IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 3
(IB)-207(PB)/2021

IN THE MATTER OF:
Chitranjan Gupta & Ors. .... Petitioner/Applicant
v.
M/s. Orris Infrastructure Pvt Ltd. .... Respondent

Order Under Section 7 of Insolvency & Bankruptcy Code (IBC), 2016

Order delivered on 10.05.2023

CORAM:
JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

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

(HEARING THROUGH PHYSICAL MODE AND VC)

PRESENT:
For the Petitioner : Adv. Pooja Mahajan, Adv. Shreya Mahalwa. Adv. Savan Mahajan
For the Respondent :

ORDER

IA-753/2022 & IA-2104/2023

On 11.01.2023, we passed the following order:-

ORDER
IA-804/2022, IA-4218/2022, IA-753/2022 & IA-5852/2022

Heard Ms. Pooja Mahajan, Ld. Counsel and Mr. P. Nagesh, Ld. Senior Counsel. List of dates and events along with brief synopsis and a convenience compilation of documents relied upon may be submitted by both the Counsels. In the meanwhile, the Petitioner/Home Buyers seek liberty to inspect the project for which the facility will be arranged by the Corporate Debtor and the Counsel, Mr. Akshay Sharma.

The Parties are at liberty to inspect the said project and give report before the next date of hearing.

List the matter on 30.01.2023 for a physical hearing.

In compliance of the same, both the home buyers have submitted a site inspection report in one volume and on behalf of the Corporate Debtor, they have submitted one volume again.

We also noticed that in terms of the order passed by the Hon'ble Supreme Court in its order dated 01.07.2021, in SLP NO. 7842/2021 and 7712/2021

and the order passed by the NCLT, New Delhi Bench-IV, it has been ordered as follows:-

> **91.** In sequel of the aforesaid detailed discussion, this Tribunal comes to the following conclusions:
>
> a. ***Orris is necessary party to the lis, being aggrieved party, hence, it is allowed to intervene as there was active collusion between Petitioner & Respondent corporate debtor and there was material suppression of the facts on behalf of Ld. RP of the corporate debtor from this Tribunal.***
>
> b. ***This Tribunal vests with no power to review or recall its own order 20.7.2020 & 16.10.2020, qua initiation of CIR proceedings under the garb of section 65 of code.***
>
> c. ***"Moratorium" commenced on passing of order dated 16.10.2020 and not on 20.07.2020, hence, it doesn't not over-ride the order dated 7.10.2020 passed by Ld. HRERA. Accordingly, both the orders co-exist , being not in conflict with one another.***
>
> d. ***On the strength of collaboration agreement dated 02.11.2011, the status of the corporate debtor is mere of 'Contractor' and not 'Statutory License Holder', of project Greenopolis, accordingly, it does not vest with any right, title and interest in that project.***
>
> e. ***Project "Greenopolis" belongs Orris being owner of land as well as statutory license holder from Director Town & Country Planning, Haryana, accordingly, Ld. RP of corporate debtor is not entitled to take its control & custody.***
>
> f. ***Rs. 53 Crores lying in the Escrow Account pertains to project Greenopolis and has to be utilized for its construction only, accordingly, Ld. RP of corporate debtor doesn't have any right & interest in the same also accordingly, it could not be controlled by him.***

According to the Corporate Debtor, this money has been utilized for completion of Phase-1 and other steps have also been taken for Phase 2 & 3 as well.

Be that as it may. It is an admitted fact that Occupancy Certificate and Other Statutory Certificates are awaited for which the Corporate Debtor has made a request to various authorities and the same is pending. Corporate Debtor has also made a request to Director General, Town & Country Planning, Haryana seeking for waiver of interest through aegis of HRERA in its letter dated 08.09.2022. Keeping in mind the same, we request the DTCP, Haryana to

expedite its decision on the request of Corporate Debtor for grant of Occupancy Certificate and in the light of their representation seeking waiver of interest so that the project if otherwise complete could be handed over to the home buyers based on the various orders referred above. On the issue as to whether in respect of Phase-1, home buyers should be allowed to occupy the units will be decided based on the Occupancy Certificate and other Certificates to be obtained. We direct the Orris Infrastructure Pvt Ltd. to pursue the same and report to us on or before 31.05.2023. It is also open to the Orris Infrastructure Pvt Ltd. to give an option to the home buyers of Phase 2 & 3 to take up possession in a complete Phase 1 of the project, if they are willing to accept, subject to any interim order passed by any other competent authority. This does not preclude the Orris Infrastructure Pvt Ltd. from taking up the work related to Phase 2 & 3 so that the work can be completed in a time bound manner in terms of the HRERA order dated 12.04.2020. The Orris Infrastructure Pvt Ltd. is directed to take up and complete the project as indicated and also submit an affidavit as required by the HRERA. Orris Infrastructure Pvt Ltd. will also give an account statement on utilization of Rs. 53 Crores as order by the NCLT Bench-IV. List the matter again on 31.05.2023 for compliance.

-Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

-Sd/-
(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)

10.05.2023
Lalit