

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

Company Appeal (AT) (Insolvency) No. 557 of 2024

In the matter of:

Sulekh Jain

....Appellant

Vs.

Ashish Kumar & Ors.

...Respondents

For Appellant

Mr. Mohit Chaudhary, Mr. Prakhar Mithal, Mr. Anubhav Singhal, Ms. Pooja Sharma, Advocates.

For Respondents

Mr. Pulkit Deora, Ms. Vaishnavi Varshney, Advocates.

Company Appeal (AT) (Insolvency) No. 584 of 2024

In the matter of:

Nishant Joshi

....Appellant

Vs.

Ashish Kumar & Ors.

...Respondents

For Appellant

Mr. Priyadarshi Chaitanyashil, Mr. Tejaswi Bhanu, Advocates.

For Respondents

Mr. Pulkit Deora, Ms. Vaishnavi Varshney, Advocates.

Company Appeal (AT) (Insolvency) No. 590 of 2024

In the matter of:

Sunil Kumar & Ors.

....Appellants

Vs.

Ashish Kumar & Ors.

...Respondents

For Appellants

Mr. Abhijeet Sinha, Sr. Advocate with Mr. Saurabh Jain, Mr. Prayag Jain, Advocates.

For Respondents

Mr. Pulkit Deora, Ms. Vaishnavi Varshney, Advocates.

Contd/-.....

Company Appeal (AT) (Insolvency) No. 591 of 2024

In the matter of:

Ashish Shukla & Ors.

....Appellants

Vs.

Ashish Kumar & Ors.

...Respondents

For Appellants

Mr. Abhijeet Sinha, Sr. Advocate with Mr. Saurabh Jain, Mr. Prayag Jain, Advocates.

For Respondents

Mr. Pulkit Deora, Ms. Vaishnavi Varshney, Advocates.

ORDER

(Hybrid Mode)

20.03.2024: These four Appeals have been filed against the same order dated 06.03.2024 passed by the Adjudicating Authority in Company Petition (IB) No. 281(ND)2023 as well as three intervention applications filed therein. Company Appeal (AT) (Insolvency) No. 557 of 2024 has been filed by the promoters. Company Appeal (AT) (Insolvency) Nos. 584, 590 & 591 of 2024 are Appeals filed by the homebuyers. The insolvency resolution process has commenced on the application filed by 78 applicants- allottees of the project which has been admitted. In the Company Petition, three sets of homebuyers have filed intervention application totaling 314 homebuyers who opposed the commencement of the insolvency.

2. Learned Counsel for the Appellant submits that before the Adjudicating Authority, relevant materials were submitted to indicate that project are 90-95% complete and in a short period all project would be completed and flats handed over. It is submitted that the Adjudicating Authority after returning the finding of debt and default has admitted Section 7 application and has rejected the prayers made by the intervenors.

3. Learned Counsel for the Respondent supporting the order impugned submits that the 78 homebuyers who had initiated the proceeding were eligible to initiate and there being debt and default, Adjudicating Authority has rightly come in the conclusion. It is submitted that the status report regarding the construction which was available on the website of the RERA indicate that construction is only 60% complete.

4. We have considered the submissions of the Counsel for the parties and perused the record.

5. The project which is being developed by the Corporate Debtor is a Real Estate Project. Large number of homebuyers whose number is much more than the applicants and intervenors have been allotted the flats.

6. From the submissions which have been made by the Appellant and certain materials including the architect and interior designer reports which have been placed before us as on 31.01.2024 indicate that 90-95% construction work was completed. It is further submitted that the license by Director Town and Country Planning and the RERA has lapsed and the proceeding for revival of the license have already commenced and dates were fixed for 17.03.2024 and 13.03.2024. After the insolvency commencement since no one could represent the Corporate Debtor, matters are pending.

7. In the facts of the present case, we are of the view in the ends of justice be served in permitting the construction to go on under the supervision of the IRP who has been appointed by the impugned order which construction shall be carried out with the assistance and co-operation of the management as well as officers and employees of the Corporate Debtor. IRP shall take necessary assistance and help from ex-management for the completion of the work. Necessary funds shall be arranged by the IRP from the promoters or realizing it from the homebuyers against whom dues are still there. It is IRP to take call on the said issue and after examining the records of the Corporate Debtor, balance amount, stage of the construction, may take a call with regard to

balance payment by the allottees. IRP shall also represent the Corporate Debtor in all proceedings pertaining to license before the Director Town and Country Planning and the RERA and other statutory requirements with the assistance of the management. We further direct that monthly progress report by the IRP shall be submitted before 7th of each month in the Court by an Affidavit. 1st report shall be submitted in the first week of May, 2024.

8. Issue Notice. Let reply be filed within two weeks. Rejoinder, if any, may be filed within two weeks thereafter.

9. List all these Appeals on 10.05.2024.

In the meantime, in pursuance of the impugned order, no further steps shall be taken in the CIRP except as directed above.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

Anjali/nn