



WORKING OUT A FAILED REAL ESTATE DEVELOPMENT PROJECT

ANNA WYRZYKOWSKA, ADVOCATE

27 August 2014, Prague



44 ZŁOTA STREET – "THE SAIL" BUILDING

44 Złota street – "the Sail" building

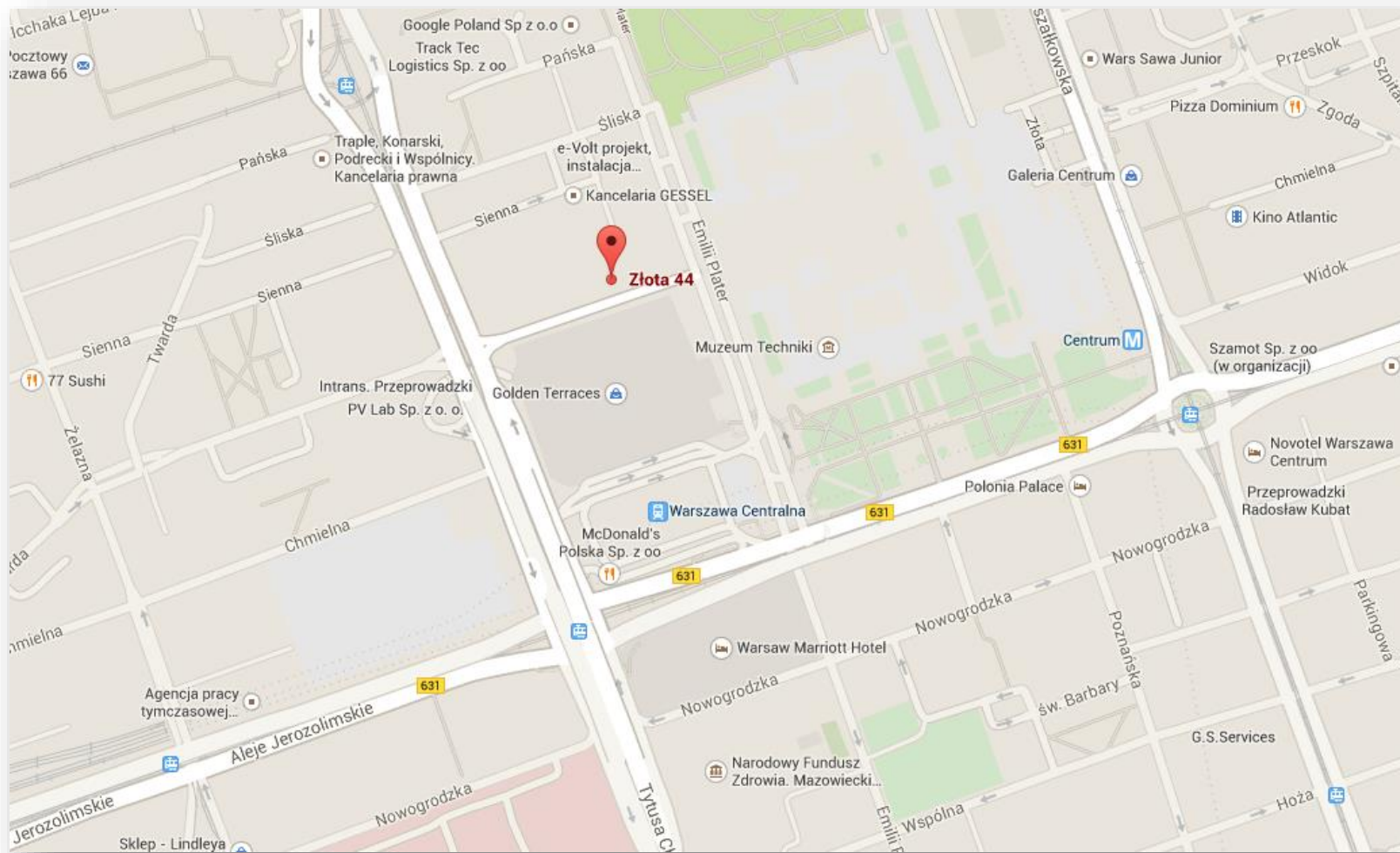
- ❖ Złota 44 is a **luxurious apartment skyscraper** located at 44 Złota Street in Warsaw, called the „Sail” constructed by **Orco Property Group**.
- ❖ **Orco Property Group** is an investor, developer and asset manager in the Central European real estate and hospitality market.
- ❖ Operating in Central Europe since 1991.
- ❖ Currently manages circa EUR 1.7 billion worth of assets.
- ❖ Orco Property Group, based in Luxembourg, is a public company listed on the **Paris Stock Exchange Euronext** and on the **Prague and Warsaw Stock Exchanges**.
- ❖ Orco Property Group operates in a number of countries in Central and Eastern Europe with main focus on **Germany, the Czech Republic, Hungary, Poland, Croatia** and **Slovakia**.

44 ZŁOTA STREET – "THE SAIL" BUILDING

44 Złota street

- ❖ The apartment house is the first model of a **new luxurious standard residential building in Poland**.
- ❖ Złota 44 features an **astonishing height of 192 meters**. The tower is the third in height high-rise building in Warsaw.
- ❖ It comprises 260 apartments. At 54 floors, this is **the tallest residential tower in the European Union**.
- ❖ Złota 44 was designed by the Polish-born and internationally known architect, **Daniel Libeskind**.
- ❖ Roger Black, the world class sales manager of the luxurious properties, was hired to sell the apartments in the Sail said that the project resembles One Hyde Park in London which is ‚moved’ into Polish ground.

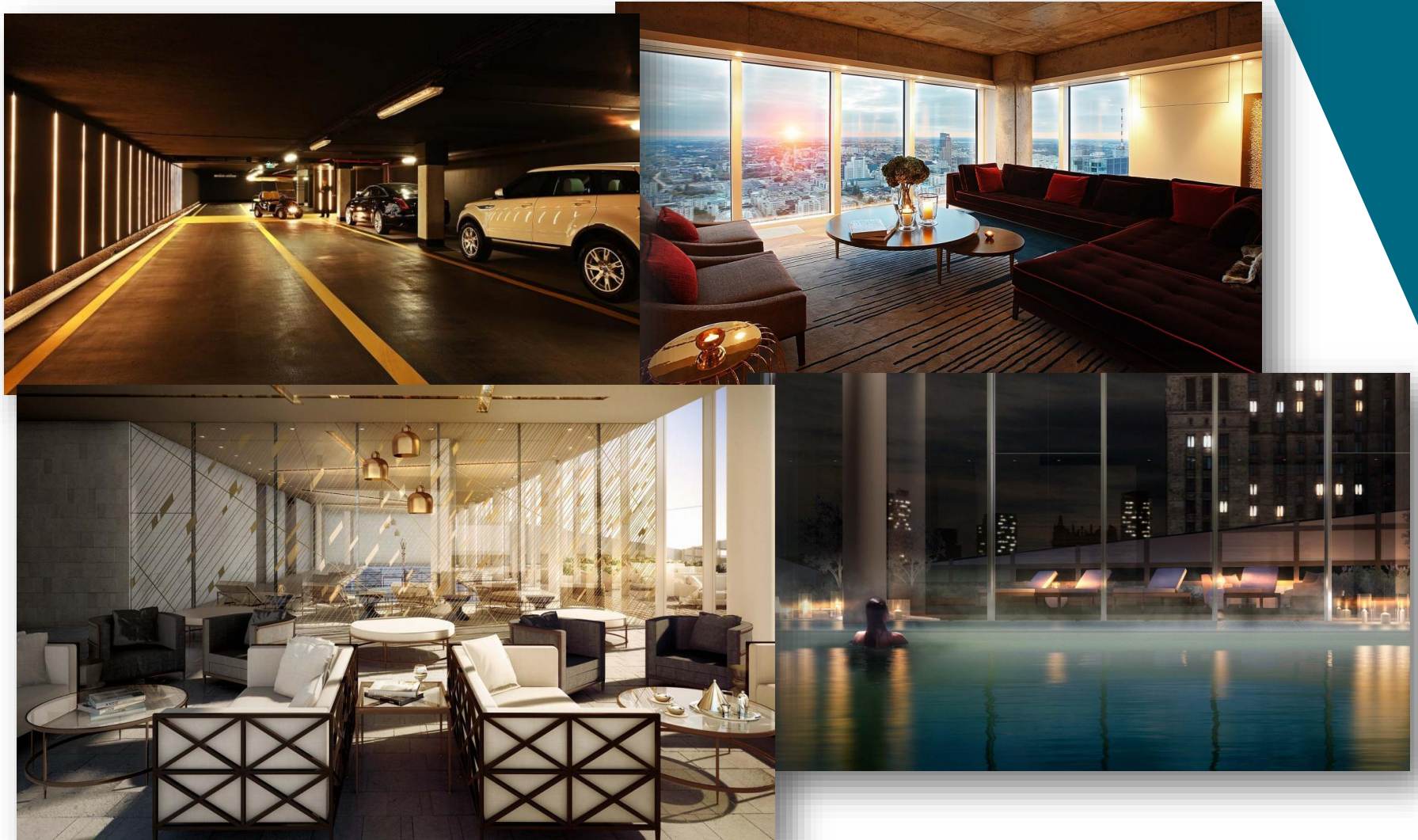
44 ŻŁOTA STREET – "THE SAIL" BUILDING



44 ZŁOTA STREET – "THE SAIL" BUILDING



44 ZŁOTA STREET – "THE SAIL" BUILDING



44 ZŁOTA STREET – "THE SAIL" BUILDING

44 Złota street

- ❖ The **construction permit** was obtained in **2007**. The same year the construction works were commenced by demolishing the existing shopping mall.
- ❖ At that time the investor ensured that for Euro 2012 (European Football Championship which took place during the summer 2012 in Poland) the investment will be completed.
- ❖ The project won i.a. the **Eurobuild CEE Award** in category of Business Achievement of the Year 2011.

44 ZŁOTA STREET – "THE SAIL" BUILDING

44 Złota street

Financial statement of Orco Property Group
for the year 2013:

*„The luxury residential project Złota 44 was
exposed as a major financial failure for the
Group in the fall of 2013.”*

44 ZŁOTA STREET – "THE SAIL" BUILDING

Questions arise

- ❖ What went wrong?
- ❖ Why the project is deemed failed even by the investor?

44 ZŁOTA STREET – "THE SAIL" BUILDING

Few facts and dates

- ❖ 2007 – the construction permit for the project was obtained.
- ❖ May 2008 – the construction works have started but almost immediately after, the construction permit was questioned by neighbors (owners of the apartments in the neighboring buildings) on the basis that the skyscraper will darken their apartments.
- ❖ Spring 2009 – the construction works were stopped on the 17 floor (out of 54 floors) because the investor had financial problems within the group (largely influenced by the world economic crisis at that time); the banks suspended financing the project; the construction permit was annulled by the Administration Court in Warsaw.

44 ZŁOTA STREET – "THE SAIL" BUILDING

For almost two years unfinished skeleton threatened Warsaw.



44 ŻŁOTA STREET – "THE SAIL" BUILDING

Later on

- ❖ At the beginning of 2011 – the construction works were re-commenced and new general contractor was appointed and brought to the construction site. The investor assured at that time that in 2013 at the latest the owners will start to move to the building.
- ❖ Optimism lasted until 2012, when instead of a mirror wall people saw gray stripes on the first façade panels.

44 ZŁOTA STREET – "THE SAIL" BUILDING

2012



44 ZŁOTA STREET – "THE SAIL" BUILDING

Recently

- ❖ At the end of 2013 the general contractor abandoned the construction site after the investor terminated the contract.
- ❖ In April 2014 the banks financing the project terminated the facility agreement for 171,1 mln PLN and 19,6 mln EURO and called the investor to pay back the facility within 30 days.
- ❖ The building is almost completed now.
- ❖ The permit for use is not yet obtained for the project. Therefore the apartments may not be sold to clients.
- ❖ The financial statement of the Orco Property Group posted a €227-million loss which largely resulted from the loss in fair value adjustments and impairments of development assets amounting to a total of €193 million, with Złota 44 (€121 million) having accounted for the bulk of the sum.

44 ZŁOTA STREET – "THE SAIL" BUILDING

Reasons given by the investor

- ❖ „There are many causes of this situation, including lack of bank financing due to covenants default, termination of the general contractor, unsuccessful sales re-launch on the local Warsaw residential market.”
- ❖ „Therefore, late in 2013 the Board of Directors decided to terminate this strategy, suspend the works and later to sell the entire project as is and not to complete the development.”
- ❖ „On 26 March 2014, a short term option was granted to OTT Properties (related entity to the former management) to acquire the project; no new losses would be generated for the Group in case of exercise of that short term option.”

44 ZŁOTA STREET – "THE SAIL" BUILDING



44 ŻŁOTA STREET – "THE SAIL" BUILDING



44 ZŁOTA STREET – "THE SAIL" BUILDING

Reasons of failure

- ❖ Problems with financing: economic crisis, the crisis within the ORCO group, the banks suspended financing
- ❖ Luxurious apartments as a property product has lower liquidity, especially when within the 500 meters the other residential skyscraper, called Cosmopolitan, is being completed. The project has not yet obtained the permit for use and therefore the apartments may not be sold to the clients.
- ❖ Disputes with neighbors which lead to annulment of the construction permit. The construction works had to be suspended for a substantial time.
- ❖ The sale of residential apartments should comply with the rules set out in the Act of 16 September 2011 on protection of the rights of acquirers of residential premises and semi-detached houses (the "PRARP"). However due to the fact that the construction works at Złota 44 was commenced before the PRARP entered into force, many developer's obligations protecting the clients did not have to be implemented in the project.

44 ŻŁOTA STREET – "THE SAIL" BUILDING

The case proves that

The investor, even of such large international fame and reputation has to take into account in the same time the risk resulting from:

- ❖ financial situation of the whole group of companies;
- ❖ disputes with neighbors;
- ❖ competition;
- ❖ strict covenants from facility agreements;
- ❖ performance of works by general contractor and subcontractors;
- ❖ regulations securing rights of the consumers acquiring the apartments (especially now after PRARP);

THANK YOU

ANNA WYRZYKOWSKA

anna.wyrzykowska@wkb.com.pl