IOV RVF THE VALUER Bi- Monthly Journal, Vol. 02 , Issue-03 May - June 2023, PP. 13- 15

BHUPENDRA PRATAP SINGH

IBBI/RV/02/2019/11959
Chartered Engineer, MBA (Real-Estate)

Assets sold by Banks under Sarfaesi Act To recover their dues from Npas are Turning out to be "Lemons"

George Akerlof's 1970 paper "The Market for Lemons: Quality Uncertainty and the Market Mechanism" addresses the issue of uncertainty surrounding the quality of goods and how it can lead to degradation in the market. Akerlof explains how information asymmetry between buyers and sellers can result in only low-quality products, known as "lemons," being traded. In the United States, a "lemon" is a term used to describe a car that is found to be defective after purchase. Akerlof, along with Michael Spence and Joseph Stiglitz, was awarded the Nobel Prize in Economics in 2001 for their analyses of markets with asymmetric information.

Asymmetric information is common characteristic of many markets, where one side possesses significantly more information than the other. Akerlof's "lemon theory" suggests that in the used car market, sellers typically possess more information about the quality, defects, and actual value of the vehicle compared to buyers. Consequently, buyers may not be willing to pay more than the average price of a car, even for a premium quality vehicle. Five years following the publication of Akerlof's p a p e r , the United States enacted a federal "lemon law" that granted purchasers the right to have defects repaired, receive replacement, or obtain a refund.

To recover their lent amounts from non-performing asset (NPA) accounts, banks sell or auction the properties mortgaged to them under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.

The assets sold by banks are an example of the market for lemons. When taking mortgages of assets, banks conduct proper due diligence to ensure full information about any liability related to the property and obtain non incumbrance or lien on the property through their lawyers and other due diligence agencies. However, while selling the properties under the SARFAESI Act, banks show their ignorance about any liability on the property and put a condition in their auction/sale notice that states, “the property is being sold with all existing and future encumbrances/liabilities, whether known or unknown to the bank.

The authorized officer/secured creditor shall not be responsible in any way for any third party claims, rights, or dues”. In many cases, it has been found that after the sale of assets, claims from land owning agencies, industrial development authorities, municipal authorities, and group housing societies from the period prior to the sale come up.Therefore, due to the uncertainty of any future liability, buyers are not willing to pay the market value, and instead offer to buy at a discount.

There are several thousand assets related to NPA accounts that have been in the physical possession of banks for sale for years. However, banks are not able to find buyers for these assets, and as a result, the condition of these assets is rapidly deteriorating due to a lack of maintenance and neglect. Recently, I came across a similar property that is publicly available on the bank's website.

The property in question is a 1725 sq ft Flat No. 1708 on the 17th floor of KSN Square, Plot No. 12, 13 & 14, Sector 3, Vasundhra, Ghaziabad, U.P. The bank has been in possession of this property for over four years, and despite advertising it for sale several times in leading newspapers, they have been unable to find a buyer willing to meet their reserve price of Rs. 60.00 lakh. Currently, the bank is still searching for a buyer. However, if we look for flats in the same society for purchase on various property portals such as 99acres, Magicbricks, or NoBrokers, the I

IOV RVF THE VALUER Bi- Monthly Journal, Vol. 02 , Issue-03 May - June 2023, PP. 13- 15

isted prices range from Rs. 90.00 lakh to Rs. 130.00 lakh. The reason behind this disparity is that the bank or seller of the property is not disclosing any liabilities in their sale notice, and they have put the condition that any liability, even from the period prior to the sale, shall be the responsibility of the buyer.

To address the issue of uncertainty and information asymmetry in the market for assets sold by banks under SARFAESI, it may be necessary to introduce amendments to the Act. Currently, banks selling these assets disclaim any liability for encumbrances or claims that may arise after the sale, which pcreates a disincentive for buyers to ay the market value for the assets. As a result, banks are often unable to recover the ful value of the asset and end up with non-performing assets that deteriorate in value over time. An amendment to SARFAESI that grants purchasers the right to claim any liability from the seller/bank for the period prior to the transaction date could help to mitigate these risks and ensure that buyers are willing to pay a fair price for the assets. By creating a more transparent and equitable market, such amendments could help to reduce the prevalence of "lemons" and promote a healthier