



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

No.215

(March 17, 2025)

**Shri Krishan and Anr. Vs. H.S. Oberoi Buildtech Pvt. Ltd. and Ors.
Company Appeal (AT) (Insolvency) No. 128, 129, 130, 131 of 2025
Date of NCLAT's Judgement: March 07, 2025**

Facts of the Case

The present set of four appeals filed u/s 61 IBC 2016 arise out of a common order dated 24.10.24 passed by the Adjudicating Authority, in IA Nos. 112, 77, 599 & 89 of 2024 in CP(IB) No. 1768(ND)/2018. The AA refused to entertain the belated claims of the appellants, who are home buyers in the "Earth Iconic" project developed by Earth Infrastructure Ltd. ("EIL"). The appeals have been filed against the rejection of their claims by the Successful Resolution Applicant (SRA).

The Appellants had booked units in the Earth Iconic project, received allotment letters on 31.06.12, and made payments in installments. CIRP was initiated against EIL on 06.06.18, and later against Celestial Estate Pvt. Ltd. ("CEPL") on 11.03.19, which was the landowner of the project. By order dated 15.03.21, the AA directed EIL to transfer the partly constructed structure of Earth Iconic project to CEPL, and most of EIL's creditors transferred their claims to CEPL.

The appellants claim that they became aware of the CIRP proceedings only in November 2023, by which time the Resolution Plan had already been approved. They submitted claims to the SRA via email on 10.12.23, along with relevant documents, including payment receipts, but received no response. As a result, they filed IA No. 112 of 2024 before the AA, seeking directions to compel the SRA to accept their claims. They contended that the RP failed to consider their claims, severely prejudicing their interests and those of other similarly placed homebuyers. However, the AA, in its order dated 24.10.24, rejected their applications, stating that their claims were filed belatedly and not part of the approved Resolution Plan.

Aggrieved by this order, the appellants filed the present appeals before NCLAT, arguing that the RP failed to notify them individually, despite their names being reflected in the CD's CRM records, and instead only issued public notices in newspapers, which they claimed was insufficient. They further contended that the RP's failure to include their claims in the Information Memorandum led to their exclusion from the Resolution Plan, violating their rights as homebuyers. The appellants also asserted that the provisions of the IBC were misused to extinguish the claims of bona fide creditors, unfairly benefiting the SRA. They sought relief from the NCLAT to direct the SRA to accept their claims and include them in the Resolution Plan, arguing that the resolution process was conducted unfairly to their detriment.



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NCLAT's observations:

The Appellate Tribunal noted that the RP had issued a public notice on 27.03.19, with the last date for claim submission being 10.04.2019. Additionally, Form-G was published on 26.09.19, the Information Memorandum (IM) was issued on 05.10.19, and the Resolution Plan was approved by the CoC on 16.11.19 and by the AA on 15.03.21. The appellants submitted their claims only on 10.12.23, over four years and eight months after the deadline, and therefore, their claims were not reflected in the Information Memorandum.

The Appellate Tribunal further held that the RP was not required to send individual notices to each creditor, as public notices complied with IBC and IBBI Regulations. The appellants' argument that their names were in the CD's CRM and should have been included in the IM was rejected. Citing *Ghanshyam Mishra and Sons Pvt. Ltd. vs. Edelweiss Asset Reconstruction Co. Ltd. 2021*, the Appellate Tribunal reaffirmed that once a Resolution Plan is approved, all claims not included are extinguished and cannot be reopened. The Appellate Tribunal also distinguished the appellants' reliance on *Puneet Kaur Vs KV Developers Ltd. 2022*, stating that in that case, claims were filed within a year and before the Resolution Plan's approval, whereas in the present case, claims were submitted nearly three years post-approval. Referring to *RP Infrastructure Ltd. vs. Mukul Kumar & Anr. 2021*, the Appellate Tribunal emphasized that permitting such delayed claims would disrupt the insolvency resolution process.

The Appellate Tribunal found no merit in the appellant's argument that the Resolution Plan was unfair for not considering their claims, noting that it had already provided extended periods for belated claims with additional charges, which the appellants failed to utilize. It reiterated that the SRA cannot be burdened with undisclosed liabilities due to creditors' inaction. Citing *Ghanshyam Mishra and Sons Pvt. Ltd. 2021* the Appellate Tribunal reaffirmed that once a plan is approved, it is binding on all stakeholders, and unsubmitted claims stand extinguished.

Order/Judgement: The Appellate Tribunal held that Since the Resolution Plan has already been approved by both the CoC and the AA, it cannot be reopened based on belated claims by the appellant, AA has committed no error in rejecting the appellant's request for claim admission. In view of these discussions, no cogent grounds exist to interfere with the impugned order, which does not suffer from any infirmities.

Case Review: The appeals were dismissed with no order as to costs.