

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 05
(IB)-45(PB)/2018

IN THE MATTER OF:

M/s. Nupur Finvest Pvt. Ltd	...	Applicant/Petitioner
Vs		
M/s. Unnati Fortune Holdings Ltd	...	Respondent

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

Order delivered on 01.03.2023

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

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

PRESENT:

For the Applicant	:	Mr. Shatardru Chakraborty, Mr. Surbhi Anand, Mr. Sakshi Sharma, Advs. in IA No. 5406/2020 Mr. Ashish Pandey, Mr. Shubham Saxena Adv. IA No. 4205/2021 Mr. Vaibhav Tyagi, Advocate in IA-4075/2022 Mr. Abhishek Anand, Mr. Karan KOhli, Mr. Sahil Bhatia, Mr. Vaibhav Mendiratta, Mr. Akhand Pratap Singh, Advs. for SRA
For the RP	:	Mr. Gaurav Mitra, Mr. Aditya Gauri, Amar Vivek, Mr. Abhinav Tyagi, Ms. Damini Srestha, Mr. Lavanya Pathal, Advs.
For ICICI Bank	:	Mr. Abhirup Dasgupta, Mr. Ishaan Duggal, Ms. Bhawana Sharma, Advs.
For Noida Authority	:	Ms. Madhavi Dewan, ASG, Mr. Sourav Roy, Mr. Kaushal Sharma, Sahil Morge, Prabudh Singh, Mr. Vishal Malik Advs. in IA-3756/2020

ORDER

IA-3756/2020

Heard, Ms. Madhavi Diwan, ASG appearing for New Okhla Industrial Development Authority (NOIDA) assisted by Advocate Mr. Sourav Roy, Mr. Gaurav Mitra appearing on behalf of the Resolution

Professional and Mr. Abhishek Anand appearing for the Resolution Applicant.

It is a case, where NOIDA has granted a lease in favour of M/s IVRCL and when this lease was subsisting, a General Development Agreement (GDA) has been entered into by M/s IVRCL with M/s Unnati Fortune Holdings Ltd (Corporate Debtor) and they have developed a project, in which there are 500 homebuyers who are presently occupying & living there and rest of the flats are either partly completed or some tower is yet to be constructed.

At this stage, the Corporate Debtor was put under CIRP proceedings and Resolution Plan has been approved by CoC on which an objection has been raised by the NOIDA. Some of the legal issues raised by the NOIDA could be resolved taking cue from the order passed by the Hon'ble Supreme Court in the matter of *New Okhla Industrial Development Authority vs Nilesh Sharma & anr. in Civil Appeal No(s). 4665/2022 dated 25.07.2022.*

“ ORDER

Issue notice.

Mr. Karan Batura, AOR accepts notice on behalf of respondent no.1. Let Lessee (M/s. Logix City Developers Pvt. Ltd.) be made a party respondent.

Let notice be issued to respondent no. 2 and added respondent, returnable on 29.08.2022.

Dasti, in addition, is permitted to be served.

After we have heard the learned Counsel for the parties, before we proceed with the matter further, let the Resolution Professional represented by Mr. Dewan may revisit the Resolution Plan and furnish the revised proposal to the appellant which may take care of their interest as well by 12.08.2022.

A joint meeting thereafter be held with the senior authorized officers of the New Okhla Industrial

Development Authority (NOIDA), Resolution Professionals, including the resolution applicant and others, if required, so as to find out some amicable solution, including the Lessee (M/s. Logix City Developers Pvt. Ltd.) within the ambit of IBC, if possible, within two weeks thereafter. List on 30th August, 2022 (NMD). In the meantime, further proceedings qua the appellant shall remain stayed. However, the Tribunal is at liberty to proceed with other aspects of the matter.”

In this case, it is pointed out by the Ld. Counsel for the Resolution Professional that there are certain decisions of the Hon'ble NCLAT, where NOIDA has been called upon to consider the Resolution Plan in the light of the legal infirmity in the transfer of land from the Lessee to a third party to protect the rights of homebuyers.

Ms. Madhavi Diwan, ASG took time to go through those decisions. We also requested Ld. ASG to ask NOIDA to consider the issue by way of calling a joint meeting of various stakeholders, Resolution Professional, including the Resolution Applicant and others, if required, so as to find out some amicable solution as indicated by the Hon'ble Supreme Court in the matter of *New Okhla Industrial Development Authority vs Nilesh Sharma & anr. In Civil Appeal No(s). 4665/2022 dated 25.07.2022.*

Accordingly, we direct the Resolution Professional and the Resolution Applicant to contact the NOIDA on or before 10.03.2023, for which NOIDA may give them a clear date for holding a joint meeting.

NOIDA will be represented by Mr. Sourav Roy, Advocate.

In such a meeting, it is desirable that NOIDA may resolve the issue on the basis of the proposal given by the Resolution

Professional and the Resolution Applicant. The result of such a meeting is to be informed to this Tribunal on or before next date of hearing.

However, for the purpose of this joint meeting, we are inclined to list the matter again **on 11.04.2023**.

If the resolution happens on some earlier date, the parties are at liberty to mention for early hearing.

-sd-
(RAMALINGAM SUDHAKAR)
PRESIDENT

-sd-
(AVINASH KUMAR SRIVASTAVA)
MEMBER (TECHNICAL)