

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 43
(IB)-934(PB)/2018

IN THE MATTER OF:

Paramjit Singh Saini & anr.	...	Applicant/Petitioner
Vs		
Puma Realtors Pvt Ltd.	...	Respondent

Order under Section 7 of the Insolvency & Bankruptcy Code, 2016 (CIRP).

Order delivered on 03.07.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL & VC)

PRESENT:

For the Petitioner : Mr. Karan Valecha, Naman Tandon, IA-4860/2022
Mr. Munawwar Naseem, Ms. Sanjna Dua, Advs.
Dr. Chandra Shekhar, Mr. Sayyam Maheshwari, Mr.
Bharat Khurana, Advs in IA-6596, 6651, 6652 /2023
Mr. P. Nagesh Sr. Adv., Mr. Akshay Sharma, Mr. Atul
Kumar, Advs. in IA-5765/2021
Mr. Prabhat Yadav, Adv. in IA No.5549
Mr. Yash Pal Gupta, Advocate in IA/6318 of 2022
Ms. Jigyasa Tanwar Adv in I.A. No. 1541/2023
Mr. Kartik Yadav, Adv. for (Vijaypal Singh Mann) in
RA/74/2022
Mr. Shubham Bhalla, Mr. Alex Noel Dass, Advs. in RA-
75/2022 (For Applicants)
Mr. Rachit Mittal, Rishi Singhal Advs in IA 4770/22
Ms. Pooja Mehra Saigal, Mr. Shubham Paliwal, Ms.
Amrita Grover, Mr. Harit SV, Ms. Kaveri Rawal, Advs.
in IA-2487/2023
Mr. Ayush Gupta, Mr. Rishabh, Ms. Aditi Aggarwal,
Advs in IA-5492/2022 and IA-1054/2023
Ms. Puja Jakhar, Mr. Harshit Prakash Adv. IA-3274/23
Mr. Abhishek Pandey, Adv. in IA-2713/2024

For the ERP : Ms. Noor Shergil, Ms. Anuja Pethia, Mr. Rishabh
Govila, Advs for ERP/Monitoring Committee
Mr. Pawan Kumar Garg, Erstwhile RP and Erstwhile
MP, Puma Realtors Pvt Ltd.

For the SRA : Mr. Sunil Fernandes, Sr. Adv., Mr. Rishabh Nangia,
Ms. Diksha Dadu, Mr. Rajshree Chaudhary, Advs.

ORDER

IA-1593/2023 and IA-1594/2023

1. These are applications filed by the Applicants claiming to be homebuyers. Prayer (iii) (iv) and (v) in these applications reads as follows:

“IA-1593/2023

iii) Direct the Respondents to honour the Resolution Plan.

iv) Issue a direction or order to the Respondents to execute the new BBA for the said land to the Applicant.

v) Pass such other and further orders as the Hon'ble Court may deem to be fit and proper under the facts and circumstances of the Present case.

IA-1594/2023

iii) Direct the Respondents to honour the Resolution Plan.

iv) Issue a direction or order to the Respondents to execute the new BBA for the said plot numbered IH4- Plot C-30 with the Applicant No. 1 and Plot C-29 with Applicant No. 2.

v) Pass such other and further orders as the Hon'ble Court may deem to be fit and proper under the facts and circumstances of the Present case.”

Heard, Ld. Counsels for the parties.

2. This relates to a project developed by the Erstwhile CD, now under the control of the SRA, earlier known as IREO Housing Project, now called One Rise. According to the applicants they made a substantial payment in the year 2017 on the premise that they will be allotted one plot of land.
3. Thereafter the Corporate Debtor was admitted under CIRP vide order dated 17.10.2018 and the RP undertook the Resolution Process and in that the SRA's Plan was approved by the CoC and by this Adjudicating Authority on 01.06.2021 and the same has been confirmed by the Hon'ble NCLAT and Hon'ble Supreme Court of India.

- 4.** In the Resolution Plan, there is a Clause 18.4 Sub-Clause XI which provides for a six-months period for the allottees who have missed the bus to approach the SRA and seek for considering their claim or a unit.
- 5.** In the present case the petitioner counsel pleads that post the substantial payment of money, they are entitled to a plot of land. However, it appears that they made a claim before RP and they were treated as financial Creditors and they also participated in the CoC decisions and that plan was also approved.
- 6.** After the expiry of six-months period realizing that they are not getting the benefit of the plot, the applicants approached the SRA seeking for allotment of a plot. The SRA did not consider the request on the premise that the amount paid by these applicants have already been refunded by the RP to the Parties and also on the premise that there exists no allotment letter or Builder Buyer Agreement (BBA).
- 7.** In this factual background, the present applications have been filed seeking a direction/order against the Respondent to execute new BBA for the said plot of land.
- 8.** The Ld. Counsel pleads that the amounts were paid for the plots in issue but the refund was surreptitiously made to defeat the rights of the applicants.
- 9.** We have heard the contentions on behalf of the SRA and Erstwhile RP, who pleads that the applicants knowing fully well have agreed to take the refund and have not raised any protest on receipt of the refund amount therefore they cannot turn around and plead as now prayed for.

10. We have considered the contentions raised, we note that though the applicants in these cases have filed claim which was admitted by the RP, but during the course of the CIRP process a refund was made by the RP and admittedly received by the Applicants without demur. Furthermore there is no allotment letter for any one of the plots in the project, there is no BBA in relation to this project.
11. That being the case, the only inference is that it could be a monetary facility extended by these applicants to the CD which admittedly have been refunded by the RP in the course of the CIRP proceedings which is duly acknowledged and received by these applicants without demur and therefore we find no material ground to issue any directions or order to the respondent to execute a new BBA for this as claimed.
12. Furthermore the question of issuing any such directions does not arise because from the inception there is no BBA nor any allotment letter. Therefore the applicants cannot claim a new right based on no document.
13. Hence, we find no necessity to pass any directions as prayed for, these applications are devoid of merits and therefore deserves to be dismissed.
14. Accordingly, **IA-1593/2023 and IA-1594/2023 are dismissed.**

IA-6651/2023 and IA-6652/2023

Notice of the Applications be issued.

Ld. Counsels for the SRA and Erstwhile RP seek time to file a response to the Application.

At the request, list the matter **on 07.08.2024.**

IA-6596/2023

Ld. Counsel or the applicant appeared.

Ld. Counsels for the SRA and Erstwhile RP seek time to file a response to the Application.

At the request, list the matter **on 07.08.2024.**

IA-1029/2022

In terms of the order dated 07.05.2024, an affidavit has been filed.

Ld. Counsels for the SRA and Erstwhile RP seek time to go through the same and make the submissions.

At the request, list the matter **on 07.08.2024.**

IA-4860/2022

The relief sought in the application is as follows:

- a)** Allow the present application and restore the I.A. No. 5818 of 2021 to its previous stage i.e. final arguments;*
- b)** Pass any other order/directions as this Hon'ble Tribunal may deem fit and proper in the interest of justice."*

This is an application filed for seeking restoration of IA-5818 of 2021, which was dismissed on 07.09.2022 for non-prosecution.

Ld. Counsel for the Applicant submits his unconditional apology for non-appearance on the said date and made an endorsement in this regard.

Ld. Counsel for the Respondent also appeared and has no serious objection for allowing restoration of the said application.

Therefore, in view of the submission made by the Applicant, the application is allowed.

Accordingly, IA-4860/2022 is **allowed and disposed of.**

The Application No. IA-5818/2021 stands restored to its original position.

List IA-5818/2021 the matter **on 07.08.2024.**

IA-2713/2024

Ld. Counsel or the applicant appeared.

Ld. Counsels for the SRA and Erstwhile RP seek time to file a response to the Application.

At the request, list the matter **on 07.08.2024.**

IA-3274/2023

Ld. Counsel Ms. Puja Jakhar for the applicant appeared and seeks sometime to get more particulars.

At the request, list the matter **on 07.08.2024.**

IA-5492/2022 and 1054/2023

Ld. Counsel for the applicant appeared. He is directed to serve the copy of the application to the SRA and Erstwhile RP.

At the request, list the matter **on 07.08.2024.**

IA-2487/2023

Ld. Counsel Ms. Pooja M. Saigal for the Applicant appeared and undertakes to prepare the list of dates & events, Issue-wise chart, Provisions of Law and the Citations on which they are relying.

The same should be exchanged well in advance between the parties and filed before the next date of hearing.

At the request, list the matter **on 07.08.2024.**

IA-6318/2022

Ld. Counsel or the applicant appeared.

Ld. Counsels for the SRA and Erstwhile RP seek time to file a response to the Application.

At the request, list the matter **on 07.08.2024.**

IA-5765/2021 and IA-3481/2022

At the request, list the matter **on 29.07.2024.**

IA-5821/2021, CA-1532/2020, IA-2570/2020, IA-4770/2022, RA-74/2022, RA-75/2022, IA-5549/2022, IA-5903/2022, IA-1350/2023, IA-1541/2023, IA-2704/2023 and IA-5524/2023.

Meantime, Ld. Counsels for the SRA and Erstwhile RP are directed to complete the pleading in the pending applications.

At the request and by consent of all the parties list the matter **on 07.08.2024** along with all other pending applications.

-sd-

**(RAMALINGAM SUDHAKAR)
PRESIDENT**

-sd-

**(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)**

Dipak – 03.07.2024