

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 2168 of 2024

IN THE MATTER OF:

Navin M. Raheja

...Appellant

Versus

Vipul Jain & Ors.

...Respondents

Present:

For Appellant : Mr. Arun Kathpalia & Mr. P Nagesh, Sr. Advocates with Ms. Manmeet Kaur, Ms. Suditi Batra, Mr. Jai Dogra, Mr. Rajnish Singh and Mr. Akshay Sharma, Advocates.

For Respondents : Mr. Manu Chaturvedi and Ms. Devika Singh Roy Chowdhury, Advocates for R-1 to R-43.

For Intervenors : Mr. Aditya Parolia, Mr. Vivek Kumar, Mr. Jayant Uphaday, Ms. Kareena Paniker, Mr. Alankrit Bhatnagar, Mr. Suryansh Vashisth and Mr. Akshay Srivastava, Advocates.

O R D E R
(Hybrid Mode)

21.11.2024: We have heard Learned Sr. Counsel Mr. Arun Kathpalia appearing for the Appellant, Learned Counsel Mr. Manu Chaturvedi appearing for the Respondent who were Applicants under Section 7 Application and Learned Counsel Mr. Aditya Parolia appearing for the Intervenor.

2. This Appeal has been filed against an Order dated 19.11.2024 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Principal Bench, New Delhi), by which Order, the Adjudicating Authority has admitted Section 7 Application.

3. The submission which has been raised by the Counsel for the Appellant is that the Applicants who had filed Section 7 Application relates to only

Project 'Raheja Shilas (Low Rise)' situated at Sector 109, Gurugram, Haryana and they had themselves prayed to the Adjudicating Authority to commence the insolvency with regard to the Project to which the Applicants were concerned.

4. Learned Counsel for the Applicant submits that the Adjudicating Authority itself has appointed an Advocate Commissioner who had submitted the Report dated 22.07.2024, in which Report, following was concluded:

“a) The individual flat unit(s) are fully constructed and are in a habitable state however, they require proper and serious fit-out work (painting, PoP work, wooden work etc.) to ensure that they are in the same condition as was agreed between the homebuyer(s) and the Developer as per respective Builder Buyer Agreement. The time required for such necessary fit-out work is approximately 1-2 month(s) as was mutually agreed between the Parties;

b) The Occupancy Certificate (OC) required by the Developer is stalled due to non-clearance of dues which the Developer owes to the Dakshin Haryana Bijli Vitran Nigam (DHBVN);

c) Even though there are several correspondence(s) written by the Developer to DHBVN purportedly showing complete compliance by the Developer, no reply against the said correspondences has been received by the Developer from the Department. Therefore, it is unclear as to whether the undertakings and compliance(s) so given by the Developer are to the satisfaction of the DHBVN.”

5. Learned Counsel for the Applicant submits that the issue pertaining to Electricity Dues have been now solved since the No Objection Certificate (NoC) has been issued by Dakshin Haryana Bijli Vitran Nigam (DHBVN) on 06.08.2024, who has written to the Directorate of Town & Country Planning (DTCP) to issue Occupancy Certificate (OC) and only issue remains is with regard to OC which is not available due to which the Flats which are complete cannot be handed over to the Allottees of the Project. It is further submitted

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that only small works as referred to in the Commissioner Report of two months are still balanced to be completed in the Project.

6. Learned Counsel for the Intervenor submits that there are all large number of other Projects which have not been completed by the Developer and there are several issues in addition to the dues of DTCP and which have yet to be addressed by the Developers hence the insolvency should be allowed to commence with regard to all other Project.

7. The submission of the Appellant is that between 4 to 8 weeks, the OC is contemplated to be issued, hence the issue in Section 7 Application shall be solved and the Appellant shall also obtain instructions and give the details with regard to all other Projects which are incomplete and endeavour shall be taken and issues brought before the Court, so appropriate directions be issued with regard to completion of other Project also.

8. Considering the facts of the present case, we are of the view that for the time being as was prayed by the Applicant/Respondent herein, the insolvency may convene to one Project namely 'Raheja Shilas (Low Rise)'. Interim Resolution Professional (IRP) may collate the claims with regard to the Project and submit the Status Report. IRP shall take all endeavour with the assistance and management of employees of the Corporate Debtor to obtain the OC and do other completion which are required for handing over the Project to the Allottees.

9. Issue Notice.

10. Let Reply be filed within three weeks.

11. Status Report be filed within four weeks by the IRP. IRP apart from the collation of the claims, in pursuance of the Order dated 19.11.2024 may not

take any further steps, however, IRP shall take all necessary steps with the cooperation and management with regard to completion of shortcomings which have been pointed out by the Advocate Commissioner in its Report and to obtain the OC.

12. Appellant may obtain instructions and give the details with regard to other Projects which are incomplete and the status of all the other Projects which may be considered and appropriate Orders be passed.

13. Intervenor is permitted to file an I.A. along with the Affidavit giving the details.

List this Appeal on **06th January, 2025.**

**[Justice Ashok Bhushan]
Chairperson**

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

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

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