



PRESS RELEASE

Legal and Administrative Reforms needed for Greater Efficacy in Resolving Real Estate Cases under IBC - IIPI Study Report

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The IIPI study group report has identified challenges and difficulties in resolving real estate cases under the Insolvency and Bankruptcy Code, 2016 (IBC) and has made recommendations to address those. Certain legal aspects under IBC and RERA like delays in handing over possession to home buyers, exclusion of land authorities and landowners (not being developers) from Committee of Creditors (CoC) and other issues such as project wise resolution, claims of other government departments and authorities, are causing delays and are leading to very low success of insolvency processes in real estate projects/companies.

This has been highlighted in the report of a Study Group on "Improving Real Estate Resolutions under IBC and Coordination with RERA" constituted by Indian Institute of Insolvency Professionals of ICAI (IIPI). The Study Group Report has flagged some critical gaps in legal as well as practical aspects under IBC and RERA and made wide ranging recommendations to address those.

"Though recognized as financial creditors (FCs) under the IBC, allottees/homebuyers look for possession of the apartment or building rather than repayment of their dues with or without haircuts. Hence liquidation as an outcome of insolvency resolution process becomes unsuitable for such cases," said Dr. Ashok Haldia, Chairman, IIPI-Board. This report highlights the way forward for bringing legislative and administrative reforms in two legal dispensations in the direction of cohesive functioning thereof and alleviating concerns of stakeholders including homebuyers. Some of the major recommendations of the Report are as follows:

1. Appropriate amendments or clarification may be required for making landowners and statutory authorities as financial creditors and for their induction in CoC for real estate projects.
2. Focus should be on completion of projects and allotment to home buyers, wherever possible. Procedural and co-ordinational issues should not be allowed as a hindrance.

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3. Like Financial Service Providers (FSPs), RERA should also be empowered to appoint administrators for overseeing the completion of the projects in the interest of the stakeholders
5. Amendments in IBC and Regulations may be made to relax conditions for participating in the CIRP of the CD by a registered Association of Allottees.
6. Where land or projects are held by multiple closely associated companies/entities, there should be enabling provisions for compulsory procedural and substantive consolidation of insolvency proceedings.
7. In respect of stalled projects where the resolution plans are not forthcoming under IBC, considering the public interest, special concessions should be made available to the projects like FAR/FSI by Govt/Authorities allowing house associations to complete the projects.

About IIPI

Indian Institute of Insolvency Professionals of ICAI (IIPI), promoted by the Institute of Chartered Accountants of India (ICAI) is the largest frontline regulator under IBC in India with about 63% of Insolvency Professionals as its Members. IIPI actively works under the aegis of Insolvency and Bankruptcy Board of India (IBBI) to build professionals' capacity and provide policy inputs to regulators. Website: <https://www.iiipicai.in/>

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