

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

Company Petition No. (IB)-297(ND)/2023

IN THE MATTER OF:

Indian Bank

(A Government of India Enterprise)

Stressed Assets Management,

Large Branch, 17, Parliament

Street, New Delhi-110001

... Applicant / Financial Creditor

VERSUS

M/s Ansal Properties and Infrastructure Limited

Office: - 115 Ansal Bhawan,

16 KG Marg, New Delhi - 110001

... Respondent

Section: 7 of IBC, 2016

Order Delivered on: 18.09.2023

CORAM

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Anant Gautam, Adv. Anani Achumi

For the Respondent : Adv. Malak Bhatt, Adv. Neena Nagpal,
Adv. Mandeep Singh, Adv. Samriddhi

ORDER

Indian Bank (for brevity, the “**Applicant**”/“**Applicant Bank**”) has filed the present petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity, the “**IBC, 2016**”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency Resolution Process against M/s Ansal Properties and Infrastructure Limited (for brevity, the “**Respondent**”).

2. The Respondent namely, M/s Ansal Properties and Infrastructure Limited is a Company incorporated on 30.06.1967 with CIN L45101DL1967 PLC004759 under the provisions of the Companies Act, 1956 having its registered office at 115 Ansal Bhawan, 16-KG Marg, New Delhi - 110001, which is situated within the jurisdiction of this Tribunal. The Authorized Share Capital of the Respondent Company is Rs.1,50,00,00,000/- and Paid-up Share Capital of the Company is Rs.78,70,24,000/- as per Master Data.

3. It is stated by the Applicant that the Applicant Bank sanctioned a Term Loan of Rs.150 Crore to the Respondent on 10.09.2013 for financing the proposed project of the Company viz., Serene Residency Group Housing Project at Sector ETA II, Greater Noida at an estimated Project cost of Rs.528 Crore under sole banking with an interest rate of 4.50% (floating) including Base rate. Aggrieved by the default of dues committed and failure to take any serious steps to clear the dues, the Applicant Bank initiated the present proceeding under Section 7 of the IBC 2016 claiming the default amount of Rs.2,01,78,08,222.25/- along with interest.

4. The present application was heard and the order was reserved on 15.06.2023. We are aware of the fact that this Adjudicating Authority had initiated the Corporate Insolvency and Resolution Proceedings (CIRP) and imposed a moratorium under Section 14 of the Code against the Respondent in the matter of “Bibhuti Bhushan & Ors v. M/s Ansal Properties and Infrastructure Limited” and appointed an IRP to take over the management of the Respondent.

5. During the course of the hearing, the Respondent herein informed that vide order dated 13.01.2023 passed in the matter of “Ajai Kumar Gupta & Anr. vs. Bibhuti Bhushan Biswas & Ors.” in Company Appeal (AT) (Insolvency) No. 41 of 2023, the Hon’ble NCLAT confined the order of Adjudicating Authority admitting Section 7 application to ‘Fernhill project’ situated at District Gurgaon. The said order reads thus:

“13.01.2023: Learned counsel for the Appellant submits that the Adjudicating Authority had on an application under Section 7 by the allottees of one project Fernhill situated in Section-91, Gurgaon, Manesar, Haryana has initiated CIRP process against the Corporate Debtor. It is submitted that the Corporate Debtor has several projects and the Appellants are allottees in two projects situated at Lucknow, State of Uttar Pradesh. It is submitted that the Applicant allottees being only concerned with Fernhill project CIRP ought to have been confined to Fernhill project only and projects in other States ought not to have been included. Submission needs scrutiny.

Issue notice. Requisites alongwith process fee be filed within three days. Respondents may file Reply within two weeks. Rejoinder be filed within two weeks thereafter.

List this Appeal on 28.02.2023.

We provide that the order of Adjudicating Authority admitting Section 7 application shall confine to ‘Fernhill project’ situated at District Gurgaon.”

(Emphasis Added)

6. Before adjudicating the Application on merits, in the peculiar facts and circumstances of the case, we direct the Applicant to clarify the following:

(i) Whether there is any agreement between the bank and the CD to permit the latter to utilize the funds released under the Facilities for the project “Serene Residency Group Housing Project at Sector ETA II, Greater Noida” only;

OR

Whether the CD has been permitted to utilize the funds released under the Facilities for projects other than “Serene Residency Group Housing Project at Sector ETA II, Greater Noida”.

(ii) Whether a separate bank account has been opened by CD and maintained for the Project “Serene Residency Group Housing Project at Sector ETA II, Greater Noida”, which is funded by the applicant herein.

(iii) Whether the Security Interest created by the Bank is over the properties belonging to the Project “Serene Residency Group Housing Project at Sector ETA II, Greater Noida” only or the Security interest has been created over the properties belonging to other projects as well.

7. Similarly, we direct the Respondent to clarify the following:

(i) The total number of units planned, total number of units constructed, and total number of units allotted in the Project “Serene Residency Group Housing Project at Sector ETA II, Greater Noida” as per the latest report filed with RERA Gurgaon, and as on date.

(ii) Number of units though allotted but the physical possession not delivered to the allottees as on date. In other words, the number of units/allottees, in whose cases the Corporate Debtor has defaulted in handing over the possession within the stipulated time as well as on the date.

(iii) Whether, a separate bank account and books of accounts have been opened and maintained by the CD for the Project “Serene Residency Group Housing Project at Sector ETA II, Greater Noida”.

(iv) What is the present updated status of the ongoing CIR process for the “Fernhill Project”.

8. Both the Petitioner and the Corporate Debtor are directed to file the abovementioned clarifications by way of respective affidavits by 27.09.2023.

Sd/-
(L. N. GUPTA)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)