware

RS. 2.08 crore was paid as advance to them towards the end of March 2011 against which expense was booked on 31<sup>st</sup> March 2011 and continued till 1<sup>st</sup> week of April 2011. It was noticed that the same person was selling steel, bricks, cement, rodi sand, badarpur, which itself is in unorganised sector and is questionable.

Date	Particulars	Vch Type	Debit	Credit	Balance	
19/03/2011	Bank of Baroda A/C No - 21580200000079	Payment	3949500.00		3949500.00 Dr	
21/03/2011	Bank of Baroda A/C No - 21580200000079	Payment	3851500.00		7801000.00 Dr	G
26/03/2011	Bank of Baroda A/C No - 21580200000079	Payment	6450500.00		14251500.00 Dr	
28/03/2011	Bank of Baroda A/C No - 21580200000079	Payment	6550800.00		20802300.00 Dr	H

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	31/03/2011	BADARPUR	Purchase UP		456225.00	20346075.00 Dr
	31/03/2011	Cement	Purchase UP		490875.00	19855200.00 Dr
	31/03/2011	STEEL	Purchase UP		495666.00	19359534.00 Dr
B	31/03/2011	BADARPUR	Purchase UP		471345.00	18888189.00 Dr
	31/03/2011	Cement	Purchase UP		496650.00	18391539.00 Dr
	31/03/2011	STEEL	Purchase UP		483946.00	17907593.00 Dr
C	31/03/2011	Cement	Purchase UP		505313.00	17402280.00 Dr
	31/03/2011	BADARPUR	Purchase UP		525945.00	16876335.00 Dr
	31/03/2011	STEEL	Purchase UP		27300.00	16849035.00 Dr
	31/03/2011	Cement	Purchase UP		493763.00	16355272.00 Dr
D	31/03/2011	BADARPUR	Purchase UP		476280.00	15878992.00 Dr
	31/03/2011	STEEL	Purchase UP		470905.00	15408087.00 Dr
	31/03/2011	Cement	Purchase UP		502425.00	14905662.00 Dr
E	31/03/2011	BADARPUR	Purchase UP		510678.00	14394984.00 Dr
	31/03/2011	STEEL	Purchase UP		469124.00	13925860.00 Dr
	31/03/2011	Cement	Purchase UP		501843.00	13424017.00 Dr
	31/03/2011	BADARPUR	Purchase UP		438375.00	12985642.00 Dr
F	31/03/2011	Cement	Purchase UP		750750.00	12234892.00 Dr
	31/03/2011	BADARPUR	Purchase UP		754950.00	11479942.00 Dr
	31/03/2011	STEEL	Purchase UP		766725.00	10713217.00 Dr
	31/03/2011	Cement	Purchase UP		782513.00	9930704.00 Dr
G	31/03/2011	BADARPUR	Purchase UP		754320.00	9176384.00 Dr
	31/03/2011	STEEL	Purchase UP		767644.00	8408740.00 Dr
	31/03/2011	Cement	Purchase UP		779625.00	7629115.00 Dr

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31/03/2011	BADARPUR	Purchase UP		778260.00	6850855.00 Dr
31/03/2011	Cement	Purchase UP		788288.00	6062567.00 Dr
01/04/2011	Rodi	Purchase UP		884331.00	5178236.00 Dr
01/04/2011	Cement	Purchase UP		931392.00	4246844.00 Dr
01/04/2011	Rodi	Purchase UP		882872.00	3363972.00 Dr
01/04/2011	Bricks	Purchase UP		853965.00	2510007.00 Dr
01/04/2011	STEEL	Purchase UP		844356.00	1665651.00 Dr
02/04/2011	Bank of Baroda A/C No - 2158020000079	Payment	2310500.00		3976151.00 Dr
02/04/2011	Bank of Baroda A/C No - 2158020000079	Payment	5848200.00		9824351.00 Dr
02/04/2011	Cement	Purchase UP		935550.00	8888801.00 Dr
02/04/2011	Sand	Purchase UP		839969.00	8048832.00 Dr
04/04/2011	Bricks	Purchase UP		876120.00	7172712.00 Dr
04/04/2011	Sand	Purchase UP		831527.00	6341185.00 Dr
05/04/2011	STEEL	Purchase UP		841333.00	5499852.00 Dr
05/04/2011	STEEL	Purchase UP		849850.00	4650502.00 Dr
06/04/2011	Bricks	Purchase UP		884147.00	3766355.00 Dr
06/04/2011	Cement	Purchase UP		284130.00	3482225.00 Dr
07/04/2011	Rodi	Purchase UP		884321.00	2597904.00 Dr
07/04/2011	Cement	Purchase UP		931392.00	1666512.00 Dr
12/04/2011	Bricks	Purchase UP		872193.00	794319.00 Dr
12/04/2011	STEEL	Purchase UP		853780.00	59461.00 Cr
28961000.00				29020461.00	
	Closing Balance	59461.00			
29020461.00				29020461.00	

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A **3. Investor Clinic Infratech Private Limited**

It is evident from the books of accounts that loan funds were utilized for payment of RS. 2 crore who had invoiced the company for brokerage expense which is not construction linked payment. Brokerage is an indirect expense, incurred for the sale of flat.

B The banks had granted funds for construction activity and not for sale activity. This is clearly diversion of loan funds to unapproved means.

**4. Shiva Traders**

C RS. 2 crore was paid as advance on 9<sup>th</sup> October 2010 against which subsequently invoices for purchase of steel were booked in December 2010 only to adjust the balance.

Date	Particulars	Vch Type	Debit	Credit	Balance
09/10/2010	Bank of Baroda A/C No - 21580200000079	Payment	2,00,00,000		2,00,00,000
D 11/12/2010	STEEL	Purchase U.P		10,39,959	1,89,60,041
13/12/2010	STEEL	Purchase U.P		10,39,964	1,79,20,077
14/12/2010	STEEL	Purchase U.P		8,31,947	1,70,88,130
15/12/2010	STEEL	Purchase U.P		12,47,950	1,58,40,180
E 16/12/2010	STEEL	Purchase U.P		12,47,945	1,45,92,235
17/12/2010	STEEL	Purchase U.P		14,55,941	1,31,36,294
18/12/2010	STEEL	Purchase U.P		12,47,958	1,18,88,336
20/12/2010	STEEL	Purchase U.P		10,39,965	1,08,48,371
F 01/01/2011	STEEL	Purchase U.P		8,47,103	1,00,01,268
03/01/2011	STEEL	Purchase U.P		10,55,136	89,46,132
04/01/2011	STEEL	Purchase U.P		10,51,612	78,94,520
05/01/2011	STEEL	Purchase U.P		10,63,874	68,30,646
G 06/01/2011	STEEL	Purchase U.P		10,85,323	57,45,323
07/01/2011	STEEL	Purchase U.P		10,48,579	46,96,744
08/01/2011	STEEL	Purchase U.P		10,77,182	36,19,562
10/01/2011	STEEL	Purchase U.P		10,73,193	25,46,369
H 11/01/2011	STEEL	Purchase U.P		10,79,473	14,66,896

12/01/2011	STEEL	Purchase U.P		8,08,790	6,58,106
13/01/2011	STEEL	Purchase U.P		6,56,927	1,179
31/03/2011	Short & Excess A/c	Journal		1,179	
20000000.00				2,00,00,000	

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**5. Om Traders**

RS. 1.35 crore was paid in September 2010 against which subsequently invoices for purchase of steel were booked in December 2010 only to adjust the balance.

Date	Particulars	Vch Type	Debit	Credit	Balance
02/06/2010	BOM-SEC51 A/C No - 60036386553	Payment	50,00,000		50,00,000
03/06/2010	Hardware Item	Purchase U.P		8,76,488	41,23,512
24/06/2010	Hardware Item	Purchase U.P		9,20,241	32,03,271
03/07/2010	Hardware Item	Purchase U.P		7,57,796	24,45,475
04/07/2010	Hardware Item	Purchase U.P		7,56,000	16,89,475
05/07/2010	Hardware Item	Purchase U.P		7,20,421	9,69,054
10/08/2010	Steel Purchase	Purchase U.P		9,77,734	8,680
14/09/2010	HDFC BANK(L.N)	Payment	50,00,000		49,91,320
22/09/2010	BOM-SEC51 A/C No - 60036386553	Payment	60,00,000		1,09,91,320
27/09/2010	Bank of Baroda A/C No - 21580200000079	Payment	85,00,000		1,94,91,320
01/10/2010	Bank of Baroda A/C No - 21580200000079	Payment	50,00,000		2,44,91,320
22/10/2010	BOM-SEC51 A/C No - 60036386553	Payment	1,50,00,000		3,94,91,320
25/10/2010	HDFC BANK(C.P)-14018640000045	Payment	1,00,00,000		4,94,91,320
01/02/2011	Hardware Item	Purchase U.P		9,90,150	4,85,01,170
01/02/2011	Hardware Item	Purchase U.P		9,49,200	4,75,51,970
01/02/2011	Hardware Item	Purchase U.P		9,98,025	4,65,53,945
01/02/2011	Hardware Item	Purchase U.P		9,48,518	4,56,05,427
01/02/2011	Hardware Item	Purchase U.P		9,18,750	4,46,86,677
01/02/2011	Hardware Item	Purchase U.P		9,06,203	4,37,80,474
01/02/2011	Hardware Item	Purchase U.P		7,80,780	4,29,99,694

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	01/02/2011	Hardware Item	Purchase U.P		9,45,000	4,20,54,694
	01/02/2011	Hardware Item	Purchase U.P		11,08,275	4,09,46,419
	01/02/2011	Hardware Item	Purchase U.P		9,41,850	4,00,04,569
B	01/02/2011	Hardware Item	Purchase U.P		12,81,000	3,87,23,569
	01/02/2011	Hardware Item	Purchase U.P		9,06,780	3,78,16,789
	01/02/2011	Hardware Item	Purchase U.P		9,08,523	3,69,08,266
C	01/02/2011	Hardware Item	Purchase U.P		7,38,203	3,61,70,063
	01/02/2011	Hardware Item	Purchase U.P		11,24,928	3,50,45,135
	01/02/2011	Hardware Item	Purchase U.P		9,70,305	3,40,74,830
	01/02/2011	Hardware Item	Purchase U.P		8,93,550	3,31,81,280
D	01/02/2011	Hardware Item	Purchase U.P		8,91,030	3,22,90,250
	01/02/2011	Hardware Item	Purchase U.P		8,94,548	3,13,95,702
	01/02/2011	Hardware Item	Purchase U.P		8,49,450	3,05,46,252
	01/02/2011	Hardware Item	Purchase U.P		9,31,718	2,96,14,534
E	01/02/2011	Hardware Item	Purchase U.P		9,31,718	2,86,82,816
	01/02/2011	Hardware Item	Purchase U.P		8,80,530	2,78,02,286
	01/02/2011	Hardware Item	Purchase U.P		9,63,375	2,68,38,911
	01/02/2011	Hardware Item	Purchase U.P		10,62,810	2,57,76,101
F	01/02/2011	Hardware & Sanitary Items	Purchase U.P		9,29,198	2,48,46,903
	01/02/2011	Hardware Item	Purchase U.P		8,13,750	2,40,33,153
	02/02/2011	Hardware Item	Purchase U.P		8,56,800	2,31,76,353
	03/02/2011	Hardware & Sanitary Items	Purchase U.P		11,98,050	2,19,78,303
G	04/02/2011	Hardware & Sanitary Items	Purchase U.P		9,85,950	2,09,92,353
	05/02/2011	Hardware & Sanitary Items	Purchase U.P		10,58,925	1,99,33,428

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06/02/2011	Hardware Item	Purchase U.P		9,39,750	1,89,93,678
07/02/2011	Hardware Item	Purchase U.P		8,04,825	1,81,88,853
08/02/2011	Hardware Item	Purchase U.P		9,50,250	1,72,38,603
09/02/2011	Hardware Item	Purchase U.P		8,80,824	1,63,57,779
09/02/2011	Hardware & Sanitary Items	Purchase U.P		8,30,771	1,55,27,008
10/02/2011	Hardware & Sanitary Items	Purchase U.P		7,70,921	1,47,56,087
11/02/2011	Hardware & Sanitary Items	Purchase U.P		7,88,130	1,39,67,957
12/02/2011	Hardware Item	Purchase U.P		9,03,693	1,30,64,264
13/02/2011	Hardware Item	Purchase U.P		8,31,180	1,22,33,084
14/02/2011	Hardware Item	Purchase U.P		6,44,532	1,15,88,552
14/02/2011	Hardware Item	Purchase U.P		9,58,073	1,06,30,479
15/02/2011	Hardware Item	Purchase U.P		9,56,802	96,73,677
16/02/2011	Hardware Item	Purchase U.P		9,25,344	87,48,333
17/02/2011	Hardware Item	Purchase U.P		9,03,231	78,45,102
18/02/2011	Hardware Item	Purchase U.P		6,48,732	71,96,370
18/02/2011	Hardware Item	Purchase U.P		8,02,578	63,93,792
19/02/2011	Hardware Item	Purchase U.P		8,49,912	55,43,880
20/02/2011	Hardware Item	Purchase U.P		9,77,550	45,66,330
21/02/2011	Hardware Item	Purchase U.P		8,68,004	36,98,326
22/02/2011	Hardware Item	Purchase U.P		10,56,930	26,41,396
23/02/2011	Hardware Item	Purchase U.P		8,29,500	18,11,896
24/02/2011	Hardware Item	Purchase U.P		9,21,413	8,90,483
25/02/2011	Hardware Item	Purchase U.P		8,79,564	10,919
31/03/2012	REBETE & DISCOUNT	Journal		10,919	
5450000.00				5,45,00,000	

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A **6. Mauria Udyog Limited**

RS. 3 crore was diverted to the company on 29<sup>th</sup> September 2010 and 30<sup>th</sup> March 2011 for RS. 1 crore & 2 crore respectively as advance and the same was subsequently booked against purchase of steel in January 2011 and May 2011 only to adjust the balance.

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Date	Particulars	Vch Type	Debit	Credit	Balance
29/09/2010	Bank of Baroda A/C No - 21580200000079	Payment	1,00,00,000		1,00,00,000
14/01/2011	STEEL	Purchase U.P		17,43,440	82,56,560
14/01/2011	STEEL	Purchase U.P		17,87,807	64,68,753
14/01/2011	STEEL	Purchase U.P		17,77,211	46,91,542
14/01/2011	STEEL	Purchase U.P		17,81,419	29,10,123
16/01/2011	STEEL	Purchase U.P		22,16,525	6,93,598
20/01/2011	STEEL	Purchase U.P		2,96,570	3,97,028
20/01/2011	STEEL	Purchase U.P		2,97,012	1,00,016
30/03/2011	Bank of Baroda A/C No - 21580200000079	Payment	2,00,00,000		2,01,00,016
13/05/2011	STEEL	Purchase U.P		22,15,039	1,78,84,977
16/05/2011	STEEL	Purchase U.P		20,97,410	1,57,87,567
17/05/2011	STEEL	Purchase U.P		22,02,653	1,35,84,914
17/05/2011	STEEL	Purchase U.P		21,12,682	1,14,72,232
30/05/2011	STEEL	Purchase U.P		21,09,193	93,63,039
30/05/2011	STEEL	Purchase U.P		21,72,250	71,90,789
30/05/2011	STEEL	Purchase U.P		22,02,076	49,88,713
30/05/2011	STEEL	Purchase U.P		20,00,371	29,88,342
31/05/2011	STEEL	Purchase U.P		22,91,842	6,96,500
31/05/2011	STEEL	Purchase U.P		21,58,699	14,62,199
31/05/2011	STEEL	Purchase U.P		23,54,459	38,16,658

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22/08/2011	STEEL	Purchase U.P		20,90,696	59,07,354	A
22/08/2011	STEEL	Purchase U.P		12,11,312	71,18,666	
22/08/2011	STEEL	Purchase U.P		19,90,348	91,09,014	
22/08/2011	STEEL	Purchase U.P		20,68,279	1,11,77,293	
22/08/2011	STEEL	Purchase U.P		15,67,565	1,27,44,858	B
22/08/2011	STEEL	Purchase U.P		23,08,793	1,50,53,651	
22/08/2011	STEEL	Purchase U.P		22,68,774	1,73,22,425	
22/08/2011	STEEL	Purchase U.P		22,56,451	1,95,78,876	
01/01/2012	STEEL	Purchase U.P		22,46,743	2,18,25,619	C
01/01/2012	STEEL	Purchase U.P		23,01,728	2,41,27,347	
01/01/2012	STEEL	Purchase U.P		23,25,626	2,64,52,973	
01/01/2012	STEEL	Purchase U.P		23,49,055	2,88,02,028	
3,00,00,000				5,88,02,028		D
	Closing Balance	2,88,02,028				
5,88,02,028				5,88,02,028		

**1. In the case of Amrapali Princely Estate Pvt Ltd:**

Syndicate bank and Bank of India together approved term loan amounting to Rs.100 crore to develop a housing project at Plot no Gh-02/A, Sector-76, Noida over an area of 15.15 acres consisting of 19 towers. These funds were granted on 13<sup>th</sup> April 2013 and 15<sup>th</sup> May 2013, 6<sup>th</sup> March 2014 and 28<sup>th</sup> March 2014 for Rs. 25 crore each time.

Against the aforesaid term loan, the banks secured first pari passu charge over the entire project assets of Amrapali Princely Estate Pvt Ltd (including building under construction & construction material kept at site) & receivable excluding advance booking money. The banks also secured second pari passu charge (with first charge on land with Greater Noida Authorities) by way of equitable mortgage on 61300 square metres of the project land at plot no.Gh-02,Sector-76, Noida

Immediately on receipt, these funds were diverted to several third parties as stated hereunder:

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	S.No.	Particulars	Payments
A	1	FIXED DEPOSIT BOI	8,25,00,000
	2	Bhagirathi Tubes B/p	6,51,80,135
	3	Raj Shree Ispat	4,20,00,000
B	4	Vrindavan Buildcon Pvt Ltd	4,00,00,000
	5	Kapila Buildhome Pvt Ltd.	3,70,00,000
	6	Sameer Builtaid Pvt Ltd.	3,32,07,919
C	7	Gaurisuta Infrastructure Pvt Ltd.	3,00,00,000
	8	Radius Synergies Pvt Ltd	2,90,00,000
	9	Lakshmi Steels	2,87,00,000
	10	Arhaan Enterprises	2,25,00,000
D	11	Bank of India Loan A/c No-605965410000120	1,70,25,946
	12	GaurisutaBuildhome Pvt Ltd.	1,40,00,000
	13	SBL Construction P Ltd (Tower C& D)	1,30,77,888
E	14	Shri Balaji International	1,19,58,509
	15	Jaypeeco India	1,11,79,965
	16	Lakshmi SteelB/p	1,00,00,000
	17	Amrapali Sapphire Developers Pvt Ltd	84,22,323
F	18	SPS Buildtech Pvt Ltd (Tower-B & K)	84,06,223
	19	Syndicate Bank A/c No-87801010004689	32,00,000
	20	Shriv Build Mat Pvt Ltd.	20,00,000
G	21	Ashtech Marketing Pvt Ltd.	16,62,747
	22	GAURISUTA INFRASOLUTION PVT.LTD	10,00,000
	23	AAUSH RAJ	7,95,339
	24	Pradhan Projects	1,02,271
H		<b>TOTAL</b>	<b>51,29,19,265</b>

(i) **Fixed deposit** – The Company made a fixed deposit of Rs. 8.25 Crore and out of which Rs. 3.75cr was outstanding as on 31<sup>st</sup> March 2015 which we could find if utilized for business purpose. Rs. 4.50 cr. was used for repayment of Loan A

(ii) **Radius Synergies Pvt Ltd** – It is seen that RS. 1.55 crore was given as advances since 2013 and continued giving advances till 2015 to this party. Out of these funds an amount of Rs.1 crore is outstanding till 31<sup>st</sup> March 2015. Out of advances for Rs.1.55 crore, expenses were booked only for Rs.52 lakh for labour charges in 2014. The veracity of the expenses booked is to be examined B  
C

(iii) **Shriv Build Mat India Pvt** – It is seen that Rs.20 Lakh was given as advance in 2014 which has not returned subsequently and no expense was also booked.

**2. In the case of Amrapali Eden Park Developers Pvt Ltd:**

Eden Park Developers Pvt Ltd received term loan of RS. 45 crore for development of project ‘Amrapali Eden Park’ in March 2013 from Corporation Bank to develop a housing project. Against this, the company mortgaged plot No 27, Block F, Sector-50, Noida, Gautam Budh Nagar, U.P. D

Immediately on receipt, these funds were diverted to several third parties as stated hereunder: E

Name of party	Amount (RS. in crore)
Gaurisuta Infrastructure Private Limited	2.00
Siddhi Interiors Private Limited	0.40
Ishaan Housing & Construction	1.00
Ishaan Infotech	1.00
Ishaan Infraestates India Private Limited	1.00
Reinfo Tech Estates Private Limited	1.00
Gaurisuta Infrastructure Private Limited	2.48
S.R. Steels	0.50
Tashima Construction Private Limited	0.50
Witty One Stop Solution Private Limited	0.50
Happy Worker Private Limited	0.50

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A	Spyy Traders Private Limited	0.50
	New Tech Shelters Private	0.50
	BOM-CA-60024309220	3.00
	Dynamic Realcom Private Limited	2.00
	Financial World Private Limited	2.00
B	<b>Total</b>	<b>18.88</b>

## 25. OTHER OBSERVATIONS

### 1. Cozy Habitat Builders Pvt. Ltd.

C It is holding 25% shareholding in Heart Beat City Project Controlled by three Companies namely Three Platinum, Sofitech Pvt. Ltd., Pebbles Prolease Pvt. Ltd. and baseline Infra Developers Pvt. Ltd.

D Cozy Habitat Builders Pvt. Ltd. Received Rs. 30,00,000 from Amrapali and Paid Rs. 15,00,000 to Mr. Shiv Priya. We are therefore the opinion that that Rs. 15,00,000 should be recovered from Cozy Habitat Builders Pvt. Ltd. and be deposited to the treasury of the Honourable Supreme court.

### 2. DFC Projects Private Limited

E The management of DFC Projects Pvt. Ltd. as informed were providing services to Amrapali Group for arranging funds. We found that there invoices were paid within a period of 2-3 days from the date of raising the invoices which raises a doubt whether there were the invoices raised for services rendered or were adjustments. **The properties/flats were booked in the name of DFC group about which the directors Mr.Pankaj Sharma and Mr.VinayRai showed total ignorance. Consequent to the questioning they agreed to surrender the flats.**

(Refer ANNEXURE XIII.6)

### 3. Chaudhary ENT Udyog (Supplier of Bricks)

G As per the copy of the receipts issued by Amrapali Group of Companies, it has been observed that the party had paid **INR 500,000** in cash on 24<sup>th</sup> February, 2017 vide receipt number 3074 Dated 24.02.2017 (Copy enclosed) on account of flat Number

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T6-G06 that was allotted to the said party in Amrapali Grand on A  
account of outstanding amounts due from Amrapali Group of  
Companies. The Company has not recorded the receipt of the  
aforesaid amount of **INR 500,000** in their books of account.

**RECEIPT**

**AMRAPALI** Ultra Home Construction Pvt. Ltd. AMRAPALI VILLAGE-II GRAND

An ISO 9001:2008 Company Developing India Corporate Office : C-56/40, Sector-62, Noida. Ph. : 0120-4055555 Fax : 0120-4233556

No. 3074 Dated : 24-02-2017

Received with thanks from Sr./Smt./M/s. Sanjeev Kumar  
having address at A8, Block-H, Sector-2, DLF, Faridabad.  
Phone \_\_\_\_\_ Mobile \_\_\_\_\_

a sum of Rs. 5,00,000 (Rupees) five lakh only.  
on account of booking/part/final payment of Flat/Unit No. T6-404 Area 492.5  
on Ground floor in G6 tower by Cash/Cheque/D.D. No. Cash  
Dated 24-02-2017 drawn on (Bank) \_\_\_\_\_ Branch \_\_\_\_\_  
Pan No. ADS PIC 2279 B For Ultra Home Construction Pvt. Ltd.

Cheques are subject to realisation. **Authorised Signatory**

This shows that this money has been taken away by the Management and hence should be recovered from them. E

It was further informed by the supplier, that Amrapali Group of Companies committed a fraud since this flat is already sold to Mr. Nikhil Kumar Datta. The party came to know of this on 31<sup>st</sup> August, 2018, when he received a letter dated 18<sup>th</sup> August, 2018 from IDBI Bank seeking payment for overdue amount in the name of Mr. Nikhil Kumar Datta. F

This a serious kind of fraud done by the Amrapali Group of Companies. The party has even written a letter to Police, Uttar Pradesh against the aforesaid fraud. Copy of the said letter to police along with the letter issued by IDBI Bank to Mr. Nikhil Kumar Datta has been enclosed as **Annexure 34-D**. G

#### 4. Closing Inventory as per Audited Financial Statement as on 31<sup>st</sup> March, 2015

There is no stock list, valuation certificate or any documentary evidence regarding physical verification with the company or in H

A the Statutory Auditors file. We are of the view that these are only arbitrary figures shown in the Audited Financial Statements.

### 5. Fixed Assets

#### a) Building Account

B During the financial year 2013-14 a sum of **INR 80.34 crores** has been capitalized to Building A/c by crediting various purchase/expense account as per journal voucher passed on 31/03/14 as per the copy of the voucher given below.

#### Amrapali Infrastructure Pvt Ltd (2012-15)

C 307,3rd Floor, Nipun Tower  
Karkardooma Community Centre  
Karkardooma  
E-Mail : account@amrapali.in

#### Journal Voucher

D

No. : 3267

Dated : 31-Mar-2014

Particulars	Debit	Credit
Building <i>Dr</i>	80,34,64,329.00	
To Purchase Capitalisation		26,87,14,909.00
To Direct Expenses Capitalised		9,57,19,236.00
To Indirect Expenses Capitalised		20,00,02,247.00
To Building Under Construction		23,90,27,937.00
On Account of : Being amount of expenses on Factory building capitalised as per working		
	rs 80,34,64,329.00	rs 80,34,64,329.00

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Authorized Signatory

This entry seems to be a mere adjustment entry since there is no Valuation report on the basis of which these expenses are capitalized to Building account and no working sheet of the same is available. A

We are of the view that this amount has been taken away by the Management of the Company and this amount should be recovered from them. B

#### **6. Royalgolf Link City Projects Private Limited**

It has been observed that a sum of INR 4 Crores approximately is recoverable from M/s Royalgolf Link City Projects Private Limited (Royalgolf) in the books of Amrapali Infrastructure Pvt. Ltd. on account of supply of precast materials. C

Mr. Shiv Priya was the Director of this Company from 26.9.2014 (Date of Incorporation of the company) to 3.4.2017. This Company was formed as SPV for Cozy/Bagadiya Group of Companies with Mr. Shiv Priya as the Director of Royalgolf launched for project “Hemisphere”. Amrapali Group of Companies through Ultra Home Construction Private Limited and Amrapali Infrastructure Pvt. Ltd. had given loan to Royalgolf mainly for purchase of land and its registration thereof. A dispute arose amongst the Company in six months of its operations and on 1<sup>st</sup> April, 2015 a Loan Settlement Agreement was signed between Amrapali Group, Cozy/ Bagadiya Group vide which 30 Villas valuing approximately **INR 50.47 cr.** were earmarked for Amrapali Group. D E

Amrapali Infrastructure Pvt. Ltd. (Infra) was the Supplier of Precast Building material and they were to supply these materials for “Hemisphere” project worth INR 67 crores approximately. However, Infra could supply only 24% of the contract value and due to difference between Amrapali Group and Royalgolf, the contract was terminated in June, 2017. F

Proceedings under IBC 2016 were initiated by Royalgolf against Infra and they filed a claim for INR 17.50 crores with the IRP appointed by NCLT. The matter is still in dispute at NCLT for the claimed loan of 17.50 crores lodged by Royalgolf on Amrapali Infra. G

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**A 7. Hire Charges Received**

The Group companies had paid hire/erection charges from the various group companies for example Amrapali Infrastructure received Rs.170.15 crores during the period 2008-15. (Volume II – Page 306) It was further observed that there have been no details regarding the equipment given on hire to each company and the basis of raising bills on account of hire charges. It seems that bills for hire charges have been raised on arbitrary basis and there are no comparative quotations for the same available.

**B****26. STATUS OF DATA AVAILABILITY****C**

There is overlapping in accounting data from April 2016 to September 2016 and we found that few entries were entered in FARVISION and few in the tally for the said period.

Due to scarcity of time audit not completed of following companies/entities/persons:

**D**

- Amrapali Princely Estate Pvt. Ltd.
- Jotindra steels & tubes Ltd.

The following companies were carved out by Amrapali Group, which are being audited and a report on these companies will be submitted.

**E**

- 1) Prem Mishra Indore.
- 2) O2 Valley Noida
- 3) Heart beat city projects Noida.

**F****27. M.S. Dhoni**

It is observed that the Company Amrapali Sapphire Developers Private Limited has paid a sum of Rs. 6.52 Crores out of the total amount of Rs. 42.22 Crores paid from the Amrapali group of Companies to Rhiti Sports Management Private Limited during the years 2009 - 2015.

**G**

This sum has been paid on account of Agreements executed by Shri Anil Kumar Sharma, CMD for and on behalf of Amrapali Group of Companies with Rhiti Sports Management Private

**H**

Limited. There is no resolution on record authorizing Mr. Anil Kumar Sharma, CMD to enter into an agreement on behalf of all Amrapali group of Companies. A

There were various agreements as per details given below:

**a) Endorsement Agreement dated 22<sup>nd</sup> November, 2009** B

According to this agreement Mr. Mahendra Singh Dhoni will make himself available to the Chairmen for three days along with one representative of Rhiti Sports. There are no documents held on record for compliance of this condition.

b) According to the Agreement for sponsorship dated 20<sup>th</sup> March, 2015, Amrapali Group of Companies got right to advertise as Logo Space at various places in the IPL 2015 for Chennai Super Kings. It is observed that this Agreement is on plain paper and executed only between Amrapali and Rhiti Sports Management Private Limited and there are no signatories on behalf of Chennai Super Kings to this Agreement. No Resolution in favour of Shri Arun Pandey, Signatory of Rhiti Sports Management Private Limited is attached with the said Agreement. C D

This clearly shows that these Agreements have just been made for payment of amounts to Rhiti Sports Management Private Limited Company are Sham Agreements and made just for making payments to Rhiti Sports Management Private Limited. We feel that Home Buyers money has been diverted illegally and wrongly to Rhiti Sports Management Private Limited and should be recovered from them as the said Agreement in our opinion do not stand the test of Law. E F

**Amrapali Mahi Developers Pvt Ltd**

- Mr. Mahendra Singh Dhoni, husband of Ms. Sakshi Singh Dhoni (director of company) was the brand ambassador of Amrapali group and have carried out a number of transactions with respect to endorsement of Amrapali group's projects. He has entered in agreements with other group company. G
- We are informed verbally that this company was incorporated for development of a project in Ranchi. An MOU was also

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A entered between the parties though we were not provided a copy of that. We understand that copy of MOU is available with Mr. Adhikari.

B In Amrapali Sapphire Developers Private Limited a Flat (Flat No – TC-P04) has been booked in the name of Rhiti Sports Management Private Limited by passing an adjustment entry. However Mr Sanjay Pandey of Rhiti Sports Management Pvt Ltd denied booking of any such flat. He also confirmed that neither the company nor any individual has any flat in Amrapli Group. Mr Pandey confirmed that no due diligence was carried out before accepting the brand endorsement though he informed that brand value and paying capacity was seen. No Agreement was provided though it was agreed that it would be provided by 11<sup>th</sup> March, 2019. Expenses were reimbursed to Rhiti Entertainment Private Limited a group company, without any agreement.

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D **28. Properties alienated**

**Chart D**

E The group started alienated the properties starting from 2015-16 , and many properties were transferred when the case was pending before the Honourable Court with a criminal mind to alienate the assets. The funds were routed from one account to another and properties were registered in benami names.

For the assets sold up to 31/3/2015, we didn't generally find anything in contravention of the details submitted in affidavit Chart D.

F We have categorized the Chart-D transactions into following 3 categories:

**Category A** – The properties attached should be sold off and recover the amount.

G **Category B** – The properties attached should continue to be attached.

**Category C**- The properties attached should be released off.

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Name of Company of Amrapali Group	Name of the party to which allotment/sale was made	Area	Category	Date of transfer	Page no of supplementary report
<b>CATEGORY-A</b>					
Ultra Home Construction Pvt Ltd	SKN Hospitality Pvt Ltd	1067.50 sq. mtr.	A	15 <sup>th</sup> March 2017	2791-2796
Amrapali Homes Project Pvt Ltd	Bhuvneshwar land	6.52 Acres	A	Available	2781
Amrapali Homes Project Pvt Ltd	Pradeep Mishra	123171 sq. ft.	A	21 <sup>st</sup> August 2017	2779-2780
Amrapali Smartcity Developers Pvt Ltd	Sarvome Housing Pvt Ltd	7108 sq. ft.	A	10 <sup>th</sup> July 2017	2768-2769
Amrapali Dream Valley Pvt Ltd	High Life Commercial	8500 sq. ft.	A	Available	2770
Amrapali Smartcity Developers Pvt Ltd	Bihariji Developers Pvt Ltd	22621 sq. ft.	A	10 <sup>th</sup> July 2017	2767-2768
Amrapali Leisure Valley Pvt Ltd	Bihariji High Rise Pvt Ltd	31202 sq. ft.	A	10 <sup>th</sup> July 2017	2782-2783
Amrapali Leisure Valley Pvt Ltd	Bihariji High Rise Pvt Ltd	13928 sq. ft.	A	10 <sup>th</sup> July 2017	2782-2783
Amrapali Centurian Park Pvt Ltd	Bihariji High Rise Pvt Ltd	7020 sq. ft.	A	10 <sup>th</sup> July 2017	2785-2786
Amrapali Centurian Park Pvt Ltd	Bihariji Properties Pvt Ltd	22621 sq. ft.	A	10 <sup>th</sup> July 2017	2785-2786
Ultra Home Construction Pvt Ltd	Shri Viniyak Avas Pvt Ltd	6120 sq. ft.	A	2 <sup>nd</sup> April 2014	2790
Amrapali Leisure Valley Developers Private Limited	Sarvome Housing Pvt Ltd	16500 sq. ft.	A	10 <sup>th</sup> July 2017	2775-2776
<b>CATEGORY-B</b>					
Hi-Tech City Developers Pvt Ltd	Anita Chandok	4027.31 sq. yards	B	21 <sup>st</sup> July 2016	2755-2756
Amrapali Smartcity Developers Pvt Ltd	SBL Construction Pvt Ltd	14500 sq. ft.	B	23 <sup>rd</sup> August 2016	2765
Amrapali Smartcity Developers Pvt Ltd	SBL Construction Pvt Ltd	18450 sq. ft.	B	23 <sup>rd</sup> August 2016	2765

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	Amrapali Smartcity Developers Pvt Ltd	Bhatia Properties	6120 sq. ft.	B	Available	2766
B	Amrapali Leisure Valley Developers Pvt Ltd	Bhatia Properties	22200 sq. ft.	B	6 <sup>th</sup> May 2015	2777
	Hi-Tech City Developers Pvt Ltd	Sarjit Leasing and Finance Company	1245.23 sq. yards	B	23 <sup>rd</sup> July 2016	2756-2758
C	Amrapali Hospitality Services Pvt Ltd	Vaishnavi Vahini Mount Life Hospitality Pvt Ltd	10261 sq. ft.	B	13 <sup>th</sup> November 2017	2758-2764
	Sangam Colonizers Pvt Ltd	Anjali Consultants	3.13 Hectare	B	24 <sup>th</sup> April 2017	2753
D	Amrapali Hospitality Services Pvt Ltd	Dr. J.P Sharma	2.1 Bigha	B	June 2017	2764
	Amrapali Homes Project Pvt Ltd	Ajit Kumar & Kriti Agarwal	11245 sq. ft.	B	9 <sup>th</sup> October 2017	2780-2781
	Amrapali Leisure Valley Pvt Ltd	Deepak Kumar	1560 sq. ft.	B	20 <sup>th</sup> August 2016	2784
E	Amrapali Dream Valley Pvt Ltd	Bihariji Developers Pvt Ltd	16000 sq. ft.	B	10 <sup>th</sup> July 2017	2770-2771
	Amrapali Dream Valley Pvt Ltd	SBL Construction Pvt Ltd	6500 sq. ft.	B	5 <sup>th</sup> July 2017	2771-2772
	Amrapali Silicon City Pvt Ltd	SBL Construction Pvt Ltd	20640 sq. ft.	B	2 <sup>nd</sup> May 2017	2778
F	Amrapali Silicon City Pvt Ltd	Nirala India Developers Pvt Ltd	16436 sq. ft.	B	15 <sup>th</sup> October 2015	2778-2779
	Amrapali Dream Valley Pvt Ltd	Mr. Vinay Garg	11000 sq. ft.	B	15 <sup>th</sup> February 2018	2769
G	Ultra Home Construction Pvt Ltd	V. Thiruvankitam & Thushara Reddy	82.937 Cents	B	18 <sup>th</sup> January 2012	2795-2796
	Amrapali Centurian Park Pvt Ltd	One Flameboyant Realty Pvt Ltd	16360 sq. mtr.	B	25 <sup>th</sup> September 2013	2786-2787

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CATEGORY-C						
Sangam Colonizers Pvt Ltd	Radheshyam Yadav, Keshav Yadav, Surender Yadav, Narayan Yadav & Lakhan Yadav	3.28 Hectare	C	19 <sup>th</sup> Feb 2015	2754-2755	
Amrapali Leisure Valley Pvt Ltd	PSK Finance Solution Pvt Ltd	14853 sq. ft.	C	15 <sup>th</sup> July 2014	2782	
Amrapali Leisure Valley Pvt Ltd	Star Land Craft Pvt Ltd	23395 sq. mtr.	C	31 <sup>st</sup> July 2013	2784-2785	
Amrapali Dream Valley Pvt Ltd	Shri Balaji Hi Tech Construction Pvt Ltd	12479 sq. mtr.	C	31 <sup>st</sup> July 2013	2772-2773	
Amrapali Dream Valley Pvt Ltd	K V Developers Pvt Ltd	19986 sq. mtr.	C	7 <sup>th</sup> June 2013	2773	
Amrapali Dream Valley Pvt Ltd	J M Housing Ltd	33537 sq. mtr.	C	5 <sup>th</sup> June 2013	2773-2774	
Amrapali Dream Valley Pvt Ltd	Samridhi Realty Home Pvt Ltd	27989 sq. mtr.	C	17 <sup>th</sup> June 2013	2774	
Amrapali Centurian Park Pvt Ltd	Hawelia Builders Pvt Ltd	14920 sq. mtr.	C	5 <sup>th</sup> June 2013	2787-2788	
Amrapali Centurian Park Pvt Ltd	DSD Homes Pvt Ltd	14760 sq. mtr.	C	20 <sup>th</sup> June 2013	2788	
Amrapali Centurian Park Pvt Ltd	Elegant Infracon Pvt Ltd	14590 sq. mtr.	C	1 <sup>st</sup> June 2013	2788-2790	
Amrapali Smartcity Developers Pvt Ltd	PSK Finance Solution Pvt Ltd	12500 sq. ft.	C	15 <sup>th</sup> April 2016	2766	

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**29. Further Assets To be Attached**

- Inventory of plots at Jaipur – of company names Sangam Colonisers Pvt Ltd
- Amrapali Power & Cement Pvt Ltd – Land from Charu Rai yet to be identified, Land from UPSIDC yet to be identified.
- Vinayaka Projects at Greater Noida

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A **30. Statement of cash flow**

Receipt and Payment Statement				(Amount in crores)
S.No	Name of the Company	Amount received as per Chart-B of affidavit of promoters submitted on 3rd Dec'18	Cost of Construction taken from latest audited financial statements available	Remarks/Assumptions
1	<b>Received from Customers</b>			
	Amrapali Centurian Park Pvt Ltd	1050.83	573	The group received Rs 11573 Crore from th homebuyers and spent Only Rs. 7,389 Crore on construction including land payment to authorities. It is pertinent to note it includes borrowing cost also. Any amount of expenditure which was outstanding is not considered in the given tabe and it is prepared on the bsia of audited financial statements latest available upto March 2015 except one company for which it is March 2016. It was found at any given point of time the amount received from homebuyers was never in short
	Amrapali Dream Valley Pvt Ltd	1270.5	549	
	Amrapali Leisure Valley Pvt Ltd	1563.17	594	
	Amrapali Sapphire Developers Pvt Ltd	1186.66	828	
	Amrapali Silicon City Pvt Ltd	1468.79	1126	
	Amrapali Smartcity Developers Pvt Ltd	1230.87	780	
	Amrapali Zodiac Developers Pvt Ltd	835.69	566	
	Hi Tech City Developers Pvt Ltd	113.18	104.16	
	Amrapali Eden Park Developers Pvt Ltd	171	175.14	
	Sangam Colonizer Pvt Ltd	9.58	7.61	
	Amrapali Grand	217	104.98	
	Amrapali Princely Estate Pvt Ltd	724.55	578	
	Amrapali Leisure Valley Developers Pvt Ltd	505.19	355	
	Amrapali Homes Project Pvt Ltd*	103	103	
	Ultra Home Construction Pvt Ltd*	1123.12	945	
	<b>Sub Total (A)</b>	<b>11573.13</b>	<b>7388.89</b>	
2	Sales of Property/FSI/Facilities	358.68		As per affidavit
3	Bank	2712.02	1827	The amount paid to bank as per Chart B of affidavit is 2394 crore. We could not verify the number of amount paid in absence of details being not available. We worked out the outstanding loan amount from audited financial statements of 2015.

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				The amount borrowed in against private equity which has no liability of principal and interest and the investor would recover his its investments by selling the shares on/off market. Investment in the form of compulsory convertible debenture and optionally convertible would have interest liability upto date of conversion. the debenture were note converted on due dates . Furthermore the amount invested was diverted immediately upon receipt to unapproved purposes.	A
4	FDI/Financial Institution	520	65		B
5	Investors	300	200	Number has been taken from affidavit and has not been verified by us.	C
6	Partner Investment	150	150	Number has been taken from affidavit and has not been verified by us.	
<b>Sub Total (B)</b>		<b>4040.7</b>	<b>2242</b>		
<b>Grand Total (A+B)</b>		<b>15613.83</b>	<b>9630.89</b>		
<b>Difference</b>		<b>5982.94</b>		Short cashflow	D

1 The above does not include the cash received from customers.

2 \* Assumed the figure as given in the affidavit.

**31. Mrs. Manju Rajpal and Mr. Ramesh Rajpal**

Mrs. Manju Rajpal and Mr. Ramesh Rajpal HUF each invested Rs 7.5 crore in May 2011 on interest in Amrapali Leisure Valley Private Limited. The rate of interest is 18%. However he claimed in his submission that it was an investment in residential property for his staff because he was having a plan to shift his business operations in Noida. He submitted that he acquired this property for residence of his staff. On reviewing the return of income of Mrs. Manju Rajpal (**Refer annexure S-1 of supplementary report page no. 2823**) and Mr. Ramesh Rajpal we found that amount invested in various units as given below:

1. Mr. Ramesh Rajpal – **Unit No A-388 admeasuring 20,200 sq. feet in Amrapali Leisure Valley Private Limited for RS 7.5 Cr.** However, due to company’s inability to handover the said villa, 8 units were allotted instead. **Refer Annexure S-2 of supplementary report page no. 2824**

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- A We found Unit No A-388 in Amrapali Leisure Valley Private Limited is booked in the name of Mr. Joginder Sharma on 13<sup>th</sup> February, 2016 admeasuring area 2525 sq. feet for a value of Rs 1.29 crore. **It depicts very clearly that there was no unit admeasuring an area of 20,200 sq feet and the amount was invested for a purpose to avail Capital Gain benefits** and
- B **earn interest on investment at the rate 18% p.a. It is recommended that the units allotted as per Annexure S-2 of supplementary report page no. 2824 should be treated as vacant and be available for sale.**
- C 2. Mrs. Manju Rajpal – **Unit No A-396 admeasuring 17,675 sq. feet in Amrapali Leisure Valley Private Limited for RS 7.5 Cr claimed as Long term Capital gain. It is claimed, due to company’s inability to handover the said villa, 53 units were allotted instead. Refer Annexure S-3 of supplementary report page no. 2825-2826.**
- D We found Unit No A-396 in Amrapali Leisure Valley Private Limited is booked in the name of Mr. Satya Vir Srivastava on 14<sup>th</sup> July, 2014 admeasuring area 2525 sq. feet for a value of Rs 65.5 Lakh. **It depicts very clearly that there was no unit admeasuring an area of 17,675 sq feet** and the amount was
- E **invested for a purpose to avail Capital Gain benefits and earn interest on investment at the rate 18% p.a. It is recommended that the units allotted as per Annexure S-3 of supplementary report page no. 2825-2826 should be treated as vacant and be available for sale.**
- F The amount invested in residential property is claimed as Capital gain. Subsequently in the year 2017, the villas were shifted from Amrapali Leisure Valley Private Limited to Royalgolf Link, Amrapali Princely Estate Private Limited, Amrapali Zodiac Developers Private Limited, Amrapali Silicon City Private Limited,
- G Amrapali Dream Valley Private Limited and Amrapali Smart City Developers Private Limited and the villas numbers are attached. (Refer Annexure 2.2 and Annexure 2.3)
- For the amount invested of Rs 15 crore, Rs 12.25 crore has been paid to him in the form of interest at the rate of 18%.
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Exotique Exports, an entity of Mr Rajpal, invested Rs 5 crore in 2010 at the interest rate of 18%. It had been paid Rs 4.55 till February 2016 in the form of interest. It is submitted that 5 units namely Unit no. 118, 119, 120, 121, 122 were purchased in Amrapali Commercial Complex Cum Corporate Hub at Plot No. Sector – 2 Manesar, Gurgaon, Haryana for Rs 5Cr however the value of 5 units as per Builder Buyer Agreement is Rs 3.19 Cr.

**32. M/s Surbhaee Advertising Private Limited**

**(Immovable Property-A3A, Maharani Bagh, New Delhi)**

(i) Mr. Paramjit Gandhi, Mr. Gagandeep Gandhi & Ms. Jasmine Gandhi are the directors of the company M/s Surbhaee Advertising Private Limited.

The shares of M/s Surbhaee Advertising Private Limited were purchased by Mr. Paramjeet Gandhi & M/s Special Tools Private Limited (a company owned by him & his family) for Rs 1.59 crore for which no agreement was provided by them.

(ii) It was informed that principal business of the company is Advertising of Projects. However no income has been earned from its principal business activity or any other source.

(iii) The company is holding an immovable property at A3A Maharani Bagh, New Delhi admeasuring approximately 800 sq yards.

It is also stated that the family of Mr. Anil Kumar Sharma is residing in the same house against which no rent deed is agreed between Mr. Anil Kumar Sharma & Mr. Paramjit Gandhi (Surbhaee Advertising Private Limited)

(iv) When asked to Mr. Paramjit Gandhi who resides in Ghaziabad that why he purchased the property in New Delhi 4-5 years back, he replied that he wanted to shift to this property.

However the fact is that he has never shifted to Delhi & all the renovation & maintenance work was overlooked by Mr. Anil Kumar Sharma.

(v) The company has also taken loan of Rs. 25 crores from Aditya Birla Finance Limited in the FY 2016-17 against the hypothecation

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A of the property which was purchased for Rs 1.59 crore. This indicates the property value was much higher on the date of transfer.

(vi) The company has advanced Rs. 25.88 crores as short term loans & advances to the following parties-

- B **1. Chandan Homes Private Limited- Rs. 6.89 crores.**  
2. Inderjeet Arora- Rs. 1.25 crores.  
3. Ishwar Steels- Rs. 2.18 crores  
4. Jai Kishan Estate Developers Private Limited- Rs. 1.33 crores.
- C 5. Shekri Finance & Investment Private Limited- Rs. 3.10 crores.  
6. Shubha Green Private Limited- Rs. 4.77 crores.  
7. Special Tools Private Limited- Rs. 3.37 crores.
- D 8. PJ Buildtech Private Limited- Rs. 0.55 crores.  
9. Paradise System Private Limited- Rs. 0.52 crores.  
10. Jiwan Kumar Arora- Rs. 0.50 crores.  
11. Shubhkamna Buildtech Private Limited- Rs. 0.25 crores.

E (vii) The company has also received Rs. 2.35 crores & Rs. 3.55 crores from Mr. Ritik Kumar Sinha & Miss Swapnil Shikha respectively, also directors in M/s Surbhaee Advertising Private Limited in the FY 2016-17 out of funds received from Amrapali group of companies enrouted via the account of Mr. Anil Kumar Sharma.

F (viii) It implies that the property which was bought for Rs 1.59 crore, the amount has been funded out of Amrapali Group funds routed by Mr. Anil Kumar Sharma who is family member and from them to Surbhaee Advertising Private Limited. Two of his family members were made director to have a control on the property of a value of Rs 50 Cr. It further proves that the difference between the value of property and the price at which it was transferred to Mr. Paramjit Gandhi was paid in cash out of cash amount received in Amrapali Group by booking of bogus expenditure and selling the flats undervalued.

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**Opinion**

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Based on the facts stated above, in our opinion the property at A3A Maharani Bagh, New Delhi is a “Property” belongs to Mr. Anil Kumar Sharma/Amrapali group held in the name of the company M/s Surbhaee Advertising Private Limited.

**33. Facility Sold**

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It is found that the facilities sold under various projects as shown in Chart M of Affidavit submitted on 3<sup>rd</sup> December, 2018 are mere adjustment entries (**Refer Annexure S-10 of supplementary report page no. 2958-2959**).

We found that the buyer is not aware of that he has purchased any land for the mentioned facility. We further found that there is no account in the name of the said buyers in many cases to whom the facilities were sold. It is recommended that the facilities sold so far should be attached.

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**34. Mr.Prem Mishra**

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We are of the opinion and also given to understand from various sources that the group diverted funds in the range of 500-600 crore in Madhya Pradesh projects in particular Indore. Mr.Prem Mishra has appeared in response to the court notice and he was non-cooperative. We have also received a communication supporting our views, reproduced below-

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*“Good Evening Sir,*

*Hope you are doing well, this is regards Amrapali Scam of CMD Anil Sharma, as per my information CMD has transferred 1 thousand crore to the different Amrapali Townships project of M.P. through Mr. Prem Mishra. The details of the same on paper is available with me. If you can arrange some time and allow me to have a detail discussion of the same, that would be great. Kindly inform me two days prior to the meeting date, as I am from XXXXXX. need to do some arrangements for the same, its a request.*

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*Waiting for your response.”*

We could not complete the examination of Mr.Prem Mishra in Indore project due to paucity of time and request it to be included in the second audit.

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- A **35. Heartbeat City Developers Private Limited**  
 The project is in the name of 3 companies namely Pebbles Prolease Private Limited, Three Platinum Softech Private Limited and Baseline Infradevelopers Private Limited. The project is an Amrapali group's project which was carved out from Amrapali Group of companies while case was pending before Honorable Supreme Court. Funds were invested in the project from Amrapali Group through Mr. Amit Wadhwa, Mr. Amit Wadhwa was a partner of 25% each in Pebbles Prolease Private Limited and Three Platinum Softech Private Limited. Amrapali Group launched and advertised the project as Amrapali Group project and the project was named as Amrapali Heartbeat City Developers Private Limited in the agreements. Corporate office was having the same address as Amrapali Corporate Tower in Sector 62, Noida. The purpose of carving out the project from Amrapali is not known. It is informed that Mr. Vaibhav Jain and Mr. Sankalp Shukla are the key managerial persons. In the absence of accounting records we could not proceed further on the issue.
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**35. Summary of recoverable amounts**

**Total recoveries from undermentioned areas:**

S. No.	Particulars	Amount in Crores
1	Sale of Flats at lower Prices	321.31
2	Amount receivable from home buyers	3,624.65
3	Amount receivable from buyers of Commercial Area	89.83
4	Unsold Inventory	
	i) Flats	1,991.69
	ii) Commercial Areas	345.78
5	Amount recoverable from KMP's and their Relatives:	
	i) Professional fee	100.53
	ii) Advances Recoverable	152.24
	iii) Cash in hand	69.36
	iv) Other recoverable	582.68
6	Diversion of home buyer's funds	3,152.30
7	Non genuine purchases from suppliers	842.42
8	Recovery from Others	32.69
9	Unexplained cash deposits/jewellery	14.94
	<b>Total</b>	<b>11,320.42</b>

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**1. Sale of Flats at lower prices**

Total amount involved in under-valued transactions in respect of Companies audited by us is

**Rs.321.31 Crores** as per summary given below:

S.no.	Name of the company	Number of Units	Amount (In Crores)	Refer Page Number
1	Amrapali Sapphire Developers Private Limited	315	76.02	Volume – I Page No. 205 - Point No. 1
2	Amrapali Leisure Valley Developers Private Limited	70	5.88	Volume – I Page No. 222 - Point No. 1
3	Amrapali Smart City Developers Private Limited	261	18.97	Volume – I Page No. 232 - Point No. 1
4	Amrapali Silicon City Private Limited	468	73.05	Volume – I Page No. 257 – Point No. 1
5	Amrapali Dream Valley Private Limited	1,752	24.11	Volume – I Page No. 248 - Point No. 1
6	<b>Amrapali Leisure Valley Private Limited</b>	122	8.53	2811 (Supplementary Audit Report)
7	<b>Ultra Home Construction Private Limited</b>	524	30.87	2811 (Supplementary Audit Report)
8	<b>AmrapaliCenturian Park Private Limited</b>	1,912	43.12	2811 (Supplementary Audit Report)
9	<b>Amrapali Princely Estate Private Limited</b>	146	6.70	2811 (Supplementary Audit Report)
10	<b>Amrapali Zodiac Developers Private Limited</b>	107	6.75	2811 (Supplementary Audit Report)
11	<b>Amrapali Patel Platinum</b>	179	27.31	2811 (Supplementary Audit Report)
<b>Total</b>		<b>5,856</b>	<b>321.31</b>	

## A 2. Amount Recoverable from Home Buyers

A sum of **Rs.3624.65 crores** is recoverable from home buyers. Detailed summary is as under:

S.no.	Name of the company	Amount (In Crores)	Refer Page Number
B	1 Amrapali Sapphire Developers Private Limited <sup>2</sup>	46.44	Volume – I Page No. 207 – Point No. 2
	2 Amrapali Leisure Valley Developers Private Limited	200.53	Volume – I Page No.222 – Point No. 2
C	3 Amrapali Smart City Developers Private Limited	400.00	Volume – I Page No.232 – Point No. 2
	4 Amrapali Silicon City Private Limited	390.00	Volume – I Page No.257 – Point No. 2
	5 Amrapali Dream Valley Private Limited	724.14	Volume – I Page No.248 – Point No. 2
D	6 AHS Joint Venture	3.10	Volume – II Page No.276 – Point No. 4
	7 Hi Tech City Developers Private Limited (Immediately recoverable)	2.37	Volume – II Page No.283 – Point No. 11
	8 <b>Ultra Home Construction Private Limited</b>	65.08	Volume II - Section XXII (Page No. 563– 568)
E	9 <b>Amrapali Princely Estate Private Limited</b>	28.17	Volume II - Section XXII (Page No. 563 – 568)
	10 <b>Amrapali Zodiac Developers Private Limited</b>	26.56	Volume II - Section XXII (Page No. 563 – 568)
F	11 <b>Amrapali Leisure Valley Private Limited</b>	1470.94	Volume II - Section XXII (Page No. 563 – 568)
	12 <b>Amrapali Centurian Park Private Limited</b>	240.17	Volume II - Section XXII (Page No. 563 – 568)
	13 <b>Amrapali Eden Park Private Limited</b>	4.71	Volume II - Section XXII (Page No. 563 – 568)
G	14 <b>Amrapali Grand</b>	15.56	Volume II - Section XXII (Page No. 563 – 568)
	15 <b>Amrapali Homes Project Pvt. Ltd.</b>	6.88	Volume II - Section XXIII (Page No. 569)
	<b>Total</b>	<b>3624.65</b>	

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**3. Amount recoverable from buyers of Commercial Area** A

A sum of **Rs.89.83 crores** is recoverable from buyers of Commercial area. Detailed summary is asunder:

S.no.	Name of the company	Amount (In Crores)	Refer Page No.
1	Amrapali Sapphire Developers Private Limited	7.14	Volume – I Page No.207- Point No. 3
2	Amrapali Leisure Valley Developers Private Limited	1.68	Volume – I Page No.222- Point No. 3
3	Amrapali Smart City Developers Private Limited	19.58	Volume – I Page No.232- Point No. 3
4	Amrapali Silicon City Private Limited	2.48	Volume – I Page No.257- Point No. 3
5	Amrapali Dream Valley Private Limited	6.12	Volume – I Page No.248- Point No. 3
6	<b>Ultra Home Construction Private Limited</b>	38.03	Volume – II Section XXII (Page No. 563 – 568)
7	<b>7Amrapali Princely Estate Private Limited</b>	5.50	Volume – II Section XXII (Page No. 563 – 568)
8	<b>Amrapali Zodiac Developers Private Limited</b>	2.08	Volume – II Section XXII (Page No. 563 – 568)
9	<b>Amrapali Leisure Valley Private Limited</b>	3.58	Volume – II Section XXII (Page No. 563 – 568)
10	<b>Amrapali Eden Park Private Limited</b>	3.64	Volume – II Section XXII (Page No. 563 – 568)
<b>Total</b>		<b>89.83</b>	

**4. Unsold Inventory**

There is unsold inventory of flats and Commercial areas amounting to **Rs.2337.47Crores**

approximately as per details given below:

**a) Unsold Inventory of Flats**

S.no.	Name of the company	Number of Units in Residential	Approximate Realizable Value (In Crores)	Page No. Reference
1	Amrapali Sapphire Developers Private Limited	14	14.45	Volume – I Page No.39- Point No. 4a

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2	Anrapali Leisure Valley Developers Private Limited	329	100.67	Volume – I Page No.39- Point No. 4a
3	Anrapali Smart City Developers Private Limited	183	65.29	Volume – I Page No.39- Point No. 4a
4	Anrapali Silicon City Private Limited	191	154.25	Volume – I Page No.39- Point No. 4a
5	Anrapali Dream Valley Private Limited	1833	660.91	Volume – I Page No.39- Point No. 4a
6	<b>Anrapali Leisure Valley Pvt. Ltd.*</b>	1203	412.91	Volume – II Section XXII (Page No. 563 – 568)
7	<b>Anrapali Centurian Park Pvt. Ltd.*</b>	981+2	329.34	Volume – II Section XXII (Page No. 563 – 568)
8	<b>Anrapali Eden Park Developers Pvt. Ltd.*</b>	4	2.47	Volume – II Section XXII (Page No. 563 – 568)
9	<b>Anrapali Princely Estate Pvt. Ltd.*</b>	3	4.54	Volume – II Section XXII (Page No. 563 – 568)
10	<b>Anrapali Zodiac Developers Pvt. Ltd.*</b>	27	41.48	Volume – II Section XXII (Page No. 563 – 568)
11	<b>Ultra Home Construction Pvt. Ltd.*</b>	459	205.38	Volume – II Section XXII (Page No. 563 – 568)
<b>Total</b>		<b>5,229</b>	<b>1991.69</b>	

\*Estimated Realizable value Noida @ Rs 4,500 approximately psf and Greater Noida @ Rs3,000 approximately psf (Amount in Crores).

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b) Unsold Inventory of Commercial Area/Shops

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S.no.	Name of the Company	Unsold Commercial Inventory	Approximate Realizable Value (In Crores)	Page No. reference
1	Amrapali Sapphire Developers Private Limited	1 Shop	0.71	Volume – I Page No.39- Point No. 4b
2	Amrapali Leisure Valley Developers Private Limited	Nursery Schools, NursingHomes and MilkBooth	7.00	Volume – I Page No.39- Point No. 4b
3	Amrapali Smart City Developers Private Limited	1 Shop 1 Nursery School	0.49 4.00	Volume – I Page No.39- Point No. 4b
4	Amrapali Silicon City Private Limited	Nursery School & Milk Booth	11.00	Volume – I Page No.39- Point No. 4b
5	Amrapali Dream Valley Private Limited	18 Shops, Nursery Schools, Nursing Homes and Senior Secondary Schools	44.47	Volume – I Page No.39- Point No. 4b
6	Amrapali Eden Park Developers Pvt. Ltd.	1	1.40	Volume – II Section XXII (Page No. 563 – 568)
7	AmrapaliCenturian Park Pvt. Ltd.	17	5.71	Volume – II Section XXII (Page No. 563 – 568)
8	Ultra Home Construction Pvt. Ltd.	318 + 487	271.00	Volume – II Section XXII (Page No. 563 – 568)
<b>Total</b>			<b>345.78</b>	

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A **5. Amount recoverable from Key Managerial Persons and their Relatives**

**a) Professional fees paid to directors Rs.100.53 crore**

Name of Director	Professional Fees	
	(As per Affidavit) Rs. in Cr.	(Under Disclosure in Affidavit) Rs. in Cr.
Anil Kumar Sharma	29.13	8.75
Shiv Priya	26.43	24.65
Ajay Kumar	5.76	-
Suvash Chandra Kumar	5.11	-
Amresh Kumar	0.68	-
<b>Total</b>	<b>67.13</b>	<b>33.40</b>

**b) Advances recoverable**

A sum of **Rs.152.24 crores** is recoverable from the Directors on account of their taxes paid, advance given for purchase of Shares and Other Advances given including their family members. The companies gave advances which were neither adjusted nor squared off against any future purchases or services under taken by the companies from the said parties nor were received back by the companies Stunning Construction Private Limited had made payments of Direct Taxes which were neither received back by the Company nor adjusted against any services. In other words the said advances are still standing to the debit (recoverable from these parties) in the books of the Company. This includes a sum of INR 17.43 Crores paid on behalf of directors, senior employees and their family members. Please refer executive summary on Page 39 of Volume 1 of Final Report.

Summarized as below:

S.no.	Name of the company	Amount (In Crores)	Anil Kumar Sharma and family	Shiv Priya and family	Ajay Kumar and family	Others
1	Amrapali Sapphire Developers Private Limited (Page No. 202-219)	0.50	0.02	0.39	0.09	-
2	Stunning Construction Private Limited (Page No. 196-201)	17.43	6.4	5.57	1.7	3.76

3	Amrapali Smart City Developers Private Limited (Page No.- 229-244)	0.02	-	-	-	0.02	A
4	Amrapali Silicon City Private Limited (Page No. 255-266)	0.28	0.05	0.23	-	-	
5	AHS Joint Venture (Page No.- 273-278)	9.58	6.18	3.12	0.28	-	B
6	Amrapali Infrastructure Private Limited (Page No. 286-306)	113.54	73.25	35.15	5.14	-	
7	Sangam Colonizers Private Limited (Page No. 189-192)	0.03	-	-	-	0.03	C
8	Amrapali Hospitality Services Private Limited (Page No. 346-350)	6.62	6.55	-	-	0.07	
9	Hi Tech City Developers Private Limited (Page No. 279-285)	4.24	4.24	-	-	-	D
<b>Total</b>		<b>152.24</b>	<b>96.69</b>	<b>44.46</b>	<b>7.21</b>	<b>3.88</b>	

**Recoverable from other KMPs is as under :**

Name of the Party	Amount as on 31 <sup>st</sup> March, 2018	E
ChanderWadhwa and Family	2.55	
Mohit Gupta and Family	0.16	
SuvashChander Kumar	0.67	
Amresh Kumar	0.17	F
NishantMukul	0.12	
Adhikari Devi Prasad and Family	0.02	
Anil Mittal and Company (Statutory Auditor)	0.19	
<b>Total</b>	<b>3.88</b>	G

**Cash in Hand**

Cash in hand of various Companies is not physically available nor deposited in the banks and siphoned by the Directors amounting to **Rs.69.36 crores** should be recovered from the Directors as per details given below:

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	S. no.	Name of the Company	Amount (In Crores)
A	1	Stunning Construction Private Limited	0.17
	2	Amrapali Sapphire Developers Private Limited	0.11
	3	Amrapali Leisure Valley Developers Private Limited	0.23
	4	Amrapali Smart City Developers Private Limited	10.79
B	5	Amrapali Silicon City Private Limited	3.58
	6	Amrapali Dream Valley Private Limited	8.02
	7	Hi-tech City Developers Private Limited	0.46
	8	Amrapali Infrastructure Private Limited	3.16
	9	Sangam Colonizers Private Limited	0.15
C	10	Navodaya Properties Private Limited	0.24
	11	Hawthorne Intellect Management Solutions Private Limited	0.01
	12	MSB Software Technology Private Limited	0.70
	14	GaurisutaInfrasolution Private Limited	0.01
D	17	Amrapali Hospitality Services Private Limited	0.01
	18	KapilaBuildhome Private Limited	0.03
	19	MannatBuildcraft Private Limited	0.20
	20	<b>Ultra Home Construction Private Limited</b>	0.22
	21	<b>AmrapaliCenturian Park Private Limited</b>	7.45
E	22	<b>Amrapali Eden Park Developers Private Limited</b>	2.00
	23	<b>Amrapali Grand</b>	0.50
	24	<b>Amrapali Homes</b>	0.19
	25	<b>Amrapali Homes Projects Private Limited</b>	0.23
	26	<b>Amrapali Leisure Valley Private Limited</b>	9.79
F	27	<b>Amrapali Media Vision Private Limited</b>	9.67
	28	<b>Amrapali Princely Estate Private Limited</b>	5.02
	29	<b>Amrapali Smart City Private Limited</b>	0.50
	30	<b>Amrapali Zodiac Developers Private Limited</b>	3.84
	31	<b>Gaurisuta Infrastructure Private Limited</b>	0.02
G	32	<b>MVG Techno Consultants Private Limited</b>	0.13
	33	<b>Noida Texfab Private Limited</b>	0.13
	34	<b>La Residentia Developers Private Limited</b>	0.30
	35	<b>Amrapali Biotech India Private Limited</b>	1.50
H		Total	69.36

**a) Advance Recoverable from Non-Related Parties** A

Amounts given as advances to third parties without any business transactions which have not been adjusted along with the amount received/paid for the Non-Genuine transactions amounts to **Rs.256.22 crores + Rs.326.46 crores** and should be recovered from the management of the Amrapali group of Companies. B

The Company has given advances to various parties. The said advances that were given by the Company were neither adjusted nor squared off against any future purchases or services. No details regarding Pan, Address and Nature of Advance has been given to us. The actual amount may be much higher. C

S. no.	Name of the Company	Amount (In Crores)	Refer Page No.
1	Amrapali Sapphire Developers Private Limited	73.06	Volume – I Page No.40- Point No.4c
2	Amrapali Leisure Valley Developers Private Limited	19.67	Volume – I Page No.40- Point No.4c
3	Amrapali Smart City Developers Private Limited	17.20	Volume – I Page No.40- Point No.4c
4	Amrapali Silicon City Private Limited	50.41	Volume – I Page No.40- Point No.4c
5	AHS Joint Venture	15.81	Volume – I Page No.40- Point No.4c
6	Hi-tech City Developers Private Limited	8.91	Volume – I Page No.40- Point No.4c
7	Amrapali Infrastructure Private Limited	40.24	Volume – I Page No.40- Point No.4c
8	Sangam Colonizers Private Limited	0.36	Volume – I Page No.40- Point No.4c
9	Amrapali Power and Cement Private Limited	0.91	Volume – I Page No.40- Point No.4c
10	Hawthorne Intellect Management Solutions Private Limited	0.17	Volume – I Page No.40- Point No.4c
11	Amrapali Aerocity Private Limited	0.01	Volume – I Page No.40- Point No.4c
12	Amrapali Buddha Developers Private Limited	0.47	Volume – I Page No.40- Point No.4c
13	Gaurisuta Infrsolution Private Limited	1.24	Volume – I Page No.40- Point No.4c
14	Amrapali Hospitality Services Private Limited	13.55	Volume – I Page No.40- Point No.4c
15	Kapila Buildhome Private Limited	0.41	Volume – I Page No.40- Point No.4c
16	Mums Mega Food Park Private Limited	1.29	Volume – I Page No.40- Point No.4c
17	Mannat Buildcraft Private Limited	0.99	Volume – I Page No.40- Point No.4c

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18	Amrapali Patel Platinum	7.85	Volume – I Page No.40- Point No.4c
19	Stunning Constructions Private Limited	0.44	Volume – I Page No.40- Point No.4c
20	Amrapali Dream Valley Private Limited	3.23	Volume – I Page No.40- Point No.4c
B	<b>Amrapali Grand</b>	29.17	Annexure X.2 Final Report Volume – IV
22	<b>Amrapali Homes</b>	21.41	Annexure X.2 Final Report Volume – IV
23	<b>La residential Developers Pvt. Ltd.</b>	23.35	Annexure X.2 Final Report Volume – IV
C	<b>Amrapali Eden Park Developers Pvt. Ltd.</b>	3.02	Annexure X.2 Final Report Volume – IV
25	<b>Gaurisuta Infrastructure Pvt. Ltd.</b>	0.46	Annexure X.2 Final Report Volume – IV
26	<b>Jhamb Finance &amp; Leasing Pvt. Ltd.</b>	5.93	Annexure X.2 Final Report Volume – IV
27	<b>Ultra Home Construction Pvt. Ltd.</b>	87.68	Annexure X.2 Final Report Volume – IV
D	<b>Amrapali Homes Project Pvt. Ltd.</b>	55.01	Annexure X.2 Final Report Volume – IV
29	<b>Amrapali Zodiac Developers Pvt. Ltd.</b>	28.07	Annexure X.2 Final Report Volume – IV
30	<b>Amrapali Smart City Pvt. Ltd.</b>	0.95	Annexure X.2 Final Report Volume – IV
31	<b>Amrapali Leisure Valley Pvt. Ltd.</b>	51.62	Annexure X.2 Final Report Volume – IV
E	<b>Amrapali Media Vision Pvt. Ltd.</b>	4.96	Annexure X.2 Final Report Volume – IV
33	<b>Amrapali Health care Pvt. Ltd.</b>	0.22	Annexure X.2 Final Report Volume – IV
34	<b>Stunning Construction Pvt. Ltd.</b>	14.61	Annexure X.2 Final Report Volume – IV
<b>Total</b>		<b>582.68</b>	

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Advance Construction co Pvt Ltd is/was a partner holding 9% in Amrapali Patel Platinum and 66% in AHS Joint Venture Project with Ultra Home Construction Pvt Ltd. They overdrew 7.10 crore and 14.81 crore from the respective joint venture totaling to 21.91 crore

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While scrutinizing the documents sent by Advance Construction Company Private Limited, detail of capital contribution of the Advance Construction Company Private Limited as on 1<sup>st</sup> April, 2008 and thereafter is as under (as per tally data and confirmed by Advance Construction Company Private Limited):

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Particulars	As on 31 <sup>st</sup> March, 2007	As on 31 <sup>st</sup> March, 2008	As on 31 <sup>st</sup> March, 2009	As on 31 <sup>st</sup> March, 2010	A
Capital Account	3,00,00,000	50,00,000	(6,10,00,000)	(7,10,00,000)	

**Note:** The negative figures represent debit/ recoverable balance. B

**The aforesaid amount of Rs.7.10 crores should be recovered from the said party along with interest of Rs.7.24 Crores (computed at 12% p.a. simple interest) in view of the undermentioned observations:**

- The clause 12 of MOU dated 11<sup>th</sup> November, 2006 clearly states that the profit would be divided amongst the partners in the profit-sharing ratio. C

- The Audited Financial Statements of the firm for the financial year 2013-14 reflect the firms Reserve and Surplus as **Rs.35,433** only. D

- No other clause in the MOU states regarding payment of Interest on Capital.

- It is not understood that how the said Company has withdrawn **Rs.10.10 Crores** on an investment of **Rs.3 Crores** invested for only a period of 1.5 years from this partnership firm. No satisfactory explanation has been given to us by the Management. E

Even the ledger account sent by the said Company confirms that they owe **Rs.7.10 Crores** to this firm as on 31<sup>st</sup> March, 2018 after which an entry has been passed in the books of accounts.

As per supplementary partnership cum deed of retirement dated 31<sup>st</sup> Day of March, 2014, 2 partners namely M/s Patel Engineering Limited and M/s Advance Construction Company Private Limited have retired from the partnership and M/s Amrapali Infrastructure Private Limited has joined as a partner with M/s Ultra Home Construction Private Limited. However, the amount of **Rs.7.10 Crores** was not adjusted and was shown as payable to Amrapali Patel Platinum by Advance Construction Company Private Limited since 2014 till 2018. Further, The Audited Financial Statements of Amrapali Infrastructure Private Limited for the financial year 2013-14 and thereafter don't reflect any investment in Amrapali Patel Platinum. F  
G  
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A	Particulars	As on 31 <sup>st</sup> March, 2008	As on 31 <sup>st</sup> March, 2009	As on 31 <sup>st</sup> March, 2010	As on 31 <sup>st</sup> March, 2011	As on 31 <sup>st</sup> March, 2012	As on 31 <sup>st</sup> March, 2013	As on 31 <sup>st</sup> March, 2014	As on 31 <sup>st</sup> March, 2015
	Capital Account	4.22	4.25	4.25	4.32	4.35	4.35	4.30	4.30
B	Current Account	(12.56)	(14.82)	(14.82)	(14.82)	(14.82)	(14.82)	(14.82)	(14.82)

Note: The negative figures represent debit/ recoverable balance.

**The aforesaid amount of Rs.10.52 crores should be recovered from the said party along with interest of Rs.17.78 crores upto 31<sup>st</sup> March 2018 (computed at 12% p.a. simple interest) in view of the undermentioned observations:**

- C
- a. It is not understood that how the said Company has withdrawn **Rs.14.82 crores** on an investment of **Rs.4.30 crores**. No satisfactory explanation has been given to us by the Management.
- D
- b. As informed to us by Advance Construction vide their mail dated 6<sup>th</sup> March, 2019, the Company had effectively retired from the said partnership and all the project related responsibilities were handed over to Mr. Sharma, (of Ultra Home) and the same was evidenced by an MOU dated 17<sup>th</sup> January, 2006.
- E
- This explanation given by Advance Construction is not satisfactory since the Company is continuing as a partner and the subsequent Audited Financial Statements have also been signed by Advance Construction as a Partner sharing profit/ loss. This shows that MOU as referred by Advance Construction is bogus/ legally not enforceable.
- F
- c. Further, Partnership firm has been legally dissolved as per dissolution deed dated 2<sup>nd</sup> Day of April, 2018. This shows that Advance Construction is continuing as a partner in this firm till this date. It has also been mentioned in the dissolution deed that the accounts of the firm have been made upto 31<sup>st</sup> March, 2014 to the mutual satisfaction of all the parties here to. Even this dissolution deed is dated 2<sup>nd</sup> April, 2018 doesn't seem to be genuine in view of the following observations:
- G
- i. It refers to the Audited Financial Statements for the financial year 2013-14, whereas the Audited Financial Statements are available upto financial year 2014-15.
- H

- ii. The deed of dissolution has not been notarized. A
- iii. The Witnesses to this Dissolution Deed are incomplete in so far, name and address of witness number 1 is not there and signature of witness number 2 is not there.
- iv. There is no copy of the resolution available authorizing Mr. Shiv Priya to sign the deed of dissolution. B

The Company has made cash payments to various parties exceeding INR 20,000 in contravention to The Income Tax Act 1961, to the tune of INR 45,768,482 in just one company namely Amrapali Sapphire Developers Pvt Ltd. This is just tip of the iceberg and actual amount may be much much higher. Most of these payments are not supported by evidence. It was further observed that neither the Statutory auditor has mentioned these cash payments exceedingRs.20,000 in his report and nor any addition has been made by the Income Tax department in framing the Assessments for the Assessment year 2014-15 vide order dated 31.03.2016. C D

Financial Year	Name of Party	Expense Debited	Amount
2012-13	Staff	Incentive	2,252,720
2014-15	Unity Contractor	Labour charges of Contractor	1,600,000
2014-15	ShailenderaDhwaj (T Z-803)	-	1,399,500
2013-14	MV Ayer (TL-506)	-	1,000,000
	Other Petty Amounts between 20,000 to 10 Lakhs		39,516,262
<b>Total</b>			<b>45,768,482</b>

**6. Diversion of home buyer's funds** G

Further as per financial statements and the books of accounts scrutinized by us up to 31<sup>st</sup> March 2015, a sum of **Rs.1,588.59 Crores** has been diverted to other projects, other group companies, directors and their relatives and senior employees. As per summary given below: H

A

S.no.	Name of the company	Amount (In Crores)	Refer Page No.
B 1	Amrapali Sapphire Developers Private Limited	113.98	Volume – I Page No.210- Point No. 7
2	Amrapali Leisure Valley Developers Private Limited	134.25	Volume – I Page No.224- Point No. 7
3	Amrapali Smart City Developers Private Limited	532.76	Volume – I Page No.233- Point No. 7
C 4	Amrapali Silicon City Private Limited	347.36	Volume – I Page No.259- Point No. 7 & 8
5	Amrapali Dream Valley Private Limited	457.82	Volume – I Page No.251- Point No. 7
D 6	Hi Tech Developers Private Limited	2.42	Volume – II Page No.281- Point No. 2
<b>Total</b>		<b>1,588.59</b>	

### 7. Non genuine purchases from suppliers

The total amount of non-genuine/ bogus purchases amounting to **Rs.842.42 crores** approximately. Details are as follows:

Non genuine purchases from Suppliers

(Refer Page No. 2800 Supplementary Report & Annexure No. S-4)

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Rs. 837.12 crore

Add: Land development charges booked without supporting documents

Rs. 7.30 crore

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Total

Rs. 842.42 crore

### 8. Recovery from Others

A sum of **Rs.32.69 crores** is recoverable from others as per details given below:

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Sr. No.	Name of the Company	Amount in crores	Refer Page No.
1	Advance Constructions Private Limited	25.02	Volume – I Page No.43
2	ATN Infratech Private Limited	0.70	Volume – I Page No.43
3	AlokRanjan	0.25	Volume – I Page No.43
4	RinkuComputech	1.19	Volume – I Page No.43
5	Casita Propmart Private Limited	0.08	Volume – I Page No.43
6	Digital India (Controlled by Anil Mittal)	0.86	Volume – I Page No.43
7	AadhunikBuildtech Private Limited	0.12	Volume – I Page No.43
8	Kapila Building Solutions	0.05	Volume – I Page No.43
9	Ozone GSP Infratech	0.42	Volume – I Page No.43
10	Royalgolf Link City Project Private Limited	4.00	Volume – I Page No.43
<b>Total</b>		<b>32.69</b>	

9. Unexplained cash deposits/jewellery

Details are as under :

Name of person	Amount/ value (in crore)	Refer Page No.
Anil Kumar Sharma (Cash)	5.73	Volume II - page no 419, Point no 7
	1.50	Volume II - page no 420, Point no 12
Raj Dulari (mother of Anil Kumar Sharma) (Cash)	0.13	Volume II - page no 420, Point no 9
Shiv Priya (cash)	6.00	Volume II - page no 422, Point no 6
	1.00	Volume II - page no 422, Point no 11
Shiv Priya (Jewellery)	0.58	Volume II - page no 422, Point no 11
<b>Total</b>	<b>14.94</b>	

A **10.** Balance due to Noida Authority and Greater Noida Authority as per affidavits submitted by them before Hon'ble Supreme Court of India

B The Group paid only 1<sup>st</sup> installment to Noida and Greater Noida authorities and did not pay in almost all the cases the installment due, lease rent and interest under one pretext or another. The Group has not made any provision for additional interest due to delay in payments of installments. We had issued a letter dated 30<sup>th</sup> January, 2019 to Noida Authority to send us the complete information/ documents regarding the amounts due from Amrapali Group of Companies. But we have not received any such details from the Noida Authority. In these circumstances balance due to Noida Authority Couldn't be verified by us.

C It was further informed to us by the management of Amrapali that Noida and Greater Noida authorities have submitted three claims before the Honourable Supreme court. We were produced one of the annexure of the affidavit and the same is reproduced below.

D We found that Noida/Greater Noida authority administration was non active for reasons best known to them. Amrapali group never paid the 2nd installment but Noida and Greater Noida authorities continued to allot large size land to them without fail. They never bothered to issue even a notice to be pasted at site for the information of home buyers that the land dues had not been paid so that home buyers could be cautious and on alert. In spite of non receipt of any installment, lease rent, interest they were very trumped in giving no objection certificate for the borrowings to Amrapali group from different sources like JP Morgan, ICICI and Aditya Birla Pvt equity funds and/or various banks.

F **a) Noida Authority**

S. no.	Name of the Company	Amount (In Crores)
1	Amrapali Sapphire Developers Private Limited	348.8
2	<b>Eden park Developers Private Limited</b>	31.7
3	Amrapali Silicon City Private Limited	537.9
4	<b>Amrapali Princely Estate Private Limited</b>	149.6
5	Amrapali Patel Platinum	115.5
6	<b>Amrapali Zodiac Developers Private Limited</b>	276.1
<b>Total</b>		<b>1,459.6</b>

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**b) Greater Noida Authority**

S.no.	Name	Amount (In Crores)
1	Amrapali Smart City Developers Pvt Ltd	628.06
2	Amrapali Leisure Valley Developers Pvt Ltd	255.37
3	<b>Amrapali Leisure Valley Pvt Ltd</b>	914.33
4	<b>Amrapali Centurian Park Pvt Ltd</b>	569.36
5	Amrapali Dream Valley Pvt Ltd	718.28
<b>Total</b>		<b>3,085.4</b>
<b>Grand Total (a+b)</b>		<b>4,545</b>

**11. Balance payable against Term Loans**

Name of the Company	Name of the bank	Date of Confirmation	Total (In Crores)
<b>Ultra Home Constructions Private Limited</b>	Indian Overseas Bank	31-12-2018	16.15
	Corporation Bank	5/2/2019	91.49
Amrapali Smart City Developers Private Limited	Corporation Bank	5/2/2019	143.74
Amrapali Leisure Valley Developers Private Limited	Andhra Bank	5/2/2019	98.04
	Bank of Maharashtra A/c	5/2/2019	179.02
	Andhra Bank	5/2/2019	13.56
	Bank of Maharashtra	5/2/2019	22.24
Amrapali Silicon City Private Limited	Bank of Maharashtra	5/2/2019	95.34
<b>Total</b>			<b>659.58</b>

**Note:** Information in respect of bank loans has been given to the extent of availability of documents.”

61(a). The aforesaid is the summary of report of the Forensic Audit which states that the Group collaborated with external parties like J.P. Morgan in contravention of FEMA and distributed returns along with the principal amount, even though it did not book gains within the business of the company.

(b). The report also reveals various disturbing features that no accounts were prepared from 2015 to 2018 and money was withdrawn

A out of it and diverted from one company to another. The entire transactions were not being entered into Tally. The opening balances were not entered properly. In April 2015, the Amrapali Group introduced Far Vision an ERP, which was also not implemented properly.

(c). There was no information about purchases from the supplier.  
B During a search in 2013, it was held by Income Tax Authorities that purchases are being made from bogus suppliers without receiving the goods physically. Bogus expenses and cash has been surrendered by Amrapali Group in the income tax search.

(d). The amount shown as developmental charges is not supported  
C by evidence or vouchers. The total bogus expense has been ascertained to Rs.842.42 crores. An amount of Rs.0.25 crore was paid to Mr. Alok Ranjan towards brokerage.

(e). The company has also made unusual cash payments in the  
D financial year 2016-2017 by transferring cash to the Site, but the same is not supported/authenticated by the Site Cash In-charge. Certain payments have not been found to be genuine.

(f). The Group Companies purchased gold bar worth Rs.5.88 crore, which is a personal expense and it should be recovered from the management of the company.

(g). The amount disbursed by Banks was not utilised for  
E constructions of projects and the funds of homebuyers as well as the amount disbursed from the Banks were diverted to unapproved uses, namely, creation of personal assets of Directors; creation of assets in closely held companies by Directors along with their partners and  
F relatives; funds were used for personal expenses of Directors; funds were advanced to unrelated entities for several years without levying interest on unrealized amount, the recoverable amount from third parties has amounted to Rs.326 crores; creation of discreet projects for personal income; and construction of assets for other projects.

(h). There were negligence and non-monitoring by Bankers. There  
G was a transfer of funds from one company to another company to a third company and so on and so forth on the same dates would not have been possible without the active support of the Bankers. They turned blind eye to all the transfers and did not inquire, which were being routed every day. If they had been alive to the situation, the Management

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would not have dared to launder the money from one company to another according to their whims and fancies and the Bankers are solely responsible for the negligence on their part. The Bankers did not do any monitoring. The Bank of Maharashtra and Andhra Bank also failed to do the monitoring. Even the basic checks were foregone. The Banks acted as a mute spectator to unapproved diversion which was happening evidently in all banking transactions. Even, Noida and Greater Noida Authorities were grossly negligent in reviewing and monitoring the progress of projects and did not take any action for non-payment of land dues and continued to allot land to Amrapali Group for the reasons best known to them. A  
B

(i). The Directors along with trust partners discreetly divided the projects into two parts: C

(i) Projects in which home buyers funds were received and funds were diverted from these projects;

(ii) Projects to which home funds were diverted. These projects were subsequently separated/demerged from Amrapali Group, e.g., Heartbeat City, La Residentia, Vinayaka Square. D

(j). Several dummy companies were formed in the names of office boys and peons. Technically, the allotments at the initial stage were void ab-initio. The amount received by the Companies from home-buyers was more than the amount spent on construction and for payment of the land. The sole objective of taking a loan was to divert the funds to other ventures to create assets in the name of family members and to make movies. Villas were bought at tourist destination for fun at the expenses of the middle class and low-income group people. E  
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(k). Several companies were created solely for the purpose of routing funds. These companies did not have any material transaction as per the main object for which they were incorporated and did not have a business since their incorporation. G

62. As is apparent from the report, several companies were created only to route the funds and transactions consisting of office boys, persons with no income and dummy companies in which family members and relatives were inducted as members only for few transactions, which are as under: H

A (1) Jhamb Finance & Leasing Private Limited.

It was under the control of Mr. Chander Wadhwa, CFO. It has advanced loans amounting to Rs.875 crores to related and unrelated entities, which are recoverable.

B (2) Gaurisuta Infrastructure Private Limited

It was also created for diverted funds.

(3) Neelkanth Buildcraft Private Limited

C Similarly it was formed for the purpose of buying shares from J.P. Morgan at exorbitant rates, consisting of office boys and relatives of Mr. Anil Mittal, Statutory Auditor.

(4) Stunning Construction Private Limited

As per findings of the Forensic Auditors, they should either surrender 19.75 percent of land or 632 flats.

D (5) Kapila Buildhome Private Limited

It financed a sum of Rs.392.68 crores. It accepted non-interest bearing inter-corporate deposits from non-group companies, which was used for money laundering.

E (6) Rudraksha Infracity Private Limited

It was consisting of office boys and relative of Anil Mittal, Statutory Auditor, which was created to receive money from Mannat Buildcraft Private Limited and to transfer it to J.P. Morgan Investments by purchasing it at exorbitant rates and for no other transaction.

F (7) Mannat Buidcraft Private Limited

It was created for money laundering of Rs.120 crores, only for few transactions.

(8) Amrapali Magadh Developers Private Limited

G It did not carry out any principal business activity. The purpose of its creation is not clear. The shareholders paid the share application money in cash.

(9) Amrapali Mahi Developers Private Limited

H It received share capital in cash and all the expenses were paid in cash.

(10) Amrapali Spring Valley Private Limited A

It was created for the purpose of routing and diversion of funds amounting to Rs.186 crores has been found.

(11) Amrapali Media Vision Private Limited

It was created making movies. There was no necessity of creation of this company for advertising. It was created to divert funds to make movies. Rhiti Management Private Limited was paid Rs.24 crores for professional charges and advertisement expenses etc. B

(12) Hawthorne Intellect Management Solutions Private Limited

It had paid up capital of Rs.1 lakh and incurred losses of Rs.2.33 crores. The expenses are inflated to wipe off the various loans and advances received from sister concerns. The entries have found to be dubious and the amount of loss of Rs.2.33 crores to be recovered from the Directors as it was wiping off the amount of the homebuyers. C

(13) Amrapali Smart City Private Limited D

It is stated in the report that plot allotted to Amrapali Smart City Private Limited was cancelled, therefore, money receivable from Greater Noida is Rs.18.35 crores.

(14) Amrapali Biotech India Private Limited E

It was created for routing funds. The ICD's are either from the group companies or received from outside the group companies through adjustment entries.

(15) Amrapali Healthcare Private Limited

It formed the property by funds of Ultra Home Construction Private Limited created from home buyers' funds. It deserves to be sold. F

(16) Amrapali Centurian Park Private Limited

The Forensic Auditors have found bogus booking of expenditure and certain adjustments against bogus billings of River Sand for an amount of Rs.3.60 crores. G

(17) Amrapali Leisure Valley Private Limited

Mr. Akhil Kumar Surekha became the Director and thereafter most diversions of funds took place through the current account. The H

- A funds of the company were transferred to and fro with companies in which Surekha family had control. FSI was sold without taking approval from Great Noida Authority. The money received from Bihari High Rise Private Limited was diverted to Jotindra Steel & Tubes Limited and Ozone GSP Infratech by routing it through Ultra Home Construction Private Limited. Bihariji High Rise Private Limited, Jotindra Steel & Tubes Limited and Mauria Udyog Limited are owned by Surekha family.
- B There was bogus booking of expenditure since March 2018 also of Rs.2.86 crores and other bogus entries of huge amounts.

(18) Amrapali Homes

- C It has been found that Mauria Udyog Limited has to pay Rs.20 crores and the same be recovered.

(19) La Residentia Developers Private Limited

- D The consortium of five members was created, which was controlled by Amrapali Group. The shareholders and directors were just acting faces for outsiders. There was diversion of funds since beginning of the project itself. The company purchased raw material from Amrapali Infrastructure Private Limited amounting to Rs.67.45 lakhs, but not even a single penny was paid since then. The loan amount of Rs. 49 crores were taken. On the other hand, there was withdrawal by Directors and advances given to the related parties and entities.
- E Amrapali Group transferred some of their buyers to La Residentia Developers Private Limited and the payment for the same was received by Amrapali Group. They were reflected as customers in the customer data of Amrapali Group. The company is using the brand name/trademark of Amrapali Group on its letterheads.

- F (20) Amrapali Homes Projects Limited

- G Mr. Prem Mishra was given Rs.12.40 crores for purchase of land since 1<sup>st</sup> April 2008, out of which Rs.10 crores are still receivable from him. Rs.55.87 crores are recoverable amounts and out of which Rs.20.75 crores pertain to advances against land which has not been charged to cost of construction.

(21) Ultra Home Construction Private Limited

- H The flats were allotted on false promises, forged documents and certain allotted flats did not exist in the approved building plan. Shareholders used the money of home buyers for allotment of shares in

the company. The records of certain lands purchased by the company disappeared, the details of which have been given. The company has advances recoverable amounting to Rs.111 crores. A

(22) Amrapali Grand

Bihariji Ispat Udyog Limited always had negative capital. Loans and advances amounting to Rs.25.73 crores have been diverted. The other diversions have also been noticed in the report. B

(23) Amrapali Eden Park Developers Private Limited

There is no substance in the nature of transactions of the company. It was for routing funds from one entity to another to hidden objective. Banks loans were diverted as advances to third parties. The funds were diverted for purposes other than development. C

63. Several companies were created for building assets. There was no compliance of the statutory obligations by the companies. The annual returns and audited financial statements have not been filed after 31.3.2015. The Registrar of Companies has disqualified the Directors, namely, Mr. Anil Kumar Sharma, Mr. Amresh Kumar, Mr. Shiv Priya, Mr. Ajay Kumar and Mr. Suvash Chandra Kumar for a period of 5 years under Section 164(2) of the Companies Act, 2013. The Company has not been regular in payment of TDS and service tax and has also not filed relevant returns after 31.3.2015. Mr. Anil Mittal, CA (Statutory Auditor) and Mr. Chander Wadhwa, CFO were in connivance with each other. Mr. Anil Mittal, CA blindly signed the accounts and along with Mr. Chander Wadhwa, CFO is grossly involved in making manipulation in the accounts. He has received payment on account of professional charges in the name of companies in which his relatives were Directors and this fact has not been disclosed in the audited financial statement. A sum of Rs.52.07 crore was adjusted on account of professional fees due and to be paid on account of audit fees. Further, a sum of Rs.16.36 crore was adjusted against a flat in Amrapali Princely Estate on account of audit fees. They incorporated 27 additional companies identified. They were shell companies, whose share capital was mostly subscribed in cash and the transfer of shares was also in cash leaving no audit trail. The home-buyers funds to the extent of Rs.5,619.47 crores have been diverted. There was diversion of funds to various suppliers, fake purchases and advances without any adjustment. Siphoning off funds had also taken place by way of booking under-valued transactions in D  
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A respect of the sale of flats. The Forensic Auditors have also traces of receiving cash from home-buyers, which is not accounted for in the books of accounts. The home-buyers funds were diverted to the tune of Rs.5,619.47 crores to the other companies through (i) payment of professional fee to Directors for Rs.100.53 crores; (ii) bogus billing for Rs.842.42 crores; (iii) under-valuing of flats to the tune of Rs.321.21  
 B crores; (iv) brokerage was paid against flats which were not sold by the company; and (v) inter-corporate deposits were given to related entities.

64. In J.P. Morgan, had also been found to routing money and in violation of FEMA by the Forensic Auditors. As pointed out, the equity shares were purchased at an exorbitant price to suit the requirements of  
 C J.P. Morgan. Sudit K. Parikh & Co., Chartered Accountants and the Auditors made the valuation on the basis of information provided by J.P. Morgan Investments. Amrapali Zodiac Developers Pvt. Ltd. has diverted home buyers fund and there was no need for any investment from J.P. Morgan. It was in the knowledge of Mr. Suraj Chhabria and also in the  
 D knowledge of J.P. Morgan that money had been diverted.

65. Rule 4 of FEMA Rules has been referred by the Forensic Auditors pointing out that External Commercial Borrowings (ECB) can be accessed under two routes namely Automatic Route and Approval Route. Under Automatic Route, the ECB is not permitted to be utilized  
 E for real estate sector, whereas under Approval Route the ECB are not permitted to be utilized for real estate. Rs.60 crores were remitted to Amrapali Leisure Vally Developers Pvt. Ltd. by J.P. Morgan without obtaining approval from the competent authority so as to make investment in the form of ECB. It is necessary to comply with the following :

- F (a) obtaining Loan Registration Number from R.B.I.;
- (b) file ECB-2 returns every month to the R.B.I.;
- (c) withhold tax on interest payment to J.P. Morgan under Section 195 of the Income Tax Act. As per Article 11 of the Avoidance of Double Taxation Agreement between  
 G India and Mauritius, the tax shall be charged @ 7.5 percent of the gross amount of interest;
- (d) J.P. Morgan would have to file its income tax return under Section 139 of the Income Tax Act in India due to withholding tax on its interest income borrower.

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66. The Forensic Auditors have also reported duplicate allotment of flats. They have provided the details of flats. Flats were allotted (residential and commercial) to the brokers and suppliers of which list has been given. Utilities like Milk Booth, nursery schools, senior secondary schools, nursing homes allotted to various parties should be cancelled. A

67. With respect to Sureka Group, it is pointed out in the Forensic Audit Report that they have been a partner in various projects and were authorised cheque signatories in various companies. It is observed that Rs.13.44 crores were paid to Surekha Public Charitable Trust, which is a group institution of Jotindra Steel and Tubes Limited, which amount should be recovered from Jotindra Steel & Tubes Limited. An amount of Rs.9,506,120 should also be recovered from Surekha Group. Funds were routed through Synergy Freightways Pvt. Ltd. Mr. Atul Kumar was allotted a flat which was not by way of adjustment. The amount should be recovered or his flat may be attached. B  
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68. With respect to R.N. Traders, an amount of Rs.2,714.02 lakhs have been withdrawn by the management for the purpose of their own use and should be recovered from the management. There is a billing of Rs.5.28 crores for the financial year 2015-16 in the name of Mauria Udyog Limited. Forfeiture of the investments has also been suggested in the group companies named by the Forensic Auditors. D

**CONSIDERATION OF SUBMISSIONS** E

69. In the instant matter, the question of larger public importance is involved. It is a shocking and surprising state of affairs that such large-scale cheating has taken place and middle and poor class home buyers have been duped and deprived of their hard-earned money and lifetime savings and some of them had taken a loan from the bank and they are not getting houses. Bank has made payment to the builder, owners have the liability of making payment of amount with interest, home buyers are still waiting for their dream houses to be completed. This is not only with respect to the Amrapali builders that projects have not been completed as reflected in the affidavits of Noida and Greater Noida Authorities. More than 70% of the projects have not been completed which were initiated way-back in the year 2008-09 and were supposed to be completed within 3 years. By the Amrapali Group, the buyers' money which has been obtained has not been invested in the construction activities, rather it has been diverted to a great extent. Money F  
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- A obtained from the banks has also not been invested in the projects and has been diverted elsewhere to acquire other assets.

70. There are huge liabilities of Noida and Greater Noida Authorities and though builders were asked way back on 17.11.2017 to deposit 10% of the amount with the Noida and Greater Noida authorities, that order was repeated again on 18.1.2018 but still that has not been complied with. Thereafter on the basis of joint note, this Court directed Amrapali group of companies to complete the projects but the order was not complied with. Various wrong representations were made in this Court. Developers backed out and an application was filed to waive the condition of deposit of Rs.250 crores to start work by the Amrapali group that shows that its action was mala fide and it never intended to complete various projects as rightly found by the forensic auditors and that their intention was to divert the funds and this they had done at a large scale as is borne out from their report.

71. The question involved in the case is whether the builders and promoters can be permitted to usurp and divert the money of home buyers and home buyers can be left in the lurch as a silent spectator. As per the Noida and Greater Noida authorities, in case the lease-deed is snapped, the entire constructed buildings shall have to be demolished within 3 months. As per the bankers, they have a charge on the property as the land has been mortgaged to them and until and unless their amount is paid, the builder will have no right on the property which has been constructed by their money, and the buyers have also to wait for the satisfaction of the dues.

72. In our opinion, if the real estate business has to survive in India, it has to be answerable to the public and has necessarily to uphold the trust reposed in builders/promoters. They have been paid huge amounts not only by the home buyers but also, they have to pay a huge amount for the public land given to them on lease by Noida and Greater Noida Authorities for construction of houses. The land has been given to them by the authorities on a concessional basis by making payment of 10% amount at the time of allotment. The builders have to be accountable to public/home buyers as well as the authorities and bankers. It is a matter relating to housing needs dealing with shelter place, such an activity is of the public importance as the real estate sector plays a pivotal role in the fulfilment of needs of housing infrastructure.

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A 1988 SC 157, *Shrilekha Vidyarthi v. State of U.P.*, AIR 1991 SC 537; and *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu*, AIR 1999 SC 2468).

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B 41. Power vested by the State in a Public Authority should be viewed as a trust coupled with duty to be exercised in larger public and social interest. Power is to be exercised strictly adhering to the statutory provisions and fact-situation of a case. “Public Authorities cannot play fast and loose with the powers vested in them”. A decision taken in an arbitrary manner contradicts the principle of legitimate expectation. An Authority is under a legal obligation to exercise the power reasonably and in good faith to effectuate the purpose for which power stood conferred. In this context, “in good faith” means “for legitimate reasons”. It must be exercised bona fide for the purpose and for none other. (Vide *Commr. of Police v. Gordhandas Bhanji*, AIR 1952 SC 16, *Sirsi Municipality v. Ceceila Kom Francis Tellis*, AIR 1973 SC 855, *State of Punjab v. Gurdial Singh*, AIR 1980 SC 319, *Collector (District Magistrate) v. Raja Ram Jaiswal*, AIR 1985 SC 1622, *Delhi Admn. v. Manohar Lal*, (2002) 7 SCC 222 and *N.D. Jayal v. Union of India*, AIR 2004 SC 867).”

E 74. In *Natural Resources Allocation, In re, Special Reference No.1 of 2012*, (2012) 10 SCC 1, the Court observed:

F “172. The judgment in *LDA v. M.K. Gupta*, (1994) 1 SCC 243, brings out the foundational principle of executive governance. The said foundational principle is based on the realization that sovereignty vests in the people. The judgment, therefore, records that every limb of the constitutional machinery is obliged to be people oriented. The fundamental principle brought out by the judgment is, that a public authority exercising public power discharges a public duty, and therefore, has to sub-serve general welfare and common good. All power should be exercised for the sake of society. The issue which was the subject matter of consideration, and has been noticed along with the citation, was decided by concluding that compensation shall be payable by the State (or its instrumentality) where inappropriate deprivation on account of improper exercise of discretion has resulted in a loss,

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compensation is payable by the State (or its instrumentality). But where the public functionary exercises his discretion capriciously, or for considerations which are malafide, the public functionary himself must shoulder the burden of compensation held as payable. The reason for shifting the onus to the public functionary deserves notice. This Court felt, that when a court directs payment of damages or compensation against the State, the ultimate sufferer is the common man because it is tax-payers money out of which damages and costs are paid.”

75. In *Association of Unified Tele Services Providers & Ors. v. Union of India & Ors.* (2014) 6 SCC 110, the Court observed:

“4. We have indicated, the worth of spectrum to impress upon the fact that the State actions and actions of its agencies/ instrumentalities/ licensees must be for the public good to achieve the object for which it exists, the object being to serve public good by resorting to fair and reasonable methods. State is also bound to protect the resources for the enjoyment of general public rather than permit their use for purely commercial purposes. Public trust doctrine, it is well established, puts an implicit embargo on the right of the State to transfer public properties to private party if such transfer affects public interest. Further, it mandates affirmative State action for effective management of natural resources and empowers the citizens to question ineffective management.”

76. In the instant case, it is apparent that there are colossal dues of Noida and Greater Noida Authorities. The dues of Noida Authorities as on 30.4.2019 are Rs.2191.38 crores and dues of Greater Noida authority are stated to be Rs.3234.71 crores as on 15.1.2019. Thus, the total dues of Noida and Greater Noida authorities are more than Rs.5426.09 crores; by now more than Rs.5500 crores. Payments were made to Noida authorities in 2010 and some amount in 2013; in-between or thereafter, except one or two payments no other amount has been paid. There were several defaults in making the payment of the premium amount, lease money, even the money payable to the farmers as compensation for land acquisition has not been paid by the builders, as is apparent from the account statement filed on behalf of the Noida authority. Though the builder has realised from home buyers the amount payable

- A to authorities of Noida and Greater Noida as a component of the price payable by them.

77. Once the Noida and Greater Noida Authorities knew very well that there were defaults, they could not have allotted further land to the Amrapali group without insisting for payment of its dues. Secondly, it was not open to the authorities to permit the sub-leases of plot of land executed by builders, thereby allowing the leaseholder to earn a huge amount without making payment of the amount due to them. The officials of the authorities have acted in clear breach of public trust. They have permitted the defaulting leaseholders to earn the amount by sub-leasing its land of which dues had not been cleared. Thus, apparently, the officials of the authorities acted clearly in collusion with the builders and overlooked the interest of the Authorities and home buyers while permitting the sub-leases of plot of land to be granted. It passes comprehension how the officials of the authorities could have permitted such sub-leases in the factual scenario of the case when even the basic obligation to raise the construction was not being fulfilled by the builders and they were not paying the dues of premium, lease money etc. The action of the officials of the authorities has the effect of causing unjust enrichment of builder from the land held by the concerned authorities. It was wholly an illegal exercise permitted.

78. We are of the considered opinion that the officials of the Noida and Greater Noida authorities have acted clearly in a breach of public trust and apart from that, they have failed to act as per the statutory mandate, the regulations and the terms of the lease deed. The transfer of the plot by the lessee was only on fulfilment of certain conditions. The dues of lessor towards the cost of land were to be cleared in accordance with the schedule of payment. Following provision is contained in lease deed dated 3.8.2010 entered into between Greater Noida Industrial Development Authority and M/s. Amrapali Leisure Valley Developers Pvt. Ltd. The relevant provision with respect to the transfer of the plot is extracted hereunder:

G “TRANSFER OF PLOT

. Without obtaining the completion certificate the Lessee shall have the right to sub-divide the allotted plot into suitable smaller plots as per planning norms and to transfer the same to the interested parties up to 30.0.2010, or as decided by the Lessor,

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with the prior approval of LESSOR on payment of transfer charges @ 2% of allotment rate. However, the area of each of such sub-divided plots should not be less than 20,000 sq. mtrs. However, the individual flat/plot will be transferable with prior approval of the LESSOR as per the following conditions:- A

(i) The dues of LESSOR towards the cost of the land shall be paid in accordance with the payment schedule specified in the Lease Deed before executing of sub-lease deed of the flat. B

(ii) The lease deed has been executed.

(iii) Transfer of flat will be allowed only after obtaining completion certificate for the respective phase by the Lessee. C

(iv) The sub-Lessee undertakes to put to use the premises for the residential use only.

(v) The Lessee has obtained building occupancy certificate from the Building Cell/Planning Department, GREATER NOIDA. D

(vi) First sale/transfer of a flat/plot to an allottee shall be through a Sub-lease/Lease Deed to be executed on the request of the Lessee to the LESSOR in writing.

(vii) No transfer charges will be payable in case of the first sale, including the built-up premises on the sub-divided plot(s) as described above. However, on a subsequent sale, transfer charges shall be applicable on the prevailing rates as fixed by the LESSOR. E

(viii) Rs. 1000/- shall be paid as processing fee in each case of transfer of flat in addition to transfer charges.”

(emphasis supplied) F

79. In the lease deed, the schedule of payment was fixed. Two years was the period of the moratorium and thereafter payment was to be made on expiry of 23.10.2012, onwards up to 23.4.2020. In case of default in depositing the amount, the interest @ 15% compounded half yearly shall be leviable. With respect to the extension of time, it is provided that in exceptional circumstances, time to deposit for payment of balance due amount may be extended by the CEO for 15% interest compounded half yearly. The extension of time, in any case, cannot be allowed for more than 60 days for each instalment to be deposited, subject to a G

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A maximum of 3 such extensions during the entire payment schedule. The provision relating to the extension of time is extracted hereunder:

“A. EXTENSION OF TIME

B 1. In exceptional circumstances, the time of deposit for the payment of balance due amount may be extended by the Chief Executive Officer of the Lessor.

2. However, in such cases of time extension, interest @ 15% per annum compounded half yearly shall be charged on the outstanding amount for such extended period.

C 3. Extension of time, in any case, shall not be allowed for more than 60 days for each instalment to be deposited, subject to maximum of three (3) such extensions during the entire payment schedule.

D 4. For the purpose of arriving at the due date, the date of issuance of allotment letter will be reckoned as the date of allotment.”

E 80. The lease was granted for a term of 90 years. It is specifically provided in lease deed condition No.(ii)(c) that the lessee shall use the allotted plot for construction of group housing/flats/plots. Condition No.(ii)(c)(iii) deals with the part transfer of the plot. It lays down normally the permission for part-transfer of the plot shall not be granted under any circumstances. The lessee shall not be entitled to complete the transaction for sale, transfer, assign or otherwise part with possession of the whole or any part of the building constructed thereon before making payment according to the schedule specified in the lease deed of the plot to the lessor. Relevant condition No.2(c)(iii) is extracted hereunder:

F “(c) The Lessee shall use the allotted plot for construction of Group Housing/flats/plots. However, the Lessee shall be entitled to allot the dwelling units on a sub-lease basis to its allottee and also provide space for facilities like Roads, Parks, etc. as per their requirements, convenience with the allotted plot, fulfilling requirements or building bye-laws and prevailing and under mentioned terms and conditions to the Lessor. Further transfer/ sublease shall be governed by the transfer policy of the Lessor.

G i) Such allottee/sub Lessee should be a citizen of India and competent to contract.

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ii) Husband/wife and their dependent children will not be separately eligible for the purpose of allotment and shall be treated as single entity. A

iii) Normally, the permission for the part transfer of plot shall not be granted under any circumstances. The Lessee shall not be entitled to complete transaction for sale, transfer, assign or otherwise part with possession of the whole or any part of the building constructed thereon before making payment according to the schedule specified in the lease deed of the plot to the Lessor. However, after making payment of premium of the plot to the Lessor as per schedule specified in the lease deed, permission for transfer of built-up flats or to part with possession of the whole or any part of the building constructed on the Group Housing Plot, shall be granted and subject to payment of transfer charges as per policy prevailing at the time of granting such permission of transfer. However, the Lessor reserves the right to reject any transfer application without assigning any reason. The Lessee will also be required to pay transfer charges as per the policy prevailing at the time of such permission of transfer. B  
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The permission to transfer the part of the built-up space will be granted subject to execution of tripartite sub-lease deed which shall be executed in a form and format as prescribed by the lessor. On the fulfilment of the following conditions: - E

a) The lease deed of the plot has been executed and the Lessee has made the payment according to the schedule specified in the lease deed of the plot, interest and one-time lease rent. Permission of sub-lease deed shall be granted phase wise on payment of full premium (with interest up to the date of deposit) of the plot of that phase. F

b) Every sale done by the Lessee shall have to be registered before the physical possession of the property is handed over. G

c) The Lessee has obtained building occupancy certificate from the Planning Department, Greater Noida.

d) The Lessee shall submit list of individual allottees of flats within 6 months from the date of obtaining occupancy certificate. H

- A e) The Lessee shall have to execute sublease in favour of the individual allottees for the developed flats/plots in the form and format as prescribed by the LESSOR.
- f) The Sub-Lessee undertakes to put to use the premises for the residential use only.”

B (emphasis supplied)

81. In view of the aforesaid clause, by way of sub-lease of the plot, the transfer of plots could not have been made by the lessee. The lessee was required to start construction within 12 months from the date of possession. The date of execution of lease deed shall be treated as the date of possession. The lessee shall be required to complete the construction of minimum 15% of the total FAR of the allotted plot as per the approved layout plan and get occupancy/completion certificate within 3 years from the date of execution of the lease deed. Cancellation of lease deed is also provided in the case of violation of directions, or rules, regulations or in case of the default on the part of the lessee for breach or violation of terms and conditions of the registration/allotment/lease and/or non-deposit of allotment amount. In the case of cancellation, if the plot is occupied by the lessee, an amount equivalent to 25% of the total premium of the plot shall be forfeited and possession of the plot will be resumed by the lessor with structure thereon, if any, and the lessee will have no right to claim compensation thereof. The provision relating in lease deed as to its cancellation is extracted hereunder:

“CANCELLATION OF LEASE DEED

F In addition to the other specific clauses relating to cancellation, the Lessor, as the case may be, will be free to exercise its right of cancellation of the lease in the case of:-

- G 1. Allotment being obtained through misrepresentation/suppression of material facts, misstatement and/or fraud.
2. Any violation of directions issued or rules and regulation framed by Lessor or by any other statutory body.
3. Default on the part of the Lessee for breach/violation of terms and conditions of registration/allotment/lease and/or non-deposit of allotment amount.

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4. If at the same time of cancellation, the plot is occupied by the Lessee thereon, the amount equivalent to 25% of the total premium of the plot shall be forfeited and possession of the plot will be resumed by the Lessor with structure thereon, if any, and the Lessee will have no right to claim compensation thereof. The balance, if any, shall be refunded without any interest. The forfeited amount shall not exceed the deposited amount with the Lessor and no separate notice shall be given in this regard. A  
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5. If the allotment is cancelled on the ground mention in sub-clause 1 above, then the entire amount deposited by the lessee till the date of cancellation shall be forfeited by the Lessor and no claim whatsoever shall be entertained in this regard.” C

82. As provided by clause 6, the lease deed/allotment shall be governed by the provisions of the U.P. Industrial Area Development Act, 1976 and by the rules and/or regulations made or directions issued under the Act. Clause 7 requires the lessor to monitor the implementation of the project. The applicants who do not have a firm commitment to implement the project within the time limits prescribed are advised not to avail the allotment. In larger public interest the lessor under clause 13 is also given a right to take back possession of the land/building by making payment at the prevailing rate. Condition Nos.6, 7 and 13 are extracted hereunder: D  
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“6. The Lease Deed/allotment will be governed by the provisions of the U.P. Industrial Area Development Act, 1976 (U.P. Act No.6 of 1976) and by the rules and/or regulations made or directions issues, under this Act.

7. The Lessor will monitor the implementation of the project. Applicants who do not have a firm commitment to implement the project within the time limits prescribed are advised not to avail the allotment. F

13. The Lessor in larger public interest may take back the possession of the land/building by making payment at the prevailing rate.” G

(emphasis supplied)

Thus, it is apparent that the officials of the concerned authorities have not discharged their duty in accordance with the trust enjoined H

- A upon them under aforesaid terms and conditions of lease deed, thus, by their inaction, enabled cheating of the home buyers at a large scale. They were well aware of what was happening on the spot.

**IN RE: MORTGAGE**

- B 83. With respect to the creation of mortgage deed in favour of bankers etc., Noida Authority has submitted that every mortgage permission is granted by the Noida Authority to the individual company of Amrapali group wherein a provision is made that Noida Authority has first charge/priority over all other charges including those created in favour of banks and financial institutions. The conditions on which permission to mortgage had been granted are as under:

- C “This is to inform you that Noida shall have no objection for the purpose of financing his investment in the project on Group Housing Plot No.001, Sector 119, Noida in favour of Nationalised Banks/ Financial Institutions/HUDCO, New Delhi or to issue NOC to mortgage the said land to facilitate the housing loans of the final
- D loans of the final purchasers subject to such terms and conditions as may be decided by the Authority at the time of granting the permission. This permission is being granted subject to the condition that in the mortgage deed, following clauses will be included:-

- E (i) That the financial institution in whose favour mortgage permission is required should be recognised by the Reserve Bank of India/National Housing Bank/HUDCO New Delhi. Noida shall have the first charge towards the pending payment in respect of plot/flat allotted/lease rent/taxes or any other charges as informed or levied by the Authority on the plot and the banks/financial
- F institutions/HUDCO New Delhi, shall have the second charge on the dwelling units thus being financed.

- G (ii) The mortgage permission shall be effective on making full payment of premium and up to date annual lease rent of group housing plot and after execution of sub-lease deed in favour of allottee of the dwelling unit and the allottee/sub-lessee shall be governed by the terms and conditions of allotment/lease deed of the plot to be executed and sub-lease deed to be executed in favour of the allottee sub-lessee. In the event of sale/transfer of flat, transfer charges at the rate prevailing at the time of transfer shall be payable to Noida.
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(iii) Each allottee/sub-lessee of the dwelling units shall have to intimate Noida of the creation of the mortgage in favour of bank/financial institutions/employer and the bank/financial institution/employee of the allottee shall also keep Noida informed about the dwelling units thus financed. A

(iv) It is further to inform you that in the case of cancellation of lease, Noida Authority will give 30 days' notice to nationalised Banks/financial institutions/HUDCO, New Delhi prior to exercising its right of re-entry on the premises." B

(emphasis supplied)

84. The permissions to mortgage containing aforesaid clauses have been placed on record along with affidavit dated 22.11.2018. It is apparent from the second condition, subject to which permission to mortgage shall be effective on making full payment of the premium and up to date annual lease rent of group housing plot and after execution of the sub-lease deed in favour of the allottee of the dwelling unit, the allottee/sub-lessee shall be governed by the terms and conditions of allotment/lease deed of the plot to be executed and sub-lease deed to be executed in favour of the allottee/sub-lessee. Since at no point of time, payment of premium due had been made and up to date annual lease rent had not been paid, no mortgage could have been created in favour of the bank in view of specific condition No.2 extracted above. Thus, when the conditional permission granted by the authority was furnished to the bank for obtaining the loan by promoters/builders, it was incumbent upon Bank officials to ascertain from the concerned authorities that the premium due under the leases has been paid and lease rent due up to date has also been paid. In order to create a mortgage, it was necessary to obtain clear NOC in order to create effective mortgage deed. As that has not been done so far, no mortgage in the eye of law has been created in favour of the bank. It was not open to the bankers to mortgage the land in view of the conditional permission to create mortgage, the mortgage created in violation of condition cannot be said to be effective in accordance with law as the land was owned by the concerned authorities and the lessees had right to mortgage only subject to fulfilment of conditions imposed by the lessor/authorities. C  
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85. On behalf of Noida and Greater Noida authorities, it was pointed out that they had taken steps reminding the lessees to pay dues by issuing H

- A notices w.e.f. 2007 to 2017. In our opinion, in spite of no payment made by lessees, failure to take action, makes their position further worse. As no effective action had been taken and officials have permitted wilfully contumacious violations of conditions of the lease. Right under their nose and to their knowledge serious kind of fraud had been taking place and officials have clearly connived with builders. In spite of construction activity lying stand still for years together dues not being paid. As a matter of fact, issuance of conditional NOC was with ulterior motive, there was no reason to issue such a conditional permission, subject to which mortgage could have been made. They could not have issued any conditional permission for creation of a mortgage also without payment of amount due, permission has been issued obviously for being misused, in collusion with the officials of the bank and Authorities. It was incumbent upon the concerned authorities not to issue such an NOC for a mortgage and it was incumbent upon the bank officials in order to create a valid mortgage to ascertain from the Noida and Greater Noida Authorities that the condition imposed by them as condition precedent to create a mortgage had been fulfilled and to obtain clear NOC. But that is how in illegal manner the public money is obtained from banks for the purpose of construction activity and then it was not used for that purpose, as found in the forensic audit report in which it is rightly pointed out that there was a diversion of money. The amount of loan advanced by banks was not used for the purpose it had been obtained for a particular project and it was diverted to other companies. It was happening not only under the nose of Noida and Greater Noida authorities, but was directly in the knowledge and connivance of the bankers as day-to-day transactions in the bank accounts were pointing out that the money was being siphoned and diverted for other purposes routinely, not being utilised for the purpose it was given. Thus, all of them have helped in perpetuating the fraud on the home buyers by Amrapali group of companies, its various Directors, officials and others who have been specified in minute details in the forensic audit reports. The case also indicates that not only the banks have failed to ensure that mortgage was effected in accordance with the law, but also they have failed to check whether money was in fact, required for the projects and was used for purpose it was lent. By the collusion, the money paid by home buyers to builders which included money payable to the Authorities could be diverted, had the deposit made by home buyers been unutilised, money due under lease would have been paid to authorities before the creation of the mortgage. Money
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borrowed from bank, in fact, was not required for completion of these projects as the money paid by the buyers was enough for that purpose, but that was also diverted and the money obtained from the banks was also not utilised for the purpose it was taken and it was well within the knowledge of the bankers and Authorities that the funds were being diverted, but they remained mute spectators.

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**DIVERSION OF FUNDS**

86. It has been observed in extensive detail in the forensic audit report that the Bank of Baroda, Syndicate Bank, Bank of India, Corporation Bank did not monitor utilisation of funds and acted as a mute spectator to diversion which was almost happening evidently in all banking transactions. In the case of Amrapali Zodiac Developers, Bank of Baroda has advanced an amount which was diverted immediately on receipt. The details have been given in the forensic auditors' report extracted above. There was no amount due as on the date of the transfer. In the case of Amrapali Princely Estate Pvt. Ltd., the details have been given with respect to the Syndicate Bank and Bank of India as to how immediately on receipt, the funds were diverted to several parties. In the case of Amrapali Eden Park Developers Pvt. Ltd., there was a receipt from the Corporation Bank, and similar is the position. Immediately the funds were diverted to the third parties as detailed in the forensic report. Details of diversion of loan funds have been given in a tabular form in Section XII from pages 426 to 457 of the report. The submissions which have been raised on behalf of Bank of Baroda that due observance of norms was observed before sanctioning the loan, before disbursal and an independent Lenders' Engineer had been appointed in order to monitor the contract. Monitoring was done during and post disbursal of loan by Bank of Baroda. As a matter of fact, the bank has not been able to show what steps it has taken to stop the diversion of funds to third parties on the same date of disbursal of the amount. The aforesaid stand of the Bank is falsified by the Forensic Auditors' report.

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87. The transactions of Amrapali Zodiac Developers Pvt. Ltd. with J.P. Morgan were clearly in order to avoid the provisions of the Companies Act. It is apparent that Mr. Anil Mittal, Statutory Auditor, did not report his interest and disclosed about his relatives and junior employee as Director and shareholders. Mr. Chandan Kumar was a junior employee and Mr. Atul Mittal was his relative. Thus, it is apparent that Rudraksha Infracity Pvt. Ltd. was created for money laundering as aforesaid two

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- A Directors and shareholders had no income, Rudraksha Infracity Pvt. Ltd. was incorporated to receive funds from Mannat Buildcraft which was also created by Mr. Chander Wadhwa, CFO through his close associates. After receiving money from Mannat Buildcraft Pvt. Ltd., the same was transferred to J.P. Morgan Investments for purchasing equity shares of Amrapali Zodiac Pvt. Ltd. at an exorbitant price.
- B There was no transaction before or after these transfers of monies in the aforesaid dummy companies. To suit the requirement of J.P. Morgan Investments, in entirety incorrect valuation report was prepared by M/s. Sudit K. Parikh & Co., Chartered Accountants. The methodology and procedures defined of computation of fair market value were not followed
- C at the time of exit. J.P. Morgan was having full control on Amrapali Zodiac Developers and no action could have taken as per clause 10.4.3 without investors' approval. The profit cannot be recognised until the project is completed. Thus, there cannot be any distributable amount as profit for distribution to J.P. Morgan. It has also been found by the Forensic Auditors that J.P. Morgan was in the knowledge of the fact that Amrapali Zodiac Developers had paid the money received to other companies of Amrapali group. Advances exceeded the limits specified in the shareholders' agreement, but J.P. Morgan did not ensure bringing back the money. It was accepted by Mr. Suraj Chhabria that it was in his knowledge and that of J.P. Morgan that the money has been diverted
- D from shareholder's agreement and share subscription agreement. The valuation of the shares did not follow the correct methodology of discounted cash flow as detailed out by the forensic auditors. The valuation exercise was done backwardly in order to inflate the value of share to siphon out the money of home buyers through J.P. Morgan.
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- F 88. The FEMA rules prohibited the kind of transactions which were entered into with J.P. Morgan. Rule 4 of FEMA has been clearly violated. Master Circular No.8/2010-2011 of July 1, 2010, dealing with external commercial borrowings and trade credits clearly provides that external commercial borrowings are not permitted to be utilised for real estate business under the automatic route. The term real estate excludes
- G the development of the integrated township. It was not a case of development of the integrated township. Even if it is taken to be a case of integrated township as submitted on behalf of J.P. Morgan, then also for approval route, hedging is required as pointed out by the Forensic Auditors in their report and borrowers had to submit their report about
- H the signing of loan agreement with the lender for obtaining Loan

Registration Number. In case J.P. Morgan had invested in the form of ECB, following would have been the requirements: (i) obtaining Loan Registration Number from the RBI; (ii) file ECB-2 returns every month to the RBI, (iii) to pay tax on interest payment to J.P. Morgan; and (iv) to file income tax return. We are in agreement with the findings of the forensic auditors in this regard. It is clear that it was a methodology adopted by the group to siphon out the funds of the home buyers in violation of the FEMA rules and the notifications and by the creation of dubious companies for which appropriate action is warranted by the concerned authorities.

89. The report of Forensic Audit also indicates that the Company has received a sum of Rs.140 crores during the financial year 2012-13 from IPFFI Singapore PTE Limited under Foreign Direct Investment Scheme. As per FEMA Rules, this amount was to be invested in real estate construction projects only.

90. The IPFFI Singapore PTE Limited which was incorporated on 20.5.2011, entered into a Share Subscription Agreement with ASCPL on 23.8.2012 and paid a sum of Rs.140 crores to ASCPL in the following manner on 7.8.2012:

- (a) INR 85 crores received in Axis Bank, Indirapuram Branch on 7.8.2012.
- (b) INR 55 crores received in BOB Escrow Account on 7.8.2012.

Thus, a total sum of Rs.140 crores was received in Axis Bank. The amount was received in Axis Bank of INR 85 crores was transferred to Amrapali Centurian Park Pvt. Ltd. in three proportion. On 7.8.2012, Rs.5 crores were transferred. On 8.8.2012, an amount of Rs.50 crores was transferred and on 18.8.2012, Rs.30 crores were transferred. The ACPPL on receiving Rs.85 crores allotted equity shares worth INR 85 lakhs to ASCPL and balance INR 84.15 crores were treated as share premium account. There is no valuation report available as to how the share premium of INR 84.15 crores had been calculated. This transfer of fund by ASCPL to ACPPL is termed as absolutely violative of FDI Rules and agreement. With respect to Rs.55 crores routed from IPFFI Singapore in the Escrow Account of Bank of Baroda, Escrow Account was transferred from 8.8.2012 to 28.9.2012 in the account of Bank of Baroda and used for payment of term loan instalments of OBC and

- A Bank of Maharashtra for repayment of their term loan instalment. This money was not meant for payment of term loan instalment as per FDI Rules. It was to be used in the construction.

91. The ASCPL did not use the money for the project which was received from IPFII Singapore but transferred Rs.85 crores to ACPPL and Rs.55 crores to repay bank loan instalments and repay the outstanding creditors provided for in the books and standing in the books. The said payments have rightly been held by Auditors to be in contravention of the FDI norms and rules and for which the money was brought in India.

92. From 2013 to 2015, ASCPL has paid interest of Rs.58.81 crores @ 17 percent, which is a highly abnormal rate. A sum of Rs.14.41 crores was paid on 31.3.2013. Likewise, on 31.3.2014, Rs.22.20 crores were paid and on 31.3.2015, another amount of Rs.22.20 crores was paid. The violations were made with the knowledge of the IPFII Singapore and they were in connivance with the ASCPL.

93. The stand of the Bank of Baroda that they have independently appointed Lender's Engineer is of no avail. There was negligence on the part of Bank of Baroda and merely proceeding before the Court in 2017 to recover the amount is not going to serve the purpose. More so, in view of the finding of the Forensic Audit that there was no necessity of obtaining the loan from the Bankers as Amrapali Group had sufficient money from the home buyers, which has also been diverted and has not been utilised in the construction activities. Other assets have been created with the help of the same and the borrowings have been used in order to siphon off the money by making payment of some unusual amount not only to J.P. Morgan, but also to IPFII Singapore in violation of the FEMA Rules and FDI Rules as found by the Auditors in the respective cases.

94. It was submitted that the Bank of Baroda has obtained the deed of corporate guarantee *inter alia* from Ultra Homes Construction Ltd, Rinku Clothing Creations Pvt. Ltd., Jotindra Steels and Tube Limited and Vidyashree Buildcon Pvt. Ltd. RoC search report and CA certificate had also been obtained. Lender's Legal Counsel Report dated 2.3.2012 verifying the validity and enforceability of financing documents and creation of securing on assets of ASCPL is also on record. Jotindra Steels and Tubes Limited issued a corporate guarantee, it was absolutely improper for the Bank of Baroda to discharge the bank guarantee without payment of amount in view of the fact that Jotindra Steels and Tubes

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Limited was not ready to subscribe to the capital was no ground for Bank of Baroda to discharge Jotindra Steels and Tubes Limited. Once guarantee has been given and in view of the finding recorded by the Forensic Auditors as to the nature of bid by the Jotindra Steels and Tubes Limited and other persons, it is apparent that action was illegal. A

95. The leases had been granted by Noida and Greater Noida Authorities subject to the provisions contained in U.P. Industrial Area Development Act, 1976. Section 13 of the U.P. Industrial Area Development Act, 1976 deals with imposition of penalty and mode of recovery of arrears, which states that where any transferee makes any default in the payment of any consideration money or instalment thereof or any other amount due on account of the transfer of any site or building by the Authority or any rent due to the Authority in respect of any lease or where any transferee or occupier makes any default in payment of any amount of fee or tax levied under the Act, in addition to the amount of arrears, a further sum not exceeding that amount shall be recovered from the transferee or occupier by way of penalty. Under Section 13-A, any amount payable to the Authority under Section 13 shall constitute a charge over the property and may be recovered as arrears of land revenue or by attachment and sale of property in the manner provided under the provisions of Uttar Pradesh Municipal Corporations Act, 1959 (Act no.2 of 1959). Section 14 provides for the resumption of any site or building and forfeiture of whole or any part of the money if any paid in respect thereof. B  
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“14. (1) In the case of non-payment of consideration money or any instalment thereof on account of the transfer by the Authority or any site or building or in case of any breach of any condition of such transfer or breach of any rules or regulations made under this Act, the Chief Executive Officer may resume the site or building so transferred and may further forfeit the whole or any part of the money if any paid in respect thereof. F

(2) Where the Chief Executive Officer order resumption of any site or building under sub-section (1) the Collector may, on his requisition, cause possession thereof to be delivered to him and may for that purpose use or cause to be used such force as may be necessary.” G

96. The Authorities have failed to take action under the aforesaid provisions. The Authorities have also failed to perform the statutory H

A duty cast upon them to take prompt action. Merely filing of the case against Unitech Builders by way of petition in this Court did not furnish any grounds to the Authorities to remain silent spectator on the perpetration of fraud committed on the home buyers by Amrapali Group of Companies. Public trust doctrine requires an affirmative action, which was envisaged not only statutorily but under the Scheme also. They were required to ensure that projects were completed within the stipulated period, otherwise, the very purpose of the grant would stand frustrated and colossal loss of public money. Amrapali Group did not pay even the amount due to be paid to the landowners on the part of land acquisition, it did not pay premium annual lease amount interest to Authorities. They have violated every condition, but still, Authorities were bent upon to condone everything. This reflects absolute dereliction of duty cast upon the Authorities.

97. The Noida and Greater Noida Authorities and the Bankers have permitted diversion of funds of home-buyers and the possession of other assets by Amrapali Group. The buyers' money had been diverted, which was meant for construction on payment of dues of Authorities in case they were paid timely by the Amrapali Group to the Authorities and to the Banks substantively liability would have been cleared. But by their inaction and rather conniving, the buyers were cheated by the Amrapali Group. Authorities did not object when mortgages were effected in favour of Banks in violation of conditions. Bankers could not have violated conditions. Now, whatever complete/incomplete structures are there, the Authorities are claiming that buyers have no right and they have the first charge on the structure as they have to recover the amount, only thereafter if anything is left out, can be paid to the buyers. In case the submission is accepted, it would amount to playing further fraud upon the fraud. It was incumbent upon the Authorities as well as the Banks to prevent the fraud. Now, if Banks, as well as the Authorities, are permitted to recover the amount from the home-buyers' investment, in that case, it would be equally unjust and would be against the conscience of the law and nothing would be left for buyers not even a brick and the structures have come up by investing their money. Law never permits unjust gain based upon fraud. The principle "fraud vitiates" is clearly attracted and such a transaction would become unenforceable and would be against the public trust doctrine. Real estate business can never prosper in case of breach of trust, bankers, Authorities in connivance and the builders are permitted to take away the innocent home-buyers'

money without being accountable to their action/inaction. From tomorrow huge money will be collected from home buyers by the builder, banks would act in connivance and the Authorities sleep in slumber, permitting diversion of money of buyers/bankers, etc., and the home-buyers will be paying the dues of all concerned without investment of a penny by builder and rather they are diverting the money of the home-buyers in connivance with Authorities and Bankers and they are left without dream homes. If that is a factual scenario, no Court can permit such fraud to be perpetrated. Since "*fraud vitiates*", the bounden duty of the Court is to act as *parens patriae* not only to save the home-buyers but also to ensure that they are not cheated.

98. Authorities and Bankers have not acted in furtherance of public interest and failed to perform duties enjoined upon them. The kind of fraud that has taken place not only in Amrapali Group of Companies but at large as more than 70 percent of the various projects have not come up, is alarming to the Courts to take affirmative steps with the direction to prevent such frauds, restore the money of home-buyers and to punish incumbents responsible for such act. At the same time to ensure that buildings are completed. It cannot be denied that lifetime savings of home-buyers have been invested for purchase of a house with the faith and trust they have given the money. The scheme of the Government is to promote the real estate for which land had been acquired, even poor farmers have not been paid the compensation. The land allotted at throw away prices of 10%, the allotment premium has not been paid and in an illegal manner plots have been allotted on huge amount by builders is another fraud in collusion with Authorities.

99. How buyers get their houses and can be suitably compensated for the delay that has taken place in the matter and they are left at the juncture where the builder has diverted the funds for the last several years and no construction activities have taken place. For several years, no accounts were maintained from 2015 till date and a lot of money had been withdrawn from the Banks. The orders passed by this Court on 22.11.2017 to deposit 10 percent of the amount was not complied with by the Amrapali Group. Thereafter again on 17.5.2018, this Court permitted them to carry forward the project, but they did not do so and were not ready to deposit the amount of Rs.250 crores to show their bona fide to undertake construction activity and efforts had been made to wriggle out of assurances on which basis this Court had passed the orders.

A 100. On behalf of Authorities provisions contained in Section 13  
of the Uttar Pradesh Apartment (Promotion of Construction, Ownership,  
and Maintenance) Act, 2010 has been pressed into service. It is submitted  
that transfer cannot be made in favour of home-buyer without executing  
the Transfer Deed. As per Section 5 of Act of 2010, flat buyers become  
entitled to ownership and possession of the Apartment and undivided  
B interest in the common areas as specified in the deed of the Apartment.  
It is further submitted that tripartite sub-lease deed has to be entered  
into in order to transfer ownership to the home-buyers, consisting of  
Authorities, builders and home-buyers and before that is done, it is  
necessary for builder to obtain the completion certificate on fulfilment of  
C certain conditions. The main objection raised by the counsel is with  
respect to the issuance of completion certificate is default of the payment  
of amount with interest to be made under lease and relating to fire safety.  
It is also pointed out that completion certificate is necessary to be issued,  
the issuance of the same would depend upon payment of the dues and  
D the Authorities, later on, will have no mechanism to recover the dues,  
once registered conveyance deed is executed in favour of home-buyers.  
According to Authorities, the buyers may contend that they have paid  
the entire consideration to the builder, who has defaulted in making the  
payment for the flat and the privity of making the payment is between  
the concerned Authorities and the builder. It is also submitted on behalf  
E of Authorities that in part completion also, the certificate can be issued  
against the part payment received, however, the completion certificate  
would be issued in the same proportion minus 10 percent so that financial  
interest of the Authorities is protected. Sub-lease deed would be executed  
as per the present policy up to 90 percent of the proportion in which part  
F payment has been received.

G 101. In our opinion, in the ordinary course, there cannot be any  
dispute with respect to the aforesaid propositions. However, in the instant  
case, the facts indicate that 9000 families are residing for the last several  
years out of the sheer necessity of shelter place and they have not been  
provided with electricity connections and other facilities due to non-  
issuance of occupancy certificate by the concerned authorities. Most  
of them have paid the entire amount to the builders. The amount  
outstanding as against home buyers have to be used in completion of  
building. The payment to be made to concerned Authorities had also  
been collected by the builder from home buyers as component of price  
H of flat, but has not been deposited with the concerned Authorities and

the home buyers' money had been diverted, which was more than the A  
dues of the Authorities and the Banks taken together. Had timely action  
been taken by them no amount could have been diverted and the position  
would have been different as it stands today. However, since we have  
attached various other properties where home buyers' money has been B  
invested, the rights of the Authorities as well as bankers to get the money  
recovered from the other properties of the builder Amrapali Group/  
Directors and where they have invested money and belonging to the  
guarantors in the various transactions. However, at the same time for  
want of payment to Authorities and Bankers by the builder under these  
facts and circumstances, it would be absolutely improper for the  
Authorities to deny issuance of occupancy or completion certificate, C  
especially on the ground of non-payment of dues. As per the interim  
orders, we have ensured that fire safety devices are fitted in buildings at  
appropriate places wherever necessary and in case it is lacking at any  
place we have to ensure that they are fitted and there are no other  
violations pointed out in the construction so far made. Thus, the D  
concerned Authorities have to issue occupancy certificate as well as  
completion certificate with respect to the projects in which home buyers  
residing without insisting for the payment of their dues. This Court has  
to monitor the payment of the dues to the Authorities as well as the  
Bankers, from guarantors and other proprietors. The innocent buyers  
cannot be made to suffer for no fault on their part. E

102. Once Authorities have allowed 9000 home-buyers to occupy  
the premises without terminating the lease on the ground that occupation  
is illegal. Obviously, builders have put them in possession, they are not  
the encroachers and they have invested their valuable saving and have  
no other shelter place to live. They cannot be deprived of their houses F  
and cannot be left without basic necessities of life like water, electricity,  
etc. The concerned Authorities are responsible to provide electricity,  
water, and all other basic amenities to buyers as they have the right to  
occupy the premises. In the peculiar facts of the case, we have directed  
the Authorities to provide basic necessities forthwith. We also direct the  
Central Government and Government of Uttar Pradesh to ensure that G  
everything is done to protect the interest of the home-buyers obviously  
without obliging the builders. Wherever we seek any favour for home-  
buyers, we see that defrauding parties i.e., promoters/builders are further  
obliged by making certain concessions by the Government that would  
amount to perpetrating further fraud and unjust enrichment of builder. H

- A The case poses challenge to the law enforcement agencies to act in tandem to book such culprits.

103. When there are defaults galore, creation of fake and dummy companies in an unbridled manner, it passes comprehension that how the Statutory Auditor has failed to discharge the duty cast upon him and the officials of the Amrapali Group also shared hard earned money of home-buyers in an illegal manner by siphoning it off. Directors had obtained salaries without doing anything. Money is diverted and siphoned off in other projects. Office junior employees, peons and relatives etc. were inducted as Directors just to defraud the home-buyers of their money and to siphon it out. Without material being supplied, a large amount of money had been paid by way of forged purchases as a method to divert money even through authorised signatories and the Companies of the relatives, family members and relations of the Directors and Guarantors also. In the case fraud is to such large extent, it is difficult to capulise the facts in a narrow compass, for that when we see the report and good job done by the Forensic Auditors to unearthed the fraud. They have gone into minute details forensically and done their job extremely well, due to which serious kind of fraud has been unearthed with the involvement of so many persons as referred to by them. We direct the concerned Authorities to look into the violation of the FEMA and FDI norms as projected by the Forensic Auditors in their report and to submit progress report in this Court.

**IN RE: RERA**

104. The Bill was passed in the Rajya Sabha on 10.3.2016 and in the Lok Sabha on 15.3.2016. The Bill intended to standardise business practices and transactions in the real estate sector. It intends to ensure consumer protection. It intends to regulate transaction related to both residential and commercial projects. The Statement of Objects and Reasons are as under:

“STATEMENT OF OBJECTS AND REASONS

- G The real estate sector plays a catalytic role in fulfilling the need and demand for housing and infrastructure in the country. While this sector has grown significantly in recent years, it has been largely unregulated, with absence of professionalism and standardisation and lack of adequate consumer protection. Though the Consumer

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Protection Act, 1986 is available as a forum to the buyers in the real estate market, the recourse is only curative and is not adequate to address all the concerns of buyers and promoters in that sector. The lack of standardisation has been a constraint to the healthy and orderly growth of industry. Therefore, the need for regulating the sector has been emphasised in various forums. A

2. In view of the above, it becomes necessary to have a Central legislation, namely, the Real Estate (Regulation and Development) Bill, 2013 in the interests of effective consumer protection, uniformity, and standardisation of business practices and transactions in the real estate sector. The proposed Bill provides for the establishment of the Real Estate Regulatory Authority (the Authority) for regulation and promotion of real estate sector and to ensure sale of plot, apartment or building, as the case may be, in an efficient and transparent manner and to protect the interest of consumers in real estate sector and establish the Real Estate Appellate Tribunal to hear appeals from the decisions, directions or orders of the Authority. B C D

3. The proposed Bill will ensure greater accountability towards consumers, and significantly reduce frauds and delays as also the current high transaction costs. It attempts to balance the interests of consumers and promoters by imposing certain responsibilities on both. It seeks to establish symmetry of information between the promoter and purchaser, transparency of contractual conditions, set minimum standards of accountability and a fast-track dispute resolution mechanism. The proposed Bill will induct professionalism and standardisation in the sector, thus paving the way for accelerated growth and investments in the long run. E F

4. The Real Estate (Regulation and Development) Bill, 2013 *inter alia* provides for the following, namely:-

- (a) to impose an obligation upon the promoter not to book, sell or offer for sale, or invite persons to purchase any plot, apartment or building, as the case may be, in any real estate project without registering the real estate project with the Authority; G
- (b) to make the registration of real estate project compulsory in case where the area of land proposed to be developed H

- A                    exceed one thousand square meters or number of  
apartments proposed to be developed exceed twelve;
- (c) to impose an obligation upon the real estate agent not to  
facilitate sale or purchase of any plot, apartment or building,  
as the case may be, without registering himself with the  
B                    Authority;
- (d) to impose liability upon the promoter to pay such  
compensation to the allottees, in the manner as provided  
under the proposed legislation, in case if he fails to  
discharge any obligations imposed on him under the  
C                    proposed legislation;
- (e) to establish an Authority to be known as the Real Estate  
Regulatory Authority by the appropriate Government, to  
exercise the powers conferred on it and to perform the  
functions assigned to it under the proposed legislation;
- D                    (f) the functions of the Authority shall, *inter alia*,  
include – (i) to render advice to the appropriate  
Government in matters relating to the development of real  
estate sector; (ii) to publish and maintain a website of  
records of all real estate projects for which registration  
E                    has been given, with such details as may be  
prescribed; (iii) to ensure compliance of the obligation cast  
upon the promoters, the allottees and the real estate agents  
under the proposed legislation;
- (g) to establish an Advisory Council by the Central  
F                    Government to advice and recommend the Central  
Government on – (i) matters concerning the  
implementation of the proposed legislation; (ii) major  
questions of policy; (iii) protection of consumer  
interest; (iv) growth and development of the real estate  
sector;
- G                    (h) to establish the Real Estate Appellate Tribunal by the  
appropriate Government to hear appeals from the direction,  
decision or order of the Authority or the adjudicating  
officer;
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- (i) to appoint an adjudicating officer by the Authority for adjudging compensation under sections 12, 14 and 16 of the proposed legislation; A
- (j) to make provision for punishment and penalties for contravention of the provisions of the proposed legislation and for non-compliance of orders of Authority or Appellate Tribunal; B
- (k) to empower the appropriate Government to supersede the Authority on certain circumstances specified in the proposed legislation;
- (l) to empower the appropriate Government to issue directions to the Authority and obtain reports and returns from it. C

(5) The Notes on clauses explain in detail the various provisions contained in the Real Estate (Regulation and Development) Bill, 2013. D

(6) The Bill seeks to achieve the above objectives.”

105. It is apparent from the aims and objectives that Act ensures greater accountability towards consumers and significantly reduce fraud and delays. Accountability standards have been laid down where duties cast upon promoters as well as the effort has been made to make consumer also responsible. E

106. Before coming to the rival submission with respect to RERA, we deem it appropriate to note certain provisions. Common areas have been defined under Section 2(n). The apartment has been defined under Section 2(e). Section 2(k) defines carpet area, whereas Section 2(q) defines completion certificate. Completion certificate to mean that certificate issued by competent authority certifying that the project has been developed according to the sanctioned plan, layout plan and specifications as approved by the competent authority. Occupancy certificate has been defined in Section 2(zf) which states that certificate issued by the competent authority permitting occupation of any building which has provision for civic infrastructures such as water, sanitation, and electricity. Section 2(zk) defines promoter as a person who constructs or causes to be constructed an independent building or a building F  
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- A consisting of apartments or converts an existing building for the purpose of selling to other persons; a person who develops land into a project; any development authority or any other public body; an apex State level co-operative housing society etc.; any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name; and such other person who constructed any building or apartment for sale to general public.

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 107. It is provided under Section 3 that no promoter shall advertise, market, book, sell or offer for sale any plot, apartment or building in any real estate project or part of it without registration with the Real Estate Regulatory Authority established under the Act. The provisions of the Act have also been made applicable to the ongoing projects on the date of commencement of the Act and for which completion certificate has not been issued, the promoter shall make an application to the Authority for registration of said project within three months from the date of commencement of the Act.

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 D The projects of Amrapali Group have registration under the RERA is an admitted fact. The provisions of the RERA are applicable is also not in dispute.

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 F 108. Section 4 requires the application to be filed with specified documents for the purpose of registration. As per Section 4(2)(1)(D), 70 percent of the amount realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose and the promotor shall withdraw only to the proportion of the percentage of completion of the project. The accounts have to be audited in every six months and chartered accountant has to certify that amounts collected for a particular project have been utilised for that project and the withdrawal has been in compliance with the proportion of the percentage of the completion of the project. The provisions of Section 4(2)(1)(D) is extracted hereunder:

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 H **“4. Application for registration of real estate projects.- (1)\*\***  
 (2) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely: —  
 (1) a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating:-

(A)\*\* A

(B)\*\*

(C)\*\*

(D) that seventy per cent of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose: B

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project: C

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project: D

Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for that project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project. E

Explanation.- For the purpose of this clause, the term “schedule bank” means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);” F

109. When we consider the provisions in the instant case, it was necessary to deposit the amount in the account. In the year 2015, the RERA was in contemplation and certain provisions came into force on 1.5.2016 and some more Sections i.e., 3 to 19, 40, 59 to 70 and 79 and 80 came into force with effect from 1.5.2017. G

110. A blatant violation of the provisions of RERA has been done by the Amrapali Group. Since RERA contemplates timely completion of projects once registration has been granted under Section 5 and H

- A extension of registration under Section 6, it is only in the event of *force majeure* in case there is no default on the part of the promoter, registration can be extended in aggregate for the period not exceeding one year. *Force majeure* shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature. The registration granted under Section 5 is valid for a period declared by the promoter.
- B Section 7 provides that the Authority may on receipt of a complaint or *suo motu* or on the recommendation of the competent authority revoke the registration granted under Section 5 in case promoter makes default in doing anything required by or under the Act or the rules or the regulation made thereunder; the promoter violates any of the terms of approval given by the competent authority; the promoter is involved in any kind of unfair practice or irregularities. It is also independently provided that in case the promoter indulges in any fraudulent practices, the registration can be revoked. Upon revocation of the registration, the promoter shall be debarred from accessing the website in relation to that project under Section 7(4)(a). Under Section 7(4)(b), the Authority shall facilitate the remaining development works to be carried out in accordance with provisions of Section 8. Provisions of Section 7 is extracted hereunder:
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- E       **“7. Revocation of registration.** - (1) The Authority may, on receipt of a complaint or *suo motu* in this behalf or on the recommendation of the competent authority, revoke the registration granted under section 5, after being satisfied that—
- F               (a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder;
- (b) the promoter violates any of the terms or conditions of the approval given by the competent authority;
- G               (c) the promoter is involved in any kind of unfair practice or irregularities.
- Explanation.— For the purposes of this clause, the term “unfair practice means” a practice which, for the purpose of promoting the sale or development of any real estate project adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—
- H               (A) the practice of making any statement, whether in writing or the visible representation which,—

- (i) falsely represents that the services are of a particular standard or grade; A
- (ii) represents that the promoter has approval or affiliation which such promoter does not have;
- (iii) makes a false or misleading representation concerning the services; B
- (B) the promoter permits the publication of any advertisement or prospectus whether in any newspaper or otherwise of services that are not intended to be offered;
- (d) the promoter indulges in any fraudulent practices. C
- (2) The registration granted to the promoter under section 5 shall not be revoked unless the Authority has given to the promoter not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the registration, and has considered any cause shown by the promoter within the period of that notice against the proposed revocation. D
- (3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter. E
- (4) The Authority, upon the revocation of the registration,—
- (a) shall debar the promoter from accessing its website in relation to that project and specify his name in the list of defaulters and display his photograph on its website and also inform the other Real Estate Regulatory Authority in other States and Union territories about such revocation or registration; F
- (b) shall facilitate the remaining development works to be carried out in accordance with the provisions of section 8;
- (c) shall direct the bank holding the project back account, specified under subclause (D) of clause (I) of sub-section (2) of section 4, to freeze the account, and thereafter take such further necessary actions, including consequent de-freezing of the said account, towards facilitating the remaining development works in accordance with the provisions of section 8; G  
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A (d) may, to protect the interest of allottees or in the public interest, issue such directions as it may deem necessary.”

B 111. It is clear that RERA intends for completion of the project in case any fraud is committed by the promoter and the activity is not completed, the home-buyers cannot be left in lurch, allowing the prayer on behalf of Bankers as well as by the Authorities would amount to unfair treatment of home buyers in the facts of this case. It is too late for them to submit that home buyer has no rights in the teeth of the provisions contained in the RERA, which intends to prevent fraud.

C 112. Once registration lapses on non-completion of project within the time stipulated or it is revoked the consequence ensue as enumerated in Section 8 of RERA, the Authority is enjoined upon the duty to consult with the appropriate Government to take such action as it may deem including the carrying out of the remaining development works by competent authority or by the association of allottees or any other manner as may be determined by the Authority. The development work has to be completed and cannot be left in between. Section 8 reads thus;

D **“8. Obligation of Authority consequent upon lapse of or on revocation of registration.-** Upon lapse of the registration or on revocation of the registration under this Act, the Authority, may consult the appropriate Government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any other manner, as may be determined by the Authority:

E Provided that no direction, decision or order of the Authority under this section shall take effect until the expiry of the period of appeal provided under the provisions of this Act:

F Provided further that in case of revocation of registration of a project under this Act, the association of allottees shall have the first right of refusal for carrying out of the remaining development works.”

G 113. Functions and duties of the promoter are specified in Section 11. As per the provisions of this Section, the promoter shall be responsible to obtain the completion certificate or the occupancy certificate. He shall also be responsible for providing and maintaining the essential

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services on reasonable charges, till taking over of the maintenance by the association of the allottees. The promoter shall enable the formation of an association or society or co-operative society or federation of allottees. He shall pay all outgoings until he transfers the physical possession to the allottee. After he has executed an agreement for sale for any apartment, plot or building, he may not mortgage or create a charge on such an apartment, plot or building and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee. It is clearly provided under Section 11(4)(h), which is extracted hereunder:

**“11. Functions and duties of promoter.-**

(4) The promoter shall—

(h) after he executes an agreement for sale for any apartment, plot or building, as the case may be, not mortgage or create a charge on such apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or building, as the case may be;”

114. It is clear that is the duty of the promoter to abide by the time schedule of the completion of the project of the allottee. The time of completion of the project is fixed from the date of the agreement. Though the RERA has come into force after the mortgage had been created, the intendment of RERA is that after the execution of the agreement no such mortgage or charge should be created.

115. Section 14 provides adherence to sanctioned plans and project specifications by the promoter. Section 15 deals with the obligations of the promoter in case of transfer of a real estate project to a third party. The promoter shall not transfer or assign his majority rights and liabilities to a third party without obtaining the prior written consent of two-thirds allottees and without the prior written approval of the Authority. Section 16 deals with obligations of promoter regarding the insurance of real estate project. Section 17 provides for the transfer of title. It is incumbent upon the promoter to execute a registered conveyance deed in favour of

A the allottee along with undivided proportionate title in the common areas to the association of the allottees or the competent authority and the possession of the plot, apartment or building, as the case may be, shall be handed over to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be. Section 17(1) is extracted hereunder:

B “**17. Transfer of title.-** (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

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D Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.”

E 116. It is apparent that after the transfer of conveyance deed, the title vests in the allottee and of the common area in the association of the allottees or the competent authority as the case may be. No title remains with the promoter.

F 117. Section 18 deals with the return of amount and compensation. In case promoter fails to complete or is unable to give possession of an apartment, plot or building, he shall be liable on demand to the allottees. In case the allottee wants to withdraw from the project, without prejudice to any other remedy available, the promoter has to return the amount received in respect of that apartment, plot, building with interest in this behalf including compensation in the manner as provided under the Act.

G 118. The rights and liabilities of allottees are provided in Section 19, which is reproduced hereunder:

H “**19. Rights and duties of allottees.-** (1) The allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent

authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter. A

(2) The allottee shall be entitled to know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale. B

(3) The allottee shall be entitled to claim the possession of apartment, plot or building, as the case may be, and the association of allottees shall be entitled to claim the possession of the common areas, as per the declaration given by the promoter under sub-clause (C) of clause (I) of sub-section (2) of section 4. C

(4) The allottee shall be entitled to claim the refund of amount paid along with interest at such rate as may be prescribed and compensation in the manner as provided under this Act, from the promoter, if the promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement for sale or due to discontinuance of his business as a developer on account of suspension or revocation of his registration under the provisions of this Act or the rules or regulations made thereunder. D  
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(5) The allottee shall be entitled to have the necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building as the case may be, by the promoter. F

(6) Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any. G

(7) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6). H

- A (8) The obligations of the allottee under sub-section (6) and the liability towards interest under sub-section (7) may be reduced when mutually agreed to between the promoter and such allottee.
- (9) Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperative society of the allottees, or a federation of the same.
- B (10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be.
- C (11) Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building, as the case may be, as provided under sub-section (1) of section 17 of this Act.”
- D 119. Certain rights and duties as well as the liabilities to pay interest in case of default on the part of allottees are also provided in the provisions contained in Section 19. Chapter V provides for Real Estate Regulatory Authority, whereas Chapter VI deals with the Central Advisory Council. The provisions relating to Real Estate Appellate Tribunal are provided in Chapter VII. Chapter VIII contains provisions relating to offences, penalties, and adjudication and Chapter IX deals with finance, accounts, audits, and reports.
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- F 120. It is apparent that RERA intends protection of home-buyers and aims at completion of the buildings. The buildings have to be completed, for that, we are required to pass orders. We have already assigned the task to NBCC for completion of buildings as the promoters/builders have failed to complete the building within the time fixed and the time which could have been extended. Now, more than 10 years have passed and buyers were given the assurances that they would get flats within three years period by the promoter/builder. The maximum time fixed in RERA has also expired and extension could not have been beyond 1 year.
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- H 121. It is clear that common areas as provided under Section 17 have to be ultimately handed over to the Association of Allottees or the Competent Authority as the case may be. Thus, any sub-lease, alienation or transfer affected by the promoter of the common areas as defined in

the RERA and otherwise reserved under the plan shall be void and inoperative. A

122. As the basic obligations have not been complied with by the promoters, they cannot also be entitled to FAR. It was pointed out on behalf of Authorities that permissible FAR is 2.75, whereas it has been wrongly mentioned and worked out at 3.50 by the Amrapali Group. In the instant case, we find that there is serious kind of fraud by the promoters as such they cannot be said to be entitled to avail the FAR to utilise it or to alienate and more so when they have failed to complete the projects and pay the dues. B

123. It is also apparent from the provisions of the Act of 1976 as well as RERA and also the case set up by the Authorities that partial occupation certificate can also be issued. The completion certificate can be issued partially also as per the provisions of Uttar Pradesh Apartment (Promotion of Construction, Ownership, and Maintenance) Act, 2010. The main obstacle is said to be non-deposit of the amount which may be ordered to be paid, for that we may clarify in the peculiar facts and circumstances of the case, it has to be secured and recovered by way of selling other attached properties and the one, which have been created out of the diverted funds of the home-buyers and property of guarantors etc. The banks' borrowings have to be taken care of in a similar manner. The money payable to the Authorities had been diverted and huge amount of buyers' money had not been invested in the projects neither any part of the money of bank borrowings, in fact, were spent in the construction as found by the Forensic Auditors. The promoters are held accountable for the diversion of the money paid by the buyers as component of price of flats even on account of payment to Authorities. C  
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124. There appears to be non-issuance of the completion certificate, whereas the buildings are being occupied, we direct issue of completion certificate. This Court has to monitor the payment of dues of the Authorities and Banks and that outstanding are not going to create hurdle in the execution of the registered document/conveyance deed in favour of home buyers. It has to be executed by the concerned Authorities as well as by the Court Receiver and by the home buyers. The amount which is due on the part of home buyers has to be deposited in the account, which has been opened, in the UCO Bank by this Court. It has to be utilised firstly for the purpose of completion of the buildings and for providing other facilities and the home buyers of incomplete projects F  
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A also have to deposit the outstanding amount on their part in the aforesaid account opened in the UCO Bank and out of that amount, it has to be disbursed as per the orders to be passed by this Court for the purpose of construction and outstanding if any, shall be used for the purpose of payment of compensation to home buyers for the period of delay as per the agreement or as may be determined ultimately and other dues.

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125. With respect to percentage of profit of NBCC, we fix it at 8 percent. As it is a Government Undertaking, NBCC has to ensure that DPR is prepared reasonably and the work to be completed as expeditiously as possible.

C 126. Learned senior counsel on behalf of Bank of Baroda submitted that Amrapali Group as per the conditions of the lease deed executed by the Noida Authority had the right to mortgage the land with the prior permission of the authority for raising loans for the purpose of financing investment in the project. No doubt the lease deed contained a stipulation as to mortgage with prior permission but no clear-cut permission had been obtained from Noida authority. Noida authority has clearly stated as rider that until and unless the entire due premium is paid along with lease money due, no mortgage can be effected. The stand of the authority is clear that without payment of land dues no mortgage could be effected. Thus, in fact in the eye of the law no mortgage could be created as there was no permission to mortgage unless the dues were paid and thus the bank could not have mortgaged the property before clearance of the dues of the Noida Authority, and secondly, the mortgage was permissible for the purpose of financing the investment in the project. As a matter of fact, when this was the stipulation, it was the banker's duty to ensure that money made available was invested in the project.

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127. The Forensic Auditors' report makes it apparent that Bankers have failed to ensure and oversee that the money was invested in the projects. It was diverted elsewhere as rightly found by the Forensic Auditors. Thus, no charge can be said to have been created by bank loans on the projects as the money, in fact, it has not been used in the projects as such home buyers cannot be saddled with liability and also the projects. Even what was paid by the home buyers, had not been used in the projects and stands diverted. There was, in fact, no necessity for raising the loans from the bank. The money borrowed from banks was used to create other assets worth thousands of crores. Thus, the

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banks can realise their money from those assets and from guarantors and not from the investment of home buyers, not from the buildings in which loans granted by banks have not been invested, which have been erected partially or some are at the nascent stage, for which hard-earned money has been paid by the home buyers. Home buyers are not direct party to the bank loan, thus it was the duty of the bankers and Noida authorities, if they wanted to impose their charge, to ensure that no fraud takes place and money is invested in the projects for the purpose for which it has been taken not only the money paid by the home buyers but obtained from the banks and due to be paid to Noida authorities, is not usurped illegally by promoter/builder. Though it was realised as part of the component of the price of flat from the home buyers, by the promoters/builders its illegal diversion was permitted by Amrapali Group in connivance with the officers of the authorities and the bank. Thus, the very condition of investment in the project by bankers, subject to which the mortgage was permissible, had been violated. Thus, it cannot be said that any charge of the banks has been created on the projects. The charge would be on the property which has been purchased/created by dubious methods. It would be inequitable to fasten the charge against the investment made by the home buyers whereas they have not been benefited and rather have been cheated by the promoters for which bankers, as well as authorities, have to share the blame. We cannot perpetuate another fraud on the innocent home buyers in facts of the case of fastening liability of amounts payable to Authorities and Bankers.

128. Learned senior counsel on behalf of the Bank of Baroda, also submitted that the home buyers are not secured creditors, as such they have no right over secured creditors. While making the aforesaid submissions the provisions of RERA have been ignored. Though they may not be a secured creditor, they have a right to be treated in accordance with the law, fairly and they cannot be subjected to a fraudulent action by the promoters, that too in connivance with the bankers and officials of the Noida and Greater Noida authorities. Even otherwise, in such a situation the court has to come to their rescue and protect their interests, and it is the duty of the court to ensure that buyers get flats and development work is completed as intended under the RERA and the flats are handed over to home buyers after completion. In case the fraud is permitted to be perpetrated on the home buyers, the very purpose of enactment of RERA would stand defeated.

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- A 129. No doubt about it as submitted on behalf of Amrapali group of companies, that the provisions of RERA are for protecting the interests of promoters also. No doubt about it that the RERA intends to protect the interests of the promoters and home buyers both. However, in the instant case, we have given the opportunity to the promoters to deposit the 10% of the amount in December 2017 and January 2018 but orders
- B have met with non-compliance with all impunity. Thereafter on the assurance of the Amrapali Group that it would undertake the construction work and a joint plan was submitted after great wastage of time and energy and then order dated 17.5.2018 was passed that was also not
- C complied with. It was passed on a condition that a sum of Rs.250 crores to be deposited which was also not deposited by the Amrapali group to show its bona fide. The Group never intended right from the beginning to complete the construction work, has been rightly observed by Forensic Auditors. Thereafter, we have assigned the work to the NBCC. But at the same time, the effort has been made by Amrapali Group/ its Directors
- D to sell the property which has been created by diversion of home buyers' funds. Incorrect facts have been stated and suppressions have been made in various affidavits filed in this Court that the certain properties are not encumbered. Various applications are being filed one after the other by the encumbered holders with respect to several properties that they have the charge over the said property.
- E 130. That apart, several attached properties have been put to sale by DRT under the orders of this Court. In most of the cases, no buyers have turned up and/or the price offered by forming a cartel are too low. The property cannot be sold at throw away price. For example, in the case of a hospital situated at Noida, the very group of doctors wanted to
- F purchase, it who are running it, at a paltry sum by forming a cartel. Aforesaid is one of the examples of cartel formation that is how Amrapali group is instrumental in not allowing the properties to be sold. There appears to be some invisible hand holding buyers out and even the bankers are not coming up to finance the purchasers, is the genuine grievance pointed out at the Bar. Be that as it may. Entire gamut of facts indicates
- G the contumacious conduct of Amrapali Group, proper and correct disclosures on oath have not been made, even encumbrances are not being specified clearly in spite of repeated orders passed by us. They have sold several valuable properties during pendency of petitions as pointed out by the Forensic Audit Report. In the aforesaid circumstances,
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the submission raised on behalf of Amrapali group that under the provisions of the RERA their interest should be protected. In our opinion, considering the serious kind of fraud unearthed on the forensic audit, formation of dummy companies, violation of norms of foreign investment, violation of FEMA, siphoning off the money of home buyers, making payment of dividend without profits and a methodology had been devised of valuing the shares on an unreasonable higher basis so as to siphon out the money of the home buyers to J.P. Morgan etc. The creation of a large number of assets with the help of money of the home buyers. The Forensic Audit unfolds the true story of Amrapali Group. Right from 2015, no construction activity has taken place. Account books had not been maintained and money has been transferred continuously. No audit was made. Money was taken out from banks, and fake purchases have been made. Thus, they are not at all entitled for any indulgence under the provisions of the RERA. In view of their unholy conduct, defying description, their contumacious fraudulent conduct totally disentitles them and they are required to be dealt with as sternly as possible so as to make it exemplary one that such fraudulent actions do not recur in future, in real estate business in India. We are not a country in which Courts will permit such action and permit a person to go scot-free.

131. The agreement initially executed in favour of home buyers to purchase flats may not create any right in the property in praesenti, it will be only on the execution of the registered document that title is going to be perfected, but investment in project is only of home buyers. In this case, as they have paid money invested in projects, it is for the courts to do complete justice between the parties and to protect the investment so made and interests of home buyers and to ensure that they get the perfect title and the fruits of their hard earned money and lifetime savings invested in the projects.

132. On behalf of Bank of Baroda, learned senior counsel submitted that the agreement of promoter/builder with home buyers is unregistered as such, no right has been created in the immovable property in view of the provisions contained in section 49 of the Registration Act. The submission ignores and overlooks the provisions of RERA which intends to prevent such frauds on home buyers and ensure completion of projects and that of the agreement between promoters and buyers. There are various rights under the agreement as well as under the RERA.

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- A The agreement entered into at the time of allotment is the basis of the investment in the projects made by home buyers, it cannot be said to be a scrap of paper. It is their valuable investment which is required to be protected and cannot be permitted to be taken away by builder or secured creditors in an illegal manner. The provisions of section 17 of the Registration Act no doubt provide that a document of title requires compulsory registration, no doubt registered document has to be executed that also has to be taken care of by the Court so as to protect the interest of home buyers.

133. Learned senior counsel appearing on behalf of the Bank of Baroda urged that by virtue of the provisions contained in section 11(4)(g) of the RERA Act, it is the duty of the promoter to pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the association of allottees, which he has collected from the allottees, for the payment of outgoings, including the land cost, ground rent, municipal or other legal taxes, charges for water or electricity, maintenance charges, including the mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project. The two expressions of the provisions of Section 11(4)(g) are significant. Firstly, which the promoter has collected from the allottees. Secondly “which are related to the project”. In the instant case dues of the Noida/Greater Noida authorities have been collected from the allottees by the promoters but the authorities have permitted diversion of said amount by not taking any action in view of the chronic default right from the beginning. Though they knew that the promoter had booked the flats, even the permission to grant sub-lease of the plot had been granted in totally illegal manner without payment of dues of premium and lease rent etc. Conditional permission to the mortgage was issued without payment of the premium lease money etc. so as to perpetuate the fraud being done by the promoters. The mortgage created ought to have been objected in view of the conditions subject to which it could have been done. Obviously, it was done by Amrapali Group in connivance with officials of Authorities including the bankers. Thus when the authorities have themselves permitted fraudulent action money has been diverted, which has been paid by home buyers for payment to Authorities also, as premium was component of price and as bankers have also permitted diversion of loan amount, mostly on same day, it cannot be said in the

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facts of the case, that any amount of the bankers or that of authorities remains invested in the project. The *sine qua non* is the expression “which are related to the project” would mean that that amount recoverable from the allottee is the one which has been invested in the project. A third person can be held liable for the money payable to secured creditors in case it has been invested in the project, in case it has not been spent in constructions, same cannot be permitted to be realised from the project/home buyers, the investment of home buyers cannot be frittered away and to fasten liability upon the innocent buyers/allottees in that event would tantamount to perpetrating yet another fraud on them. Accountability, as per law, has to be fastened on promoters/builders and all concerned. It would amount to total deprivation of money of home buyers without any fault on their part or legal liability. It would amount to fastening liability upon them once over again by misuse of the process of law. The factual matrix unfolded on forensic audit indicates serious kind of fraud that has taken place which would shut the enforcement of liability clause as against the home buyers. The provisions of the first and second charge cannot come to the rescue of Authorities/Bankers. Under Section 11(4)(g) the promoter has to pay all outgoings which he has collected from the allottees, the payment of outgoings includes land cost, ground rent, charges for water or electricity, maintenance charges etc. As per the proviso to Section 11(4)(g), the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authorities. Outgoings which have been collected by the promoter can be and have to be recovered in the facts and circumstance of the case from them as intended by section 11(4)(g) of RERA.

134. Learned senior counsel on behalf of the Bank of Baroda submitted that the provisions of section 11(4)(h) of RERA provides that the promoter, after he executes an agreement for sale for any apartment, plot or building, cannot mortgage or create a charge on such an apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or building, as the case may be. The provision has a non-obstante clause. As the provision has given an overriding effect by non-obstante clause, the provision is no help to the banks as the agreement had been by promoters with home buyers entered into earlier in point of time to the creation of

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A the mortgage. There could not have been any mortgage created  
subsequently and even if validly created, it would not affect the right and  
interest of the allottee as intended by RERA. Thus, the right and interest  
of the allottee are safeguarded by virtue of the provisions contained in  
section 11(4)(h). As the project was pending, the provision intends to  
confer a right on the allottee and save the allottees and also their interests  
B from such liability. Even if the provision is held not applicable on the  
ground that RERA came into force later, since there was no valid  
mortgage as held by us, it was incapable of affecting the right or interest  
of the allottee. Had it been ensured that the money due to Noida and  
Greater Noida authorities was paid by the promoters to the authorities,  
C the fraud of siphoning of money would not have taken place to the extent  
it has been done. Moreover, the money borrowed from banks has not  
been invested in the projects. In fact, projects required no funding. It  
would be iniquitous to charge the allottees with the bankers' money.  
Thus, in the peculiar facts and circumstances of the case, we hold that  
rights or interests of the allottees are not at all affected by the mortgage  
D created by the bankers or by the dues of the Noida or Greater Noida  
authorities.

135. On behalf of the Bank of Baroda, Shri Maninder Singh  
learned senior counsel has submitted that section 4(2)(1) of the RERA  
requires the promoter to disclose the prior encumbrance. Therefore, the  
E RERA contemplates the creation of encumbrance even before the project  
is registered and such a plot can be offered to allottees. Basically, a  
declaration is required under section 4(2)(1)(A) that the land is free from  
all encumbrances or as the case may be, details of the encumbrances, if  
any, on such land, should be disclosed. The intention is that the allottee  
F should know about the encumbrance if any. The provision does not  
espouse the cause of the bank in any manner whatsoever.

136. On the strength of the provision of section 19(4) of RERA,  
learned senior counsel has submitted that the allottee should be entitled  
to claim the refund and compensation, if the promoter fails to comply or  
G is unable to give possession of the apartment, plot or building in  
accordance with the terms of the agreement for sale or due to  
discontinuance of his business as a developer on account of suspension  
or revocation of his registration under the provision of the RERA or the  
rules and regulations made thereunder. He submitted that the right of  
the allottees is restricted to only receiving the compensation from the  
H promoters. We wholly disagree with the submission. It is made in oblivion

of the provisions of Section 8 of the RERA which provides for completion of the development projects by the competent authority or by the association of allottees or in any other manner, as may be determined and the association of allottees shall have the first right of refusal for carrying out the remaining development work is the wholesome provision contained in the second proviso to section 8. To claim compensation is at the option of the allottee if the allottee wants to go out. That is an additional right, not the only right conferred under the RERA. He cannot be left in lurch but is entitled to claim the refund if he so desires. It is his option to claim the refund along with interest and compensation which is to be determined under the RERA. The rights of the allottees are not restricted to only receiving the compensation as submitted. The submission is too tenuous to be accepted.

137. A submission has also been raised that the RERA recognises and protects interests of the lenders and does not in any manner take away rights under any of the existing statutes such as T.P. Act, Debt Recovery Tribunal Act, SARFAESI Act. It is apparent from a perusal of RERA, which is a special Act, that certain rights have been created in favour of the buyers. The provisions of RERA have to prevail. When we come to the question of protection of rights of buyers even if RERA had not been enacted, under aforesaid laws in the facts of the case, a different view could not have been taken. However, there is no dispute that the bankers would have the right to recover their dues from whom and in what manner is the question which we have already answered. The provisions of RERA are beneficial to the home buyers and are intended to insulate them from fraudulent action, ensures completion of the building and it is the duty of the court to protect and ensure the home buyers' interest and at the same time to hold them responsible for the duties enjoined upon them under the said statute. We are not absolving the home buyers from the discharge of their liability if any. At the same time, they have the right of enforcement of their right for compensation due to undue delay in completion of the project.

138. It was submitted by learned senior counsel on behalf of the Greater Noida authority that title has to pass in home buyers by way of registered document as provided in section 17(1)(b) of the Registration Act and section 13 of the U.P. Apartments Act, 2010 and also the provisions of the lease deed. The deed of transfer will be a tripartite sub-lease deed. Completion certificate has to be obtained, for that it has to be applied for. Dues of the authorities have to be paid before a

- A completion certificate is issued. The charge of Noida and Greater Noida authority has priority over other charges. None of the aforesaid submissions impress us so as to defeat the rights of home buyers. We have already dealt with that the dues have to be recovered in accordance with law from the properties which have been created by the funds which have been diverted and the property of the directors etc. In order to do complete justice between the parties so that the faith of public is not shaken in the real estate sector and such frauds are prevented in the future. We cannot permit the authorities in the facts and circumstances of the case to deal with the rights of the home buyers in arbitrary and in an unjust manner.
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- C 139. In case the authorities are making allotment of plots at a paltry sum of 10% and giving the builders 8 years period to make payment of premium with a moratorium of 2 years then the period runs to 10 years and the project is to be completed within 3 years. It is clear that the authorities have to be very vigilant for securing their interests otherwise
- D in every case even if the promoter has completed the project and realised the charges from the home buyers and has not deposited the amount due to the authorities, in case no action is taken by the Authorities, can it be taken after 10 years against home buyers. The question arises whether innocent home buyers would have to pay the amount to authorities which they have already paid to promoters as part of the component of cost of flats or plots as the case may be, whether they are to be saddled once over again with the liability to pay, though the amount paid by them has been illegally usurped and diverted elsewhere and not paid to the authorities and they have acted in connivance of officials. The authorities have to be vigilant in such cases and not to tolerate the default. They
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- F have to blame themselves for their inaction and have to wait for the realisation of dues by sale of other properties and as against guarantors etc. The projects have to be completed as mandated by Section 8 of RERA
- G 140. It was submitted that the authorities on cancellation of the lease have to forfeit 25% of the amount and have to resume the lands along with the structure. It cannot be done in view of the provisions of RERA, particularly in view of the provisions of section 8 and other beneficial provisions contained in the said Act. Under section 14 of the Act of 1976, there can be forfeiture of the entire amount also, in case of
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breach of condition or breach of rules, etc. by the promoters/ builders. A  
Be that as it may. We hold and direct no action under any provisions  
derogatory to the interest of home buyers can be taken either by the  
authorities or the bankers in the peculiar facts and circumstances of the  
case, that is to say, that no part of the building can be demolished. Buildings  
have to come up and completed even the ones which are at the nascent  
stage as mandated by RERA. No doubt about it that in case of failure to B  
pay the dues the onus of payment of land dues has to be passed on to the  
buyers on pro-rata basis but in the instant case they have already paid  
the substantial amounts, huge amount has been permitted to be diverted  
by the authorities and bankers as such they have to wait for recovery  
and cannot act in a manner further detrimental to the interests of the C  
home buyers.

141. On behalf of Amrapali group, learned senior counsel submitted  
that there were *force majeure* conditions in completing the projects.  
There were legal impediments in the completion of projects within the  
period given in the flat-buyers agreement during the period from 2011- D  
15. The submission is baseless. It is apparent that the Full Bench of the  
High Court though held that the land acquisition was vitiated but still it  
was upheld. The High Court did not quash it for the reason that  
development has taken place. Higher compensation was ordered to be  
paid. That order was affirmed by this Court in 2015 in *Savitri Devi v.*  
*State of U.P.* (2015) 7 SCC 21. There was no interim stay granted by E  
the High Court on construction work, is made clear by the Noida and  
Greater Noida authorities. There was no room to entertain any doubt as  
to the fact whether for a particular village the acquisition had been  
quashed. There was no quashing of land acquisition and moreover, there  
was no stay. Only higher compensation was ordered to be paid. There F  
was no *force majeure* condition or any legal impediment as such the  
period from 2011 to 2015 cannot be treated as a moratorium period vis-  
à-vis the dues of Noida and Greater Noida authorities. The submission  
made as to the farmers' agitation etc. is too vague and 30% of the  
projects have come up; whereas 70% have not yet come up, out of the G  
projects in Noida and Greater Noida alone. It goes to indicate how at  
large-scale middle-class home buyers have been defrauded of their hard-  
earned money, taken away by the affluents and the officials in connivance  
with each other. Law has to book all of them. We are hopeful that law  
will spread its tentacular octave to catch all culprits responsible for such

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- A kind of fraud causing deprivation to home buyers. It is shocking and surprising that so many projects have remained incomplete. Several lakhs of home buyers have been cheated. As if there is no machinery of law left to take care of such situation and no fear left with the promoters/builders that such acts are not perceivable in a civilised society.
- B Accountability is must on the part of everybody, every institution and in every activity. We fail to understand the standard of observance of the duties by public authorities has gone so down that such frauds take place openly, blatantly, and whatever legal rights exist only on papers and people can be cheated on such wide scale openly, brazenly and with the knowledge of all concerned. There is duty enjoined under the RERA,
- C there has to be a Central Advisory Council as well as the role of the State Government is not ousted in order to protect against such frauds. We direct the Central Government and the State Government to take appropriate steps on the time-bound basis to do the needful, all other such cases where the projects have remained incomplete and home buyers have been cheated in an aforesaid manner, it should be ensured
- D that they are provided houses. The home buyers cannot be made to suffer when we are governed by law and have protective machinery. Question is of will power to extend the clutches of law to do the needful. We hope and trust that hope and expectation of home buyers are not going to be belied.
- E 142. We are not impressed by the submission that Amrapali Group had taken the lands and had paid a part of dues and has invested a certain amount. The statement of the expenditure of the money of the home buyers, in the construction activity that has been filed in the Court, is not supported by documents and is prima facie a scrap of paper. We
- F have called the concerned incumbents who have prepared it and cross-checked from them and we are satisfied that the statement filed on the expenditure of Rs.10,000 crores is nothing but a scrap of paper not supported by the books of account, supporting documents. It has to be outrightly rejected as there is an attempt made on siphoning off, apparent from the report of the Forensic Auditors also.
- G 143. In his affidavit, Anil Kumar Sharma has given details of companies from which funds were transferred to the extent of Rs.2,996.20 crores to different group companies, mainly from following nine companies:
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**CHART “E” DETAILS OF MAJOR COMPANIES FROM WHERE FUNDS WERE TRANSFERRED IN THE FORM OF ICD AND SHARE CAPITAL AS PER BALANCE SHEET TILL 2015**

Consolidated Amount Transferred from Amrapali Group till 31 <sup>st</sup> March 2015		
S. No.	Name of Companies	Net amount Transmitted/ Transferred from these companies of Amrapali Group of Companies (A) Amount in Cr,
1	Amrapali Smart City Dev. Pvt. Ltd.	538.59
2	Amrapali Centurian Park Pvt. Ltd.	518.78
3	Amrapali Dream Valley Pvt. Ltd.	445.33
4	Amrapali Leisure Valley Pvt. Ltd.	431.11
5	Amrapali Silicon City Pvt. Ltd.	391.57
6	Amrapali Leisure Valley Dev. Pvt. Ltd.	237.53
7	Amrapali Zodiac Dev. Pvt. Ltd.	224.47
8	Amrapali Princely Estate Pvt. Ltd.	186.99
9	Amrapali Sapphire Dev. Pvt. Ltd.	21.84
	Grand Total	2,996.20

The diversion of huge amount has been rightly detected on Forensic Audit.

144. Learned senior counsel appearing on behalf of Amrapali Group also submitted that the under-valued transactions have been found of INR 321.31 crores which is incorrect. The Forensic Auditors have given the details in their report along with reasons, we agree with them and have no hesitation to reject the submission.

145. As to other amounts with respect to advances which are recoverable, the explanation that there is a surrender of shares by Mr. Shiv Priya, etc. is not supported by books of accounts. There is no basis to contend so. No proper explanation has been given on behalf of Amrapali Group. Shares were purchased by Mr. Anil Kumar Sharma in his own name. It was clearly an advance. It was not purchased in the name of the company but in the individual’s name. There was cash in hand and other recoverable also, no proper explanation has been offered.

- A Cash in hand has to be deposited back as it belongs to home buyers. The finding as to the diversion of home buyers' funds is based on the figures worked on the basis of minute accounting as reflected in the auditors' report. There is no proper answer to each and every entry which have been gone into by the Auditors. General and broad submissions have been made which are flimsy and have no legs to stand. Thus, the objections
- B are rejected. The professional fee could not have been realised by the Directors. They were not the employees. They have not rendered any professional services. They along with other employees, statutory auditors, CFO, etc. have formed a cartel to defraud the home buyers for siphoning off their money. Dummy companies were created in the names
- C of peons, boys of office, the relation of statutory auditor, CFO, etc. and several companies were created only for the purpose of few transactions. The fact discloses how the fraud has been perpetrated upon the home buyers which defies description which could not have been unearthed except by skilful exercise done by the Forensic Auditors. Thus, we have no word to specify the extent of fraud played. Least said is better
- D as to the entire gamut of the facts and entire scenario of the case.

146. It is apparent from the report of the forensic audit submitted by Forensic Auditors that there is a serious kind of fraud played upon the buyers in active connivance with the officials of the Noida and Greater Noida Authorities and that of the banks. The money of the home buyers has been diverted. The Directors diverted the money by the creation of dummy companies, realizing professional fees, creating bogus bills, selling flats at undervalue price, payment of excessive brokerage, etc. They have obtained investment from J.P. Morgan in violation of FEMA and FDI norms. The shares were overvalued for making payment to J.P.
- E Morgan. It was adopted as a device for siphoning off the money of the home buyers to foreign countries. In view of the huge money collected from the buyers and comparable investments made in the projects, there was no necessity to obtain a loan from banks. The amount so obtained was not used in the projects. The mortgage deeds in favour of the banks were not permissible due to non-payment of dues of the Noida and
- F Greater Noida Authorities. The Noida and Greater Noida Authorities issued conditional NOCs. to create mortgages subject to payment of dues which were not paid. They issued such NOCs in collusion with builders. It was incumbent upon the bankers also to obtain clear unconditional NOCs. which were not obtained and to ensure that the dues were paid to Noida and Greater Noida authorities. They permitted
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diversion of money immediately after sanctioning of the loan and also in day to day transactions of Amrapali group of companies. A

147. No accounts were prepared *w.e.f.* the years 2015-2018 and money withdrawn was diverted during the said period. The Statutory Auditor, Mr.Mittal failed in duty and was part of fraudulent activities as found in the Forensic Report. The money obtained from banks was diverted to unapproved uses such as for the creation of personal assets of Directors, creation of assets in closely held companies by the Directors along with their partners and relatives, for personal expenses of Directors, to give advances without carrying interest for several years. There was total non-monitoring by the bankers. The money laundering was resorted to by Amrapali Group/ Directors. The Noida and Greater Noida Authorities were grossly negligent in reviewing and monitoring the progress of the projects and in collusion with leaseholders failed to take action concerning non-payment of dues and illegally permitted the group to sub-lease the land without payment of dues. Bogus allotments of flats were made. There were other irregularities galore. B  
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148. Because of their failure to fulfil the obligations towards the buyers and the serious kind of fraud which has been played by them upon the home buyers, the registration of Amrapali group of companies under the Real Estate Regulation and Development Act, 2016 deserves to be cancelled. E

149. Because of the gross violations of the conditions of lease deeds executed by the Noida and Greater Noida Authorities in favour of Amrapali group of companies with respect to various projects, are liable to be cancelled and the rights thereupon shall vest in the Court Receiver. F

150. There was no valid mortgage created in favour of Banks and there was a huge diversion of money paid by homebuyers which were more than required for payment of dues of the Noida/ Greater Noida Authorities and banks. The buyers have paid the dues of Noida and Greater Noida authorities as a component of the price for flats. Thus, the premium and other dues payable under the lease deeds to the Noida and Greater Noida Authorities, cannot be recovered from the home buyers or the projects in question. The dues as may be ordered shall be recovered by sale of other properties which have been created by the diversion of funds and have been attached by this Court. The banks have also failed to ensure that the money was used in the projects. As found in the forensic audit, there was no necessity of obtaining loans from the banks and it has not been used for the purpose it was obtained. G  
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A The Authorities and Bankers have violated the doctrine of public trust and their officials, unfortunately, acted in collusion with builders. The dues of the banks are also to be recovered from the other attached properties as observed by us.

B 151. The criminal cases have also been registered by the police, we propose to monitor the progress of the investigation. For violations of FEMA and FDI norms, we direct the Enforcement Directorate to make investigation in accordance with the law and submit reports quarterly to this Court. Money laundering aspect is also to be looked into by concerned authorities.

C 152. It has been found in the Forensic Audit Report that there are several recoverable from various companies as well as from individuals, Directors and other incumbents. We direct that as per the findings recorded by the Forensic Auditors, the money be deposited in this Court on a time-bound basis and other needful be done as observed by the Auditors. As we have approved the report, let the concerned companies/  
D Directors/ individuals take steps in compliance with the observations and findings made by Auditors to refund the amount and or to do needful as suggested within one month.

E 153. We have also found that non-payment of dues of the Noida and Greater Noida Authorities and the banks cannot come in the way of occupation of flats by home buyers as money of home buyers has been diverted due to the inaction of Officials of Noida/ Greater Noida Authorities. They cannot sell the buildings or demolish them nor can enforce the charge against homebuyers/ leased land/ projects in the facts of the case. Similarly, the banks cannot recover money from projects as it has not been invested in projects. Homebuyers money has been  
F diverted fraudulently, thus, fraud cannot be perpetuated against them by selling the flats and depriving them of hard-earned money and savings of entire life. They cannot be cheated once over again by sale of the projects raised by their funds. The Noida and Greater Noida Authorities have to issue the Completion/ Part Completion Certificate, as the case  
G may be, to execute tripartite agreement and registered deeds in favour of the buyers on part-completion or completion of the buildings, as the case may be or where the inhabitants are residing, within a period of one month.

154. Resultantly, we order as follows:

H (i) The registration of Amrapali Group of Companies under RERA shall stand cancelled;

- (ii) The various lease deeds granted in favour of Amrapali Group of Companies by Noida and Greater Noida Authorities for projects in question stand cancelled and rights henceforth, to vest in Court Receiver; A
- (iii) We hold that Noida and Greater Noida Authorities shall have no right to sell the flats of the home buyers or the land leased out for the realization of their dues. Their dues shall have to be recovered from the sale of other properties which have been attached. The direction holds good for the recovery of the dues of the various Banks also. B
- (iv) We have appointed the NBCC to complete the various projects and hand over the possession to the buyers. The percentage of commission of NBCC is fixed at 8 percent. C
- (v) The home buyers are directed to deposit the outstanding amount under the Agreement entered with the promoters within 3 months from today in the Bank account opened in UCO Bank in the Branch of this Court. The amount deposited by them shall be invested in the fixed deposit to be disbursed under the order of this Court on phase-wise completion of the projects/work by the NBCC. D
- (vi) In view of the finding recorded by the Forensic Auditors and fraud unearthed, indicating *prima facie* violation of the FEMA and other fraudulent activities, money laundering, we direct Enforcement Directorate and concerned authorities to investigate and fix liability on persons responsible for such violation and submit the progress report in the Court and let the police also submit the report of the investigation made by them so far. E  
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- (vii) We direct the Institute of Chartered Accountants of India to initiate the appropriate disciplinary action against Mr. Anil Mittal, CA for his conduct as reflected in various transactions and the findings recorded in the order and his overall conduct as found on Forensic Audit. Let appropriate proceedings are initiated and concluded as early as possible within 6 months and a report of action taken to be submitted to this Court. G
- (viii) We direct various Companies/Directors and other incumbents in whose hands money of the home buyers is available as per the report of Forensic Auditors, to deposit the same in H

- A the Court within one month from today and to do the needful in the manner as observed. The last opportunity of one month is granted to deposit the amount and to do the needful failing which appropriate action shall be taken against them.
- B (ix) Concerned Ministry of Central Government, as well as the State Government and the Secretary of Housing and Urban Development, are directed to ensure that appropriate action is taken as against leaseholders concerning such similar projects at Noida and Greater Noida and other places in various States, where projects have not been completed. They are further directed to ensure that projects are completed in a time-bound manner as contemplated in RERA and home buyers are not defrauded.
- C (x) We appoint Shri R. Venkataramani, learned Senior Advocate, as the Court Receiver. The right of the lessee shall vest in the Court Receiver and he shall execute through authorized person on his behalf, the tripartite agreement and do all other acts as may be necessary and also to ensure that title is passed on to home buyers and possession is handed over to them.
- D (xi) We also direct Noida and Greater Noida Authorities to execute the tripartite agreement within one month concerning the projects where homebuyers are residing and issue completion certificate notwithstanding that the dues are to be recovered under this order by the sale of the other attached properties. Registered conveyance deed shall also be executed in favour of homebuyers, they are to be placed in the possession and they shall continue to do so in future on completion of projects or in part as the case may be. We direct the Noida and Greater Noida Authorities to take appropriate action to do the needful in the matter. The Water Works Department of the concerned area and the Electricity Supplier are directed to provide the connections for water and electricity to home buyers forthwith.
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155. Let the cases be listed for further hearing before us on 9.8.2019.