IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 207
(IB)-1744(ND)2019
IA-1271/2023, IA-1272/2023, IA-1010/2023, IA-1011/2023, IA-1012/2023, IA-1057/2023, IA-396/2023, IA-4375/2022, IA-3677/2022, IA-1286/2022, IA-1893/2022, IA-2220/2022, IA-2092/2022, IA-1449/2022, IA-2359/2022, IA-2789/2022, IA-2794/2022, IA-3568/2022, IA-07/2023

IN THE MATTER OF:

Canara Bank ... **Applicant/Petitioner**

Versus

M/s. Bulland Buildtech Pvt. Ltd. ... **Respondent**

Under Section: 7 of IBC, 2016 (CIRP)

Order delivered on 02.03.2023

CORAM:

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

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

PRESENT:

For the Applicant : Adv. Karan Luthra in IA.1271/2023, 1272/2023, 1010/2023, 1011/2023, 1012/2023, 36/2022, Adv. Harimohana, Adv. Deep Bisht in IA. 2359/2022, Adv. Ashutosh Ranijan, Adv. Savita Valecha in IA. 2794/2022, IA. 3568/2022, Adv. U.N Singh in IA. 07/2023 for G-Noida Authority, Adv. Kumar Mihir in IA No. 2220/2022

For the RP : Adv. Debashish Nanda, RP in Person, Adv. Sumant Batra, Adv. Ruchi Goyal, Adv. Gaurav Mitra, Adv. Gunjesh Ranjan

ORDER

IA-1271/2023, IA-1272/2023, IA-1010/2023, IA-1011/2023 & IA-1012/2023: Ld. Counsel for the Applicant produced a copy of the order dated 20.02.2023, passed by this Adjudicating Authority in IA-1093/2023, IA-1095/2023 & IA-1096/2023 and fairly submitted that the issue espoused in captioned IAs are in all fours of the said order thus the same may be dismissed. The order produced by him reads thus: -

> ***"IA-1093/2023, 1A-1095/2023 and IA-1096/2023:*** *Pursuant to the order passed by this Adjudicating Authority, the RP has examined the claims of the respective Applicants claiming to be home buyers. Having examined the records/books of the Corporate*

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Debtor, the RP has arrived at a conclusion that the names of the Applicants do not figure in the records of the Corporate Debtor as an allottee or home buyer. Having found so, the RP has rejected the claims of the Applicants. In these proceedings, once the RP has taken a particular view, with reference to the records of the CD, it would not be appropriate for us to take a different view, particularly when there is nothing contrary to what has been espoused by the RP on record. As far as the reference to agreement/receipt /allotment referred to by the Ld. Counsel for the Applicants are concerned, the same do not conclusively establish that the Applicants are entitled to allotment of a particular unit, as the same need to be based on the records/books of the Corporate Debtor, taken over by the RP under Section 18 of the IBC, 2016. The Applicant has also made reference to Regulation 8 of the IBC (Liquidation Process Regulation 2016). The regulation does not provide that even when the RP does not find the name of a particular claimant in the books of Corporate Debtor as allottee/home buyer and does not find any particular unit allotted to him, still we need to take a view that he falls in the category of allottee/home buyer.

In view of the aforementioned, the IA is rejected. *Nevertheless, it would be open to Applicants to seek declaration of their rights as claimed in the respective applications by instituting appropriate proceedings, in accordance with the law, if so advised."*

Accordingly, the IA-1271/2023, IA-1272/2023, IA-1010/2023, IA-1011/2023, IA-1012/2023 stand dismissed.

IA-1057/2023: By way of the captioned IA, the applicant has espoused objection to the Resolution Plan. In the wake, the IA is directed to be listed along with IA-1449/2022 on 27.03.2023.

IA-396/2023: Present is an application preferred by the Applicant-Prakash Bhatt seeking direction to the Respondent/ RP to admit the claim of the Applicant as a Financial Creditor as a class. Ld. Counsel appearing for the RP submitted that his claim has already been admitted as FC vide E-mail dated 19.01.2023 read with 23.01.2023.

In view of the statement made by the Ld. RP, the present IA stands disposed of.

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IA-4375/2022: On 07.02.2023, Ld. Counsel for the Applicant had sought an adjournment to take instructions regarding the fact of allotment of the same unit to Ms. Manju Malhotra Goyal as well as Mr. Ranbir. Today, Mr. Sumant Batra, Ld. Counsel for the RP explained that the Agreement dated 14.06.2013, between the Ex-director of the CD and the Applicant with regard to two flats No. (E-1601 and E-1602), Tower No. E, 15th Floor, Bulland Elevates Plot No. GH-3A, Sector-16C, Greater Noida, Uttar Pradesh had been entered with fraudulent intent as there is no 16th Floor existing in the project, as per the approved plan. The approved sanctioned plan of E-Block is placed on record as Annexure-A7 to the reply. Ld. RP who is present in person also explained that when from the ledger maintained by the CD, he could see that certain interest had been paid to Ms. Manju Malhotra Goyal, but there was no such entry regarding Mr. Ranbir. He also espoused that in the 4QT software of the promoter, the name of Mr. Ranbir is found as allottee while the particulars of the Applicant in the IA i.e., Ms. Manju Malhotra Goyal are not reflected. In view of the submissions made by the Ld. Counsel for the RP as also by the RP present in person, we are convinced that the exercise needed to be carried out in the judgment of Hon'ble NLCAT passed in the matter of Puneet Kaur vs. K.V. Developers Pvt. Ltd. in Company Appeal (AT) (Ins) – 390/2022, dated 01.06.2022, has been carried out. Once the claim of the Applicant as allottee is not substantiated from the records maintained in the software of the Respondent/CD, no relief can be granted to her in the IA.

With this, the present IA stands dismissed.

IA-3677/2022: On 07.02.2023, we passed the following order in the captioned IA-3677/2022:

> *"Mr. Mitra, Ld. Counsel for the RP submitted that the Applicant in the IA is not bona fide allottee of any dwelling unit and his name is not reflected in the books of the CD. He further submitted that Mr. Satish Jain, the uncle of Applicant was indulging in making cash payment to CD to book the flats in the name of his different relatives and used to take the money back by cheque. According to him, Mr. Satish Jain also received on 05.11.2014, an amount of Rs. 50,00,000/- vide cheque No. 000528, in lieu of the money deposited by him for booking flat in the name of Applicant. In the wake, we*

deem it appropriate to direct the Ld. Counsel for the RP to file a brief synopsis indicating all such transactions in which the name of Mr. Vipul Jain was reflected qua the transaction entered into by Mr. Satish Jain. Also, the relevant documents including the details of the payment made by cheque and proof of its encashment by Mr. Satish Jain, should be enclosed with the synopsis.

List on 16.02.2023."

Today while referring to certain E-mails and the ledger account of the CD, Mr. Gaurav Mitra, Ld. Counsel for the RP espoused that the names "Mr. Satish Jain/Mr. Vipul Jain" are overlapping. He also made reference to the order dated 22.06.2018 passed by RERA to point out that in the complaint filed by Mr. Satish Jain (the uncle of the Applicant), RERA directed the matter to be investigated by the specialist Economic Offences Investigation Agency regarding the conduct of Mr. Satish Jain. Ld. Counsel drew our attention to certain tables reproduced in the order of the RERA, wherein the name of Mr. Vipul Jain is also reflected. In sum and substance, the plea put forth by Mr. Gaurav Mitra is that the Applicant Mr. Vipul Jain is not a genuine allottee, and the transaction alleged by him was a simple rotation of money between Mr. Satish Jain and the CD, wherein the name of different persons including Mr. Vipul Jain figured. We specifically find the name of Mr. Vipul Jain at serial No. 5 of the table reproduced on page No. 53 of the order passed by RERA. It would be relevant to reproduce some excerpts from the order of RERA as under:

Sr. No.	Complainant/Allottee	Name of Bank	Cheque No.	Amount	Receiver	Date of Receipt
1.	Mr. Satish Jain	Union Bank of India	000520	1,00,00,000.00	Mr. Satish Jain	04.11.2014
2.	Mr. Satish Jain	Union Bank of India	000521	50,00,000.00	Mr. Satish Jain	05.11.2014
3.	Smt. Laxmi Devi	Union Bank of India	000529	50,00,000.00	Mr. Satish Jain	05.11.2014
4.	Mrs. Sandhya Jain	Union Bank of India	000527	50,00,000.00	Mr. Satish Jain	05.11.2014
5.	Mr. Vipul Jain	Union Bank of India	000528	50,00,000.00	Mr. Satish Jain	05.11.2014
6.	Mr. Sanjay Gupta	Union Bank of India	000522	50,00,000.00	Mr. Satish Jain	05.11.2014

7.	Mrs. Ritu	Union Bank of India	000523	50,00,000.00	Mr. Satish Jain	05.11.2014
8.	Mr. Ajay Kumar Jain	Union Bank of India	000531	25,00,000.00	Mr. Satish Jain	05.11.2014
9.	Mrs. Shalini Jain	Union Bank of India	000530	25,00,000.00	Mr. Satish Jain	05.11.2014
10.	Mrs. Neelam Sukhija	Union Bank of India	000532	25,00,000.00	Mr. Satish Jain	05.11.2014
11.	Kumari Priya Nagdev	Union Bank of India	000533	25,00,000.00	Mr. Satish Jain	05.11.2014
	Total			**5,00,00,000.00**		

It has not been clarified by the Respondent or the complainant as to which or how many undated cheques were presented by the complainant Mr. Satish Jain in the bank and the payment has been received. It is also not clear as to why undated cheques were provided by the Respondent and undated cheques were taken by the complainant or what was the business relationship between the Respondent and the complainant or what were or are the actual interests of the Respondent and the complainant in the project. These cheques were probably taken by the complainant as a security on the basis of which regular returns were being received by him and there was a possibility that the payment could have been made by him by presenting the check in the bank in case of interruption in receipt of the return. The complainant, through his complaint and evidence, has not given information about how much money he has received from the

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respondent. In their complaints, they have suppressed the transactions made with the Respondent, which are substantiated by the evidence presented by the Respondent, and have tried to get orders in their favor by misguiding the Authority.All these are complex questions related to economic transactions and economic crime, which can be solved only by specialist economic crime investigation agency after due investigation.

6. According to the following details dated 15/12/2015 by the complainant Mr. Satish Jain and his family members, the respondent has been provided with a loan for a period of 06 months at the rate of 36 per cent per annum interest and undated cheque have been received for an amount equivalent to the loan:

Sr. No.	Date	Complainant/ Allottee	Name of Bank	Cheque No.	Amount	Receiver	Date of Receipt
1.	15.12.2015	Mr. Satish Jain	Bank of India	000188	1,00,00,000.00	Mr. Satish Jain	18.12.2015
2.	15.12.2015	Mr. Satish Jain	Bank of India	000204	50,00,000.00	Mr. Satish Jain	19.12.2015
3	15.12.2015	Mrs. Sandhya Jain	Bank of	000203	1,00,00,000.00	Mr. Satish	19.12.2015

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		wife of Mr. Satish Jain	India			Jain	
4	15.12.2015	Mrs. Sandhya Jain	Bank of India	000205	50,00,000.00	Mr. Satish Jain	19.12.2015
5	15.12.2015	Mr. Sumit Jain	Bank of India	000201	1,00,00,000.00	Mr. Satish Jain	18.12.2015
		Total			4,00,00,000.00		

It is known from the above that on 15/12/2015 a total short-term loan of Rs.4 crore has been given to the respondent by the complainant or his family members at the rate of 36 percent annual interest and advance undated cheque have been received by the complainant Mr. Satish Jain after 3/4 days of payment of the loan.It is unlikely that it was white money. Prima facie it appears to be black money. The rate of interest is also extraordinarily high. The advance undated cheque has been received by the complainant under his signature in respect of all the loans. From this, it can be concluded that the entire amount has been paid by the complainant. This transaction also casts a black sheet on the business relationship between the respondent and the complainant. There is also a possibility that after the decision of demonetization by the Government of India, the complainant and his family members have done such transactions in the past to convert black money into white and violate economic laws. It is prima facie confirmed that the complainant / their relatives / associates are controlling the project in some way or the other and not the actual allottee in the project and have brought the present complaint to RERA to further meet the benefits which they have not availed. Their complaints are not bonafide.

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ORDER

The complaints submitted by the complainants Shri Satish Jain, Smt. Lakshmi Devi Shri Ajay Kumar Jain and Smt. Ritu are hereby dismissed. The entire matter should be brought to the notice of the Chairman, UP Real Estate Regulatory Authority and after its approval, it should be referred to the Specialist Economic Offenses Investigation Agency for investigation.The proceeding should be entered in the office after necessary action.

The order should be uploaded on the portal.
Order signed today on 22.06.2018.
Date:- 22.06.2018

(Abrar Ahmed)
Secretary
ıl Estate Regulatory Authority

ABRAR AHMED
Digitally signed by ABRAR AHMED
Date: 2018.06.25 11:37:27 +05'30'

In view of the aforementioned, we are convinced that the claim of the Applicant is not genuine and is devoid of merits and the RP is justified in not entertaining the same.

Ergo, the IA stands dismissed.

IA-1286/2022: As prayed by Mr. Sumant Batra, Ld. Counsel appearing for the Applicant/RP, hearing is deferred to 27.03.2023.

IA-1893/2022: Mr. Gaurav Mitra, Ld. Counsel for the Applicant/RP submitted that as per the books/software maintained by the CD, the unit i.e., Apartment No. 1002, Tower C 10th Floor was allotted to Mr. Mukesh Kumar Chauhan and the name of Mr. Manish Valecha is not reflected either in the software or the books of the CD. Ld. Counsel for the RP further submitted that from the ledger of the CD, it could be revealed that the CD had paid some money to Mr. Manish Valecha. The spirit of the judgment of the Hon'ble NCLAT in the matter of Puneet Kaur is that even when the Home Buyer stakes his claim belatedly, the RP should not reject the same merely because it was not preferred within the time limit prescribed in the IBBI (IRCP) Regulation, 2016 and should consider the same with reference to the books of the CD. In

the present case, the RP has acted in terms of the spirit of the judgment. In the wake, we do not find any merit in the IA and the same is rejected as being devoid of merits.

With this, the present IA stands rejected.

IA-2220/2022: List along with IA-1449/2022 on 27.03.2023.

IA-2092/2022: Mr. Sumant Batra, Ld. Counsel for the RP seeks an adjournment to prepare his submissions to be put forth in the matter. At the request made by the Ld. Counsel, the hearing is deferred to 27.03.2023.

Mr. Shivam Kumar, Ld. Counsel sought to withdraw his power filed by him on behalf of the Applicant in IA-2092/2022 and sought discharge. He is allowed to do so and is discharged from the matter as an advocate.

List on 27.03.2023.

IA-1449/2022: Present application has been filed for approval of the Resolution Plan by the Ld. Counsel for the RP. At his request, the hearing is deferred to 27.03.2023.

IA-2359/2022: List this IA along with IA-1449/2022 on 27.03.2023.

IA-2789/2022: There is no appearance on behalf of the Applicant, despite repeated calls.

Hence, the IA-2789/2022 is dismissed for non-prosecution.

IA-2794/2022: Ld. Proxy Counsel appearing for the Applicant submitted that the arguing counsel is not available. In the wake, the hearing is deferred to 27.03.2023.

IA-3568/2022: List on 27.03.2023.

IA-07/2023: List on 27.03.2023.

-Sd-

(L. N. GUPTA)
MEMBER (T)

-Sd-

(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

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