



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IBC Case Law Capsule

Number 227

(June 09, 2025)

Mr. Ramprasad Vishvanath Gupta Vs. Mr. Dinesh Kumar Deora, Kotak Mahindra Investments Ltd. & M/s Neel Builders & Developers, Company Appeal (AT) (Insolvency) No. 442, 474 & 559 of 2025
Date of NCLAT Judgement: May 21, 2025

Facts of the Case: -

The present Appeal Nos. 442, 474, and 559 of 2025 were filed by Mr. Ramprasad Vishvanath Gupta, a homebuyer (hereinafter referred to as the 'Appellant'), challenging three separate orders passed by the Adjudicating Authority (AA) dated 24.01.2025, 28.01.25, and 12.02.25 in the Corporate Insolvency Resolution Process (CIRP) of M/s Snehanjali and S.B. Developers Private Limited. The CIRP commenced on 07.03.24 based on an application filed by Mr. Santosh Ananda Shetty and 66 other homebuyers, classified as Financial Creditors in class.

Following admission, a public announcement was made, and the CoC was constituted on 26.03.24 and later reconstituted. Transaction Auditor and Registered Valuers were appointed, and Form G was published inviting EOIs. After receiving multiple EOIs, the Resolution Professional (RP) issued the Request for Resolution Plan (RFRP), with the last date of submission extended beyond 20.07.24. In the 6th CoC meeting on 25.09.24, four resolution plans were opened. The Resolution Plan submitted by La Mer Developers Ltd. and Neel Builders & Developers was approved with 83.46% voting share, and a Letter of Intent was issued on 12.10.24. The RP filed IA No. 102/MB/2024 for approval of the Resolution Plan. Meanwhile, the Appellant filed IA No. 22/MB/2025 u/s 43 of the IBC seeking declaration of certain transactions as preferential; IA No. 24/MB/2025 challenging the Resolution Plan; and IA No. 269/MB/2025 along with four other homebuyers under Section 60(5) of the IBC, seeking quashing of RFRP conditions, replacement of RP and AR, and disclosure of Zoom recordings and e-voting details. All were rejected by the AA.

By order dated 24.01.25, the AA dismissed IA No. 22/MB/2025 holding that a homebuyer lacks authority under Section 43 and imposed a cost of ₹50,000/-. On 28.01.25, IA No. 24/MB/2025 was rejected, noting that the Appellant, holding only 2.14% of voting share among approximately 600 homebuyers, lacked locus to challenge the CoC-approved Resolution Plan. On 12.02.25, the plan was approved as compliant with Section 30(2) of the IBC, providing for delivery of units to all 297-unit holders including non-claimants. Aggrieved by these orders, the Appellant approached the Appellate Tribunal alleging procedural irregularities, statutory violations, fraudulent conduct, and collusion between the RP and SRA, along with repeated prayers for rejection of the Resolution Plan and replacement of professionals involved in the CIRP.



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NCLAT's Observations:

The Appellant, a single homebuyer, challenged three orders of the AA rejecting his applications u/s 43 of IBC objecting to, and approving the Resolution Plan of La Mer Developers Ltd. and Neel Builders & Developers. He alleged procedural impropriety, collusion, and sought deletion of the ₹50,000/- cost imposed. The Respondents argued he lacked locus, holding only 2.14% voting share, as the plan was approved with 83.46% CoC votes, citing *Jaypee Kensington (2022) 1 SCC 401*, which bars individual homebuyers from challenging a majority-approved Resolution Plan.

The Appellate Tribunal noted that similar reliefs had already been rejected in IA No. 269/MB/2025 and not challenged, rendering the allegations against the RP and AR not open to reconsideration. Referring to the same judgment, the Appellate Tribunal reiterated that dissent by a few cannot override the majority, and the principle of democratic decision-making within a creditor class must prevail. Regarding the application u/s 43 filed by the Appellant, the Appellate Tribunal concurred with the AA that only the RP or Liquidator is empowered under the statute to file such applications. While upholding the rejection of the application, the Appellate Tribunal deleted the cost of ₹50,000/- imposed on the Appellant.

In respect of the challenge to the Resolution Plan, the Appellate Tribunal affirmed the AA's view that individual homebuyers, despite divergent opinions, are bound by the class vote exercised by the AR. The Appellate Tribunal relied on *K. Sashidhar v. Indian Overseas Bank*, *Kalpraj Dharamshi v. Kotak Investment Advisors Ltd.*, *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, and *Ghanshyam Mishra and Sons Pvt. Ltd. v. Edelweiss ARC*, emphasizing that the AA has no power to interfere with the CoC's commercial wisdom once the plan satisfies Section 30(2). It was further observed that the approved Resolution Plan provided for delivery of units to all 297-unit holders and complied with legal requirements.

Order/Judgement: The Appellate Tribunal reinforces the principle that collective decisions taken by the CoC's, especially in the case of financial creditors in class (like homebuyers), bind all members, and individual objections post-approval of the Resolution Plan are unsustainable. The Appellate Tribunal also clarifies the statutory scheme regarding who can initiate avoidance transactions under Section 43 of the IBC.

Case Review: The Appellate Tribunal dismissed all three appeals. However, the cost of ₹50,000/- imposed by the NCLT in IA No. 22/MB/2025 was set aside. The rest of the findings and decisions of the AA were upheld.