

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 823 of 2023

IN THE MATTER OF:

Anoop Kumar Srivastava

...Appellant

Versus

Neerav Bhatnagar

...Respondent

Present:

For Appellant:

Mr. Arun Kathpalia, Sr. Advocate with Mr. Abhijeet Sinha, Mr. Siddharth Bhatli, Ms. Khyati Jain, Mr. Aditya Dhupar, Advocates

For Respondent:

Mr. Anuj Chauhan & Mr. Hritik, Advocates for IRP
Mr. Krishnendu Datta, Sr. Advocate for R-1
Mr. Abhyudat Singh, Advocate for Interim Financer

ORDER

25.07.2023: In this Appeal, an Interim Order was passed on 07th July, 2023 staying the constitution of Committee of Creditors. An Affidavit has been filed in compliance of order passed on 07th July, 2023 where a Memorandum of Understanding dated 12th July, 2023 has entered with the home-buyers and the M/s. Eka Life Services which is strategic financer, detailing the terms and conditions under which construction shall be carried out by the IRP with the cooperation of the Suspended Director and their officers and employees. We take the MoU as well as Addendum on record and issue further directions for carrying out the construction:

- i. IRP shall ensure that constructions are carried out as per MoU and Status Report be submitted in the Court after eight weeks.

ii. The Appellant shall cooperate with the Interim Resolution Professional and arrange to disburse the interim finance amount of Rs. 75 Crore through available interim fund proposer 'M/s. Eka Life Services or in the absence of them through their own sources over a period of 6 to 9 months as stated in Clause 3 of Terms Sheet and subsequently re-iterated in Clause 3A of the MoU to ensure that the project is completed within the time frame agreed in the aforesaid MoU.

iii. It is further agreed that a sum of Rs. 20 Crore will be deposited by the Interim Fund Proposer or the Appellant in the RERA approved Escrow account of the Corporate Debtor within 30 days from the order of this Hon'ble Appellate Tribunal.

iv. Further, the disbursement of interim fund and funds generated from dues of the Allottees (Financial Creditors) during the Corporate Insolvency Resolution shall be paid in a timely manner as agreed under the MoU and will be deposited in the RERA account of the Company (Corporate Debtor) to keep the Company as a going concern. The amount will be utilized only for the purposes of completion of the 'Ajnara Belvedere' project and by issuance of cheques signed by the authorised person of the Company (Corporate Debtor) with counter signature by the Interim Resolution Professional.

v. The flats/apartments in Phase I of the project should be completed within 18 Months in all aspect by January, 2025 and the flats/apartments in the Phase 2 of the project and other common areas to be completed within 30 months in all respect by January, 2026 with an initial grace period of 30 days

required to mobilize the project. The construction of both phases will be started simultaneously with a gap, if any, of maximum 30 days.

vi. The Appellant shall re-commence and construct the project under the supervision of the IRP. Further, the Appellant/Promoter to file a status report, not beyond 10th of the immediate next month, regarding progress in terms of MOU, construction update and interim funds every month, with the IRP and the Allottees.

vii. The moratorium will continue to operate on the corporate debtor during the present process and the IRP will continue to keep the CD as a going enterprise and submit his report on the project progress with the Adjudicating Authority on a quarterly basis.

viii. In case of any breach of the MoU by the Appellant/Promoter, the IRP and/or the Homebuyers/Respondent Association will be at liberty to file appropriate application before this Hon'ble Appellate Tribunal for terminating the 'Reverse Corporate Insolvency Resolution Process' and continuing with the CIRP process in accordance with the provisions of the IBC.

ix. List this Appeal on **04th October, 2023**. Interim Order to Continue. The stay of the Constitution of CoC shall continue.

[Justice Ashok Bhushan]
Chairperson

[Mr. Barun Mitra]
Member (Technical)

Basant/nn