

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-543
IB-657/ND/2021
IA/55/2023

IN THE MATTER OF:

Manish Aneja & Ors.

Vs.

Revital Reality Pvt. Ltd.

....Applicant

.....Respondent

SECTION

U/s 7 IBC

Order delivered on 27.03.2023

CORAM:

**SHRI P.S.N PRASAD,
HON'BLE MEMBER (JUDICIAL)**

**DR. BINOD KUMAR SINHA,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : Mr. Akshay Srivastava, Ms. Riddhi Jain
Mr. Shiven Mishra in IA/55/2023
For the Respondent : Mr. Lokesh Malik, Adv.

ORDER

IA/55/2023:-

This is an application filed under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016 seeking the dismissal of the captioned application under Section 7 of the IBC, 2016. We have carefully gone through the application as well as arguments advanced by Ld. Counsel for the Applicant as well as Ld. Counsel for the Respondent being Section 7 Applicant. Ld. Counsel for the Applicant has also submitted that the order passed in Civil Appeal No. 7534 of 2021 in the matter relating to Anand Murti Vs. Soni Infratech Pvt. Ltd. and Anr. is applicable in the present matter. The present application is supported by 66 original Applicants and another 23 by filing an additional affidavit. On the other hand the Section 7 application has been moved by 147 unit holders. It is natural that when Section 7 application has been moved by

requisite majority of home buyers, there will always be some fraction of home buyers who are opposing initiation of Section 7 proceedings and those home buyers who generally oppose will always take a plea that there is every possibility of completion of the project being delayed and also the cost is likely to increase. However, keeping the majority interest in view, we do not find any merit in the present application filed under Section 60(5) of IBC, 2016. As per the Corporate Debtor, the possession of the flats were supposed to be delivered on 22.01.2020 but till now even the possession “occupancy certificate” has not been received and the project is not yet completed in all respects. Therefore, entertaining any application at this stage for the dismissal of CP will unnecessarily cause delay and hamper the object of expeditious adjudication of Section 7 application and it is also not in the interest of majority of the home buyers. Therefore, the present application is **dismissed without cost.**

List the main matter i.e. IB-657/ND/2021 on **17.04.2023.**

S/d-
(DR. BINOD KUMAR SINHA)
MEMBER (T)

S/d-
(P.S.N PRASAD)
MEMBER (J)