

## **Case Snippets**

### **Volume 03, Number 19 (May 06, 2020)**

#### **Flat Buyers Association Winter ... vs Umang Realtech Pvt. Ltd( February, 2020) (NCLAT) Company Appeal (AT) (Insolvency) No. 926 of 2019 (Section 7 of IBC)**

##### **Facts of the case**

In the present case Rachna Singh and Mr. Ajay Singh (Allottees) – Financial Creditors moved application under Section 7 of the Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process of ‘M/s Umang Realtech Pvt. Ltd.’ (Corporate Debtor), a real estate company constructing flats/ apartments for allottees.

On 20th August, 2019 The Adjudicating Authority (National Company Law Tribunal) admitted the application.

As per the I&B Code, after initiation of the Corporate Insolvency Resolution Process it is duty of the Interim Resolution Professional/ Resolution Professional to keep the company a going concern. In the case of a real estate infrastructure company to keep the company going concern, the flats/ apartments are to be completed.

**The main question that arose before the NCLAT was whether CIRP proceedings initiated by a flat buyer in relation to one project of a real estate company will affect the other group projects of the company ?**

NCLAT held as follows:

Corporate Insolvency Resolution Process against a real estate, if allottees (Financial Creditors) or Financial Institutions/Banks (Other Financial Creditors) or Operational Creditors of one project initiated Corporate Insolvency Resolution Process against the Corporate Debtor (real estate company), it is confined to the particular project, it cannot affect any other project(s) of the same real estate company (Corporate Debtor) in other places where separate plan(s) are approved by different authorities, land and its owner may be different and mainly the allottees (financial creditors), financial institutions (financial creditors, operational creditors are different for such separate project.





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Therefore, all the asset of the company (Corporate Debtor) are not to be maximized. The asset of the company (Corporate Debtor – real estate) of that particular project is to be maximized for balancing the creditors such as allottees, financial institutions and operational creditors of that particular project. **Corporate Insolvency Resolution Process should be project basis, as per approved plan by the Competent Authority.**

Any other allottees, financial institutions/banks, or operational creditors of other projects cannot file a claim before the resolution professional of another project and such a claim cannot be entertained.

Appeal was disposed off with the directions that all processes should be completed by 30th August, 2020. If it completed, the Corporate Insolvency Resolution Process be closed after intimating it to the Adjudicating Authority (National Company Law Tribunal). The resolution cost including fee of the Interim Resolution Professional will be borne by the Promoter. Only after getting the certificate of completion from the Interim Resolution Professional/ Resolution Professional and approval of the Adjudicating Authority (National Company Law Tribunal) unsold flats/ apartments etc. be handed over to the Promoter/ Uppal Housing Pvt. Ltd.

