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To

The Commissioner
 A.P. Capital Region Development Authority,
 Governorpet
 Vijayawada.

Sir,

Sub: Land Pooling Scheme – Transfer of ownership rights to the Authority vis-à-vis
 Transfer of ownership of restructured plots/land to the land owners or other
 transferees – Conveyance of Title – Opinion – Reg.

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I have been asked to give my opinion in regard to the following issue.

“Whether The A.P. Capital Region Development Authority or its transferees would acquire valid and marketable title over the property that was transferred by the land owners under The Andhra Pradesh Capital City Land Pooling Scheme Rules, 2015 ?”

01. The Government of Andhra Pradesh with an intention to build People’s Capital at Amaravathi has legislated ‘The Andhra Pradesh Capital Region Development Act, 2014’, herein after referred as ‘Act’ in short, and developed a statutory Land Pooling Scheme ie., ‘The Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015’, herein after referred as ‘LPS’ in short. For such purpose an authority was constituted viz., ‘Capital Region Development Authority’, which was constituted under sub-section (i) of Sec.4 of the Act, herein after referred the same as ‘Authority’.

02. The ‘Act’ is a Special Legislation and the ‘LPS’ is a statutory scheme. The beauty of the statutory scheme is that a Land Pooling Mechanism is adopted for development of the Capital City area in association with land owned by individuals or group of owners, who are willing to transfer their respective ownership rights to the ‘Authority’, who would later transfer ownership rights over the re-structured plots/developed land.

03. Sec.52 of the Act says about the Land Pooling Scheme, which is intended for land owners volunteering to surrender their land against a guaranteed return of a developed



and re-constituted plot/land. As per Sec.56, S.57, S.58 & S.59 r/w. Rule 3 (5) (1); the 'Authority' may undertake to develop a Land Pooling Scheme pursuant to the notification issued under sub-section (5) Sec.43 of the 'Act'. As per Sec.52 r/w. sub-clause 2 (a) of Rule 5; the 'Authority' shall guarantee the return of developed/reconstituted plot/land and payment of benefits to the land owners per every acre of original land surrendered under the LPS viz., 'patta', 'assigned', 'jareebu land' etc., would be allotted certain extent under the head of residential, commercial etc., however the extent that will be allotted may vary and depends on the nature of land transferred, referred supra. The surplus land would vest with the 'Authority', which may either utilize to build capital or for Public purposes or transfer for consideration or to lease out to other individuals or legal entities etc., for a specified object. Sec.54 r/w. Rule 5 (13) that the 'Authority' in the overall interest of the development of area, may develop the secured land either on its own or in partnership with reputed agencies selected, following prescribed procedure, which is fair and transparent. For such purpose, a detailed mechanism under Chapter IX of the 'Act' and Schedules – I to IV & V of LPS, which may read as part of this legal opinion.

04. On perusal of the objective of the Act as well as the LPS, undoubtedly it is a beneficial legislation thereby individuals or group of persons, Institutions etc., would be benefited apart from building People's Capital for the State of Andhra Pradesh. The 'Act' is not only beneficial legislation and it is to be considered as a special legislation. It is well settled Law that a 'Special Law would prevail over General Law'. The Hon'ble Supreme Court in its Judgment in AIR 1982 SC 137 at 139 observed that 'it is a well-settled canon of construction that in construing the provisions of such enactments, the Court should adopt that construction with advances, fulfills and furthers the objective of 'Act' rather than one which would defeat the same and rendered the protection illusory'. In another citation reported in AIR 1986 Supreme Court 463 at 465 and in AIR 1988 SC 587 at 593, the Apex Court in constructing the provisions of the beneficial Legislation, observed that 'Court has to bear in mind that it is a beneficial enactments, the Court should follow a policy of benevolent and liberal construction rather adopting a narrow interpretation'. In another citation reported in AIR 1987 SC 1070 at 1078 observed that 'all interpretation must sub-serve and help implementation of the intention of the legislature'. Thus, it is the opinion of the Hon'ble Supreme Court that the Court should give Special Emphasis for implementation of Special and Beneficial legislations.

05. As far as transfer of ownership is concerned, Sec.5 of the Transfer of Property Act, 1882 define the "Transfer of Property" means; An Act by which a living person



conveys property, in present, or in future to one or more other living persons, or to himself and one or more other living persons and "to transfer property" is to perform such act. In this Section "living person includes a company or Association or Body of Individuals, whether incorporated or not, but nothing herein contained shall effect any law for the time being in force relating to "Transfer of Property" to or by companies, Associations, Body of individuals. Thus, a transfer can be made intervivos ie., in between the parties by operation of Law. The land owners voluntarily and willingly transfers their respective properties in favour of the Authority, which in consideration transfer other extent of developed land in the shape of re-constituted plots to the land owners but with lesser ratio. On close consideration of mechanism, there is no irregularity or improbability in the Land Pooling scheme, which is a statutory scheme, being developed and legislated by The Government of Andhra Pradesh. The statutory scheme as enumerated in the Act & LPS Rules by virtue of a Special Law would always prevail over the General Law of transfer and the person, who is allotted with such developed and re-constituted plot/land would acquire valid right and conferred with marketable title and possession over the property. Such scheme does not amounts to violation of any Law or Public Policy.

06. LPS Rules, 2015 are in conformity of Sec.43 (4) (A) & Sec.52 of the 'Act'. Sec.57 (2) is very clear that the notified area under the final Land Pooling Scheme shall vest absolutely with the Authority or the developer entity, as the case may be, free from all encumbrances for re-constituting and implementing the Land Pooling Scheme. As per Sec.57 (3) & 4), the Authority shall issue a land pooling ownership certificate containing the details of the land owners' original land and that of the re-constituted plot/land, including its original ownership details, along with a sketch of re-constituted plots and such certificate shall be the conclusive evidence of the title of the property in respect of the re-constituted plot/land and shall be eligible for transfer of rights of the property in accordance with provisions of The Registration Act, 1908. On overall consideration on transfer of the land owners and on such development in accordance with LPS Rules, the Authority becomes the owner of such land within such notified area. Legally speaking issuing such certificate of title in respect of the land covered within notified area, conveys title to the plot/land that was already with the Authority.

07. Sec.130 of the Act says about 'disposal of land and other property by the Authority; any land acquired by the Government and transfer to the Authority or any Government Land alienated to the Authority, with or without development thereon or any



other immovable property belonging to the Authority, can be disposed by the Authority in accordance with standing orders made for the purpose in this behalf. On overall consideration of the Act as well as LPS Rules, it is abundantly clear that the land vested on the Authority shall be the absolute property of the Authority free from all encumbrances and the Authority may summarily evict illegal occupants, if any, and enforce the scheme. The allotment procedure is morefully mentioned in Amaravathi Land Allotment Rues, 2017 and Land Allotment Regulations, 2017. The Authority is at liberty and empowered to alienate the land vested on the Authority either by way of allotment, lease or sale or to enter into such development Agreements and to deal the same in what so ever manner.

08. Therefore, I am of the opinion that the land transferred by the individual or the group of land owners in favour of the Authority under Land Pooling Scheme vis-à-vis the transfer of the developed land in the shape of re-constituted plot/land either in favour of such individual owners or group of owners or in favour of the institutions for an avowed object would certainly acquire valid, marketable and unfettered title over such property. Further, the land, which is vested with the Authority will be the absolute property free from all encumbrances and the 'Authority' is empowered to alienate such land/re-constituted plot either by way of allotment, lease or sale or to enter into such development Agreements and to deal the same in what so ever manner. Such transferee or the lessee or the allottee would acquire right, title and possession subject to the Amaravathi Land Allotment Rues, 2017 and Land Allotment Regulations, 2017 and other conditions applicåble from time to time.

09. The returnable property ie., land/re-constituted plot, which was allotted by the A.P.CRDA in favour of the land owners by virtue of conveyance deeds, would acquire valid, absolute and marketable title over such reconstituted plots and such owners are further empowered either to create equitable or simple mortgage, etc., in favour of financial institutions, bankers, etc., or to alienate either by way of sale, gift, settlement etc., under the provisions of The Transfer of Property Act, 1956.

Thanking you,

Yours faithfully,


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