

Successful Insolvency Resolution of Emerald Lands (India) Private Limited

Emerald Lands (India) Pvt. Ltd., the Corporate Debtor, was created as a joint venture company by Silver Glades, Brack Capital Real Estate, and IL&FS Investment Manager Ltd. (IIML), to develop a golf based mega township namely “The Imperial Golf Estate” in Ludhiana, the State of Punjab. However, due to management disputes, PUFÉ transactions, lack of sale of real estate units lead to increase in losses and the company landed into a financial crisis.

IIML in its capacity of Financial Creditor filed an application under Section 7 of the IBC, 2016 to initiate CIRP of the Emerald Lands (India) Pvt. Ltd., which was admitted by the NCLT through an order on January 02, 2020. During the CIRP, the RP faced several challenges in arranging funds to pay salaries of staff, protecting the assets of the CD, maintenance of golf course, that were further aggregated by the Covid-19 pandemic. Seven investors expressed interest in the third EOI and the CoC approved the Resolution Plan submitted by the UK based M/s. Malhotra Group PLC, that proposed 39.44% payment to the claims of secured financial creditors. The payments were made within 60 days from the date of approval of the Resolution Plan by the NCLT.

*In the present case study, Mr. Navneet Kumar Gupta, the RP of Emerald Lands (India) Pvt. Ltd has highlighted the challenges faced during the CIRP and measures adopted to address them to ensure a successful resolution. **Read on to know more...***



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1. Introduction: About the Corporate Debtor

The Imperial Golf Estate is around 280-acre golf-centric lifestyle project, being developed by Silver Glades, Brack Capital Real Estate, and IL&FS Investment Manager Ltd. (IIML) through their Joint Venture (JV) company - “Emerald Lands (India) Private Limited”. The Corporate Debtor (CD) was incorporated in the year 2006. One of the few mega-townships in Ludhiana, it has been conceptualized as a low-density, high-end residential township developed around an 18-hole championship golf course designed by Jack Nicklaus.

The township, which has been master-planned by Arcop Associates, offers a variety of plots, villas and suites ranging from 250 sqyd to 2,000 sqyd, a Golf Academy and a host of amenities.

Emerald Lands (India) Private Limited entered in a development agreement with land owning company to develop a golf based mega township with 18-hole championship golf course. Through wholly owned subsidiaries it acquired around 280 Acres of land for the project i.e., The Imperial Golf Estate.

CASE STUDY
Emerald Lands (India)
Private Limited

Successful Insolvency
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Case Study by
Navneet Kumar Gupta

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2. Reasons that lead to Corporate Insolvency Resolution Process (CIRP)

There were many reasons for losses in the company. Few of the reasons that primarily impacted the company which led it to the CIRP are mentioned below.

- a) **Management Disputes:** There were major disputes between the management that lead to poor decisions by higher authorities. It was strange thing that before insolvency, all the directors from the company resigned.
- b) **Real Estate Cycle:** The company got caught in trouble due to lack of sale leading to increase in losses over the period.
- c) **Preferential, Undervalued, Fraudulent, and Extortionist (PUFE) Transactions:** It was believed that PUFE transactions occurred on higher levels that lead to major paucity of funds in the company.

3. Challenges during the CIRP

Here are some of the challenges that made the insolvency process a difficult one:

- a) **Paucity of Funds:** The lack of funds was one of the biggest hurdles that came in between the project and its completion. Salaries of all the employees, security staff and compliances were to be given and plenty of funds were required for the maintenance of ground, golf courses and preserving of assets so as to realize the maximum value at the time of realisation of assets in future.
- b) **Coronavirus Disease 2019 (COVID-19):** Covid-19 came as an unexpected surprise and directly affected the insolvency process. Due to lockdown in the country, the maintenance of golf courses and preserving of assets was getting difficult as site examination was not possible. Also, since all the processes of insolvency were delayed, the risk of overall delay of the insolvency process kept on increasing.
- c) **Running and maintenance cost of golf course and technicalities involved:** The maintenance of golf course was the most difficult task and that

too during the Covid pandemic. The golf course required special grass that was too costly, and lack of funds made it more difficult to arrange the tasks. Also, the golf course was in a very awful and unacceptable state when handed over to the Resolution Professional (RP). So, huge funds were required for first bringing the golf course in a running condition.

The maintenance of golf course was the most difficult task and that too during the Covid-19 pandemic. Besides, long pending salary dues of staff worsened the situation as the CD was suffering from acute paucity of funds.

- d) **Over-Due Salaries:** All the people engaged in the insolvency process were stuck in the covid-19 lockdown. They were demanding their salaries from the RP. The security staff hired for maintenance and preserving of assets and golf course also had their salaries pending.
- e) **To settle the of claims made by all the Creditors and Homebuyers:** The Covid-19 delaying the process of insolvency made the creditors and homebuyers reluctant for their dues to be settled fast. It was very important for the RP to build the trust of the parties involved in the insolvency process that the insolvency process was on its way of being successfully completed.
- f) **PUFE Transactions:** The PUFE transactions were to be identified in the books of accounts as per the IBC because it could make a major impact on the process.
- g) **Reconciliation of Land:** The total area of land owned by the company was said to be approximately 300 acres (approximately the area that will be covered by around 200 football stadiums). The full area of land was reconciled and assured that no false claims were made regarding the total area.

4. Solutions for the challenges faced.

Here are the solutions for the challenges faced that are mentioned above:

- a) **Paucity of funds:** Even in case of paucity of

funds, many times salaries of the security staff and employees and electricity bills of the project site were arranged when creditors expressed inability to infuse money. Also, the RP had infused funds from time to time required for maintaining the golf course and preserving the assets. The golf course being in a substandard condition was first brought up to the standard and then made operational. Also, the money was bought via operating the golf course as the people who came to play golf were charged a fee for their play though the maintenance of such a large golf course was very expensive, and the RP and his team devised innovative and cost-effective ways to cut down on costs, strictly.

- b) **Delays due to Covid-19:** The RP ensured that all the work that could be done online during the nationwide lockdown was completed so that the day lockdown is removed, no time is wasted in starting the offline process.

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- c) **To settle the Claims Made by all the Creditors and Homebuyers:** The creditors and homebuyers were given a belief that the best possible result will be brought in the insolvency process. Also, the queries of all the homebuyers were resolved timely to their satisfaction by the RP.
- d) **PUFE Transactions:** PUFE transactions of substantial amount were determined in the company. An avoidance application was filed for the PUFE transactions found.
- e) **Prevention of Land Encroachment:** Even though, the golf course being a property that has limited boundaries or walls, it was made sure that not even a single inch of land was encroached.

There were some of legal challenges faced during the CIRP including the land authority GLADA; all these were duly addressed including the challenge to Resolution Plan by few employees and operational creditors. After detailed hearings, honourable NCLT rejected these challenges.

5. Teamwork

No project can be completed without a competent team and teamwork. This insolvency process adds an example to how important teamwork is. The RP with his team/site employees worked on the project at times without electricity/water and security in area of around 300 acres posing severe risk to his team at times.

A qualified team of chartered accountants, company secretaries and lawyers were allocated to the project who together learned the levers, intricacies, nuts, and bolts of real estate accentuated with 18-hole golf course which was one of the best in class. Each person was allocated the task in his respective area of specialisation along with general management. The team managed to solve each and every problem that could hinder and come as an obstacle between the insolvency project and its resolution. The team's proper communication, coordination and commitment made every situation pleasant and converted adversity into opportunity. The legal team made sure that all the tasks were being done under the rules and regulations of law. The RP's team made sure that a team member was at the project site 24x7 to ensure protection and preservation of the assets. Even in Covid-19 when there was a nationwide lockdown, a team member stayed at the site for proper examination, maintenance, and preservation of the assets.

6. Synopsis of the project

The CIRP of the CD was initiated by Hon'ble NCLT vide its order dated January 02, 2020, in C.P.(IB) No. 1466/2019, on a petition under Section-7 of the IBC, 2016 filed by M/s. IL&FS Financial Services Limited (Financial Creditor). The court appointed Mr. Navneet Kumar Gupta as Interim Resolution Professional (IRP) who was later appointed the RP.

Though the insolvency project is to be completed in 330 days from the date of application of insolvency, this CIRP took almost 2.5 years to be finished. The reasons for delay were Covid and consequent lack of the Expression of Interest (EOI). Expression of interest was not shown by any buyer in the first two attempts due to heavy impact of Covid-19 and nationwide lockdown which led to filling of Form-G three times.

Finally, perseverance paid, and we received seven EOIs out of which one Resolution Plan was finally approved

by the Committee of Creditors (CoC), after long drawn negotiations with 100% voting in favour of the Plan. The Successful Resolution Applicant (SRA) was a foreign investor.

However, this decision was challenged by the employees and creditors in the NCLT, that disposed of the matter in favour of the Plan. Later, the appeal was also rejected. The SRA settled claims of the Financial Creditor by making an upfront payment on the effective date and all the claims of the home buyers pertaining were also promised to be settled within 6 to 12 months. The RP assured that the company is handed over to the SRA within 60 days from the date of order by NCLT that is May 24, 2023.

7. Claims filed vs Admitted Amount and the Resolution Plan: The claims filed by financial creditors, Creditors in a Class (Regulation 8 A), Operational Creditors and Employees & Workmen along with the amount of Admitted Claims in the respective categories are provided in Table-1.

Table-1: Claims Filed and Claims Admitted

Creditors	Claim Filed (₹)	Claims Admitted (₹)
Financial Creditors	2,14,86,91,339	2,14,65,20,830
Claims by creditors in a class (as per Regulation 8A)	2,05,05,05,354	1,29,90,40,024
Operational Creditors (including government dues)	33,54,90,349	6,70,75,185
Employees and workmen dues	4,93,66,491	2,45,53,365
Total	4,58,40,53,533	3,53,71,89,404

8. The Resolution Plan

The salient features of the Resolution Plan approved by the CoC with an affirmative voting of 100%, there to as submitted by M/s. Malhotra Group PLC are mentioned below:

The SRA has been a Public Limited Company incorporated in England. One of the key reasons for selection of this Plan over others was the credibility of the SRA, its scheme for revival of the site as well as upfront payment. The SRA injected money through its sources, which was distributed in accordance with law

per commercial negotiations amongst creditors. The Prospective Resolution Applicants (PRA) got attracted towards the asset primarily due to the way site was managed, the large piece of continuous land, the trust he posed in the process, local developments in the area which were duly highlighted to the PRA from time to time, especially during the period when the PRA expressed interest over phone call and till the time of formal submission of EOI.

Secured financial creditors were paid 39.44% of the claim filed by them. The payment was made with 60 days from the date of approval of the Resolution Plan.

So far as winning the Plan is concerned, there were multiple rounds of negotiations with homebuyers and financial creditors, and every time, the creditors and home buyers were duly assured to maintain positivity, which was duly supported by the way process was run and slowly/steadily, all stakeholders were in common boat of hope. They also came on board regarding resolution with duly redressal of claims/concerns through convincing communications which were helpful and effective in reducing the anxiety all across the ecosystem. Secured financial creditors were paid 39.44% of the claim filed by them. The payment was made with 60 days from the date of approval of the Resolution Plan.

Table-2: Emerald Lands (India) Private Limited - Distribution parties

S.No.	Creditors/CIRP cost/MC cost
1	IL & FS Financial Services Limited
2	Homeowners
3	Employees & Workmen
4	Operational Creditors
5	CIRP cost
6	Monitoring cost

9. Implementation Schedule

The Resolution Plan was approved by the NCLT through its order on May 24, 2023. Within a record period of 60 days from the date mentioned above, the company was handed by the resolution professional to the SRA. The transition was smooth, without any gaps/hindrances as all

steps were well practiced and thought through in advance culminating into new board/management. Following activities were performed in these 60 days:

- a) **May 26, 2023:** Before May 26, 2023, the constitution of Monitoring Committee was completed. As the name suggests, the committee is set up for monitoring the insolvency process. The RP was also a part of the committee.
- b) **June 03, 2023:** Before June 03, 2023, i.e. within 10 days of NCLT order dated, the access of all the documents and records and books of the CD as well as the subsidiaries, which were in possession of the RP; were provided to the advisors of the SRA so that they could review all the requisite documents required for the purpose of taking control of the CD and its subsidiaries.
- c) **July 23, 2023:** Before the date mentioned above i.e., within 60 days of the NCLT order date, the monitoring committee communicated to all the homeowners immediately upon its constitution and received all cash settlement request from the home buyers.
- d) All the payments towards the settlement of the CIRP cost, workmen & employees settlement account, operational creditors settlement amount and homeowners were cleared.

The RP ensured that the Resolution Plan acts as a guide to the Monitoring Committee in disposing dues of various stakeholders. Furthermore, all original documents including all finance, accounting, legal property etc. were handed to the SRA and its advisors.

- e) The RP ensured that Resolution Plan acts as a reference book for disposal of the dues for all stakeholders and kept guiding the Monitoring Committee. Furthermore, all original documents including all finance, accounting, legal, property etc. were handed to the SRA and its advisors. Letters were written to all government authorities, customers etc., by the RP regarding the proposed change of management and control as per the Resolution Plan by the Adjudicating Authority.

10. Conclusion

Despite several challenges including severe cash shortage, disbanded board of directors, no office bearer/ worker in office, creditors hesitant to infuse money for processes/company, bulky real estate case far away from any metro city, we could find unique, front-loaded successful resolution. This event inculcates the faith in the process of the IBC, as well as proves that there is light at the end of tunnel provided the RP stays focused, has perseverance, clarity, and vision to move forward and keep the team and him/herself motivated till the fag end of the process.

