



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IBC Case Law Capsule

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Elegna Co-Op. Housing and Commercial Society Ltd. Vs Edelweiss ARC Ltd. & Anr.

Civil Appeal No. 10261/2025 with Civil Appeal No. 10012/2025

Date of Supreme Court's Judgment: 15th January 2026

Facts of the Case: -

The present appeals arise from the judgment dated 01.07.2025 passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi ("NCLAT"). By the impugned judgment, the NCLAT set aside the order dated 06.11.2024 passed by the National Company Law Tribunal, Ahmedabad Bench ("Adjudicating Authority"), and directed admission of the application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("the Code"), thereby initiating the Corporate Insolvency Resolution Process ("CIRP") against Takshashila Heights India Private Limited ("Corporate Debtor"), the appellant in Civil Appeal No. 10012 of 2025. The NCLAT further rejected the intervention application filed by Elegna Co-operative Housing and Commercial Society Ltd. (homebuyers' society), the appellant in Civil Appeal No. 10261 of 2025, on the ground of lack of locus standi.

The Corporate Debtor had availed financial assistance aggregating to ₹70 crores from ECL Finance Ltd., the original lender, under two term loan facilities for development of a residential-cum-commercial project titled "Takshashila Elegna". Term Loan-I of ₹40 crores and Term Loan-II of ₹30 crores were extended pursuant to duly executed loan agreements, promissory notes, and allied security documents, including an Indenture of Mortgage. Due to defaults in repayment, the loan accounts were classified as Non-Performing Assets, with the last payment having been made on 30.09.2021. On 09.05.2022, the original lender assigned its rights, title, and interest in the loan facilities to Edelweiss Asset Reconstruction Company Ltd. ("EARCL"). Thereafter, EARCL issued a recall and invocation of guarantee notice on 31.05.2022. Recovery proceedings were initiated before the Debts Recovery Tribunal, Ahmedabad, and a demand notice under Section 13(2) of the SARFAESI Act was issued on 21.07.2022 claiming ₹57.24 crores as outstanding. Subsequently, on 23.05.2023, the Corporate Debtor and EARCL entered into a Restructuring-cum-One Time Settlement Agreement to settle the outstanding liability for ₹55 crores. The Corporate Debtor paid ₹5.5 crores towards the first instalment and sought issuance of a provisional No Objection Certificate to enable sale of unsold units. The Financial Creditor, however, revoked the restructuring arrangement on 29.12.2023 citing default.

Thereafter, EARCL filed an application under Section 7 of the Code. By order dated 06.11.2024, the Adjudicating Authority dismissed the application, observing that the Code was being invoked as a recovery mechanism and noting the advanced stage of the real estate project. Aggrieved, the Financial Creditor preferred an appeal before the NCLAT, which allowed the appeal by the impugned judgment, giving rise to the present civil appeals.



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Supreme Court's Observations:

After duly hearing both the parties, the Supreme Court examined the scope of enquiry under Section 7 of the Code, and reiterated that once the existence of a financial debt and occurrence of default are established, the Adjudicating Authority is statutorily mandated to admit the application. The Court emphasised that at the admission stage, the jurisdiction of the NCLT is circumscribed and does not extend to considerations of equity, project viability, or the stage of completion of a real estate project. It held that factors such as substantial completion of the project or the possibility of resolving disputes outside the insolvency framework cannot override the express mandate of Section 7(5) of the Code.

The Court further clarified that the Insolvency and Bankruptcy Code does not permit the Adjudicating Authority to refuse admission of a Section 7 application on the ground that insolvency proceedings may cause hardship to third parties or disrupt an ongoing project. Observations made by the NCLT regarding invocation of the Code as a recovery mechanism were held to be legally untenable once debt and default stood established. The Court reiterated that the objective of the Code is resolution of insolvency through a collective process, and not adjudication of commercial expediency at the threshold stage.

On the issue of locus standi, the Supreme Court affirmed the finding of the NCLAT that a Cooperative Housing Society does not, by itself, acquire the status of a financial creditor merely by representing homebuyers. It observed that the right to participate in insolvency proceedings flows from statutory recognition under the Code, and an association or society cannot claim an independent right of intervention unless it satisfies the statutory requirements. In the absence of such standing, the intervention application was rightly rejected.

Order/Judgement: Considering the facts and circumstances of the case as highlighted above, the Supreme Court dismissed the appeal challenging the admission of the CD into CIRP, as well as the intervention application by the homebuyers' society. Additionally, the Court issued directions to the Committee of Creditors to support any extraordinary/non-routine decisions by cogent decisions duly recorded in writing.

Case Review: *Appeal dismissed.*