



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IBC Case Law Capsule

Number 250

(November 17, 2025)

IFCI Ltd. vs Raju Palanikunnathil Kesavan, RP of Heera Construction Co Pvt Ltd and Anr.
Company Appeal (AT)(Insolvency) No.740/2023
Date of NCLAT Judgement: November 11, 2025

Facts of the Case:-

The IFCI Ltd. ("Appellant") filed two appeals under Section 61 of the Insolvency and Bankruptcy Code, 2016 ("IBC/the Code") against the common order passed by the National Company Law Tribunal, Mumbai Bench ("NCLT") whereby the NCLT dismissed the appellant's applications and approved the Resolution Plan submitted by Royal Heights Projects Pvt. Ltd. ("the Successful Resolution Applicant/SRA").

The Corporate Debtor, Heera Construction Company Pvt. Ltd. ("CD"), a real estate developer, had availed financial assistance of ₹50 crores from the appellant under a Corporate Loan Agreement, secured by mortgages over several immovable properties, including 5.46 acres of third-party land at Attipra Village ("Attipra Land") and 0.60 acres owned by the CD at Poonithura Village ("Poonithura Land"). Upon default by the CD, the appellant initiated proceedings under Section 7 of the Code, upon which the CD was admitted to the Corporate Insolvency Resolution Process ("CIRP"). Later, the Committee of Creditors ("CoC") approved the Resolution Plan despite the Appellant's dissent.

The appellant challenged the Resolution Plan, alleging that the Resolution Professional ("RP") had wrongly included third-party assets in the CIRP, failed to properly value mortgaged properties, and unlawfully extinguished the appellant's security interest. It was further contended that valuable assets were undervalued or assigned nil value and that several immovable properties were excluded from the Information Memorandum. During the proceedings, Enforcement Directorate investigations revealed additional properties worth over ₹23 crores that were not part of the CIRP.

Conversely, the Respondents, both the RP for the CD, and the SRA, averred that the Attipra land was a third-party asset over which the CD only held developmental rights, and the Poonithura land was not capitalized in the books. They further contended that lack of title deeds and pending litigations prevented valuation, and that the Resolution Plan, approved by a CoC majority, reflected its commercial wisdom, which cannot be interfered with merely on the objections of a dissenting creditor.



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NCLAT's Observations:

After examining the facts, the question before the NCLAT was whether the Resolution Plan had been approved in compliance with the Code, and whether the RP had fulfilled his statutory obligation to identify, verify, and value all assets of the CD prior to placing the plan before the CoC.

The Tribunal observed that the RP had failed to include several immovable properties, later revealed through Enforcement Directorate search and attachment proceedings, in the Information Memorandum, thereby depriving the CoC and prospective resolution applicants of a complete picture of the CD's asset base. It noted that assigning nil value to the Attipra land and omitting valuation of the Poonithura land ran contrary to the broad definition of "assets" under the Code and the requirements of Regulation 35 of the CIRP Regulations, which mandates valuation of all assets. The NCLAT further held that extinguishing the Appellant's security interest over these mortgaged properties lacked any legal basis.

The Tribunal also underscored that commercial wisdom of the CoC cannot be exercised meaningfully if material information is withheld, and that a resolution plan containing illegal or irregular terms cannot be shielded merely because it has received majority approval. Placing reliance on *Masatya Technologies Pvt Ltd Vs Amit Agarwal, RP for Vistar Construction Pvt Ltd and Another (2023)*, the NCLAT held that the discovery of valuable unaccounted assets and inconsistent treatment of similarly situated properties constituted serious procedural irregularities that vitiated the resolution process.

Order/Judgement:

Accordingly, in light of the above facts and circumstances, the NCLAT directed issuance of a fresh Form G and mandated completion of the entire CIRP, including fresh consideration of resolution plans, within a prescribed timeframe of three months.

Case Review: *Appeal(s) disposed off in favour of the appellant.*