

Housing Development Finance ... vs Reliance Capital Limited & Anr on 13 January, 2022

Author: Asha Menon

Bench: Asha Menon

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 47/2021

HOUSING DEVELOPMENT FINANCE
CORPORATION LIMITED

..... Pla

Through: Mr. Aman Raj Gandhi and Mr.
Parthasarathy Bose, Advs.

Versus

RELIANCE CAPITAL LIMITED & ANR.

..... Defenda

Through: Mr. Jayant K. Mehta, Sr. Adv. with
Mr. Rishi Agrawala, Mr. Pranjit
Bhattacharya, Ms. Vatsala Rai and
Ms. Shubhi Pahwa, Advs.

CORAM:

HON'BLE MS. JUSTICE ASHA MENON
ORDER

% 13.01.2022 [VIA VIDEO CONFERENCING] I.A. 630/2022 (of D-1 u/O XXXIX R-4 CPC for stay of present proceedings and vacation of the ad-interim stay)

1. This application has been moved on behalf of the applicant/defendant No.1 with the following prayers:

"(a) Pass an order directing a stay on continuation of the present proceedings in terms of the order dated 06.12.2021 passed by the Hon'ble NCLT in Reserve Bank of India v. Reliance Capital Limited CP (JB)- 231/MB/2021; and

(b) Pass an order vacating the ad-interim stay order passed by this Hon'ble Court on 15.03.2021 as having become infructuous; and

(c) Pass an order vacating the ad-interim stay order passed by this Hon'ble Court on 15.03.2021 as being incongruous to the scheme of IBC; and

(d) Pass any such further Order(s) that this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. Mr. Jayant K. Mehta, learned senior counsel for the applicant/defendant No.1 submits that the Reserve Bank of India (RBI) has initiated proceedings against defendant No.1, under the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal (NCLT), Mumbai Bench, Maharashtra and vide order dated 6 th December, 2021 of the NCLT, the matter has been admitted and Mr. Nageswar Rao Y. (Ex-Executive Director, Bank of Maharashtra) has also been appointed as the Administrator. The NCLT, Mumbai has passed the following orders:

"14. The Petition filed by the Reserve Bank of India is thus complete in all respects as required by law. It clearly shows that the Respondent/FSP is in default of a debt due and payable and the default is more than the minimum amount as stipulated under section 4(1) of the Code. The default stands established and there is no reason to deny the admission of the Petition. Therefore, this Adjudicating Authority hereby admits this Petition and orders as follows:

a. The Petition bearing CP (IB) No.1231/MB/2021 filed by the RBI, the Appropriate Regulator, under section 227 of the Code read with rule 5 of the Rules for initiating Corporate Insolvency Resolution Process against Reliance Capital Limited [CIN: L65910MH1986PLC165645], the Financial Service Provider, is hereby admitted.

b. There shall be moratorium in terms of section 14 of the Code in respect of Financial Service Provider.

c. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under section 31(1) of the Code or passes an order for liquidation of the FSP under section 33 of the Code, as the case may be. d. Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code.

e. In terms of rule S(a)(iii) of the Rules, Mr Nageswara Rao Y, Trade World, b-Wing, 7th floor, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai 400013, e-mail id:Rbi.administrator@relianceada.com is hereby appointed as Administrator of the FSP to carry out the functions as per the Code. The Administrator shall carry out his functions as contemplated by sections 15, 17, 18, 19 and 20 of the Code. f. During the CIRP period, the management of the FSP shall vest in the Administrator. The officers and managers of the FSP shall provide all documents in their possession and furnish every information in their knowledge to the Administrator.

g. The Registry is hereby directed to communicate this Order to the Petitioner/ Reserve Bank of India and the Administrator by Speed Post, e-mail immediately.

h. Additionally, the Administrator shall serve a copy of this Order on the Registrar of Companies, Mumbai by all available means for updating the Master Data of the Financial Service Provider. The said Registrar of Companies shall send a compliance

report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order."

3. In the light of these orders, the proceedings in the suit and the interim order dated 15th March, 2021 are stayed. The suit is adjourned sine die. On the conclusion of the proceedings before the NCLT, Mumbai, either party may bring the orders of the NCLT to the notice of this court by moving an appropriate application in accordance with law.

4. The date of 4th May, 2022 is cancelled.

5. The order be uploaded on the website forthwith.

ASHA MENON, J.

JANUARY 13, 2022 'bs'