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INSIGHT HIGHLIGHTS

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RBI Paves Way for Fintech Innovation

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Foreword

Dear Readers,

Greetings from RGC Lawyers,

As we embark on this new edition of our newsletter, we're reminded of the ever-evolving landscape of real estate, corporate and commercial law. These sectors are not merely industries; they are the lifeblood of economic progress, driving innovation, and shaping our communities.

In these pages, we endeavor to unravel the intricacies, offering you a window into the latest trends, critical legal updates, and strategic insights. Whether you're a seasoned professional navigating complex transactions or an entrepreneur charting new territory, we believe the knowledge shared here will be your guiding light.

Our team at RGC Lawyers has poured their expertise and dedication into curating content that's not only informative but also practical in its application. We hope this newsletter serves as a valuable companion in your professional journey.

Thank you for entrusting us with your legal pursuits. Here's to staying ahead, together.

Warm Regards,

Rajesh Goel
Managing Partner

REAL ESTATE NEWS

High Court Stays the Takeover of Punjab RERA by Punjab Government.

RERA
Punjab

The Punjab and Haryana High Court has issued a stay order against the Punjab government's decision to take over the operations of the Real Estate Regulatory Authority (RERA) in the state. The court cited RERA's "very sensitive functions" relating to granting building permissions and addressing complaints against builders as the reason for staying the government's move.

The stay order was granted by a division bench comprising Acting Chief Justice G.S. Sandhawalia and Justice Lapita Banerji in response to a public interest petition filed by Keerti Sandhu and another party. However, the court has allowed the process for selecting new office-bearers for RERA to continue, with instructions to expedite the selection process. The next hearing on the matter is scheduled for April 18.

The petitioner argued that the Punjab government had superseded RERA for four months or until a quorum is established under Section 82 of the Real Estate (Regulation and Development) Act, 2016. The government's order was based on the grounds that one member had retired on January 5, and the chairman had resigned on February 7, leaving only one remaining member, Rakesh Kumar Goyal, who is currently on leave until June 6.

The Punjab Advocate General, Gurminder Singh, defended the state's action, citing the impending enforcement of the model code of conduct for the Lok Sabha elections and the need to address the large number of cases and regulatory applications pending before RERA. He argued that the government had followed proper procedures in issuing the requisite notice and passing the order due to the exigency of the situation. The Advocate General also objected to the locus standi of the petitioners and the maintainability of the writ petition as a public interest litigation (PIL).

Homebuyers Lack Standing to File Avoidance Applications.

In the case of Ms. Amita Saurabh Bihani and Ors. vs. E&G Global Estates Limited and Ors., the Hon'ble National Company Law Appellate Tribunal ("NCLAT") held that under the Insolvency and Bankruptcy Code 2016 ("Code"), homebuyers of a corporate debtor's real estate project or unsuccessful resolution applicants cannot file applications to avoid preferential, fraudulent, undervalued, or extortionate transactions. Only the Resolution Professional ("RP") is empowered to file such avoidance applications.

The case involved E&G Global Estates Ltd. ("Corporate Debtor"), a real estate development company admitted into the Corporate Insolvency Resolution Process ("CIRP") by the National Company Law Tribunal ("NCLT") on 24.06.2020. A Forensic Audit Report ("FAR") submitted on 14.01.2021 led the RP to file an application under Section 66 of the Code, alleging fraudulent transactions by certain homebuyers in collusion with the Corporate Debtor's suspended directors.

While the RP's application was pending, the Homebuyers ("Appellants") filed an application seeking removal of the alleged illegitimate homebuyers from the Committee of Creditors ("CoC") based on the FAR. The NCLT initially ordered the removal of fraudulent homebuyers from the CoC, but the matter was remanded by the NCLAT for reconsideration.

On 11.08.2023, the NCLT approved the Successful Resolution Applicant's plan and dismissed the Homebuyers' Application while the RP's Application remained pending adjudication. The Appellants challenged this order before the NCLAT.

The NCLAT dismissed the appeal, noting that Section 25(2)(j) of the Code mandates the RP to determine the nature of avoidance transactions and file appropriate applications before the Adjudicating Authority. Therefore, only the RP,

Property Tax Payment Irrelevant for Project Completion Determination

The Assam Real Estate Appellate Tribunal (REAT) addressed a case where a promoter appealed against a penalty imposed by the Assam Real Estate Regulatory Authority (Assam RERA) for failing to register a project under the Real Estate (Regulation and Development) Act, 2016 (Act).

The promoter argued that payment of property tax in 2015-16 implied project completion before the Act's enactment. However, the REAT clarified that the absence of an occupancy certificate (OC), as required by the Act, was crucial despite construction starting earlier.

Rejecting the plea for a deemed OC, the REAT emphasized that Section 11(b) of the Guwahati Building Construction (Regulation) Act, 2010 applies only if construction aligns with the approved plan, which wasn't the case here.

The REAT held that issuance of OC per the Act is pivotal, and property tax and not homebuyers or unsuccessful resolution applicants, can pursue avoidance applications. Consequently, the NCLAT upheld the NCLT's order.

payment is irrelevant without the required OC, reinforcing compliance with regulatory provisions for project registration.

CORPORATE NEWS

RBI Paves Way for Fintech Innovation

The Reserve Bank of India has rolled out a revised framework for its Regulatory Sandbox – "**Enabling Framework for Regulatory Sandbox**" dated 28th February 2024, opening the doors for fintechs and financial institutions to test innovative products and services in a live environment, while safeguarding prudential norms.

Through this forward-looking initiative, the central bank aims to foster responsible innovation that enhances efficiency and consumer benefit in the financial sector. The sandbox applicants could range from startups and fintechs to banks, NBFCs and firms partnering with or supporting financial services businesses.

RBI Unlocks Prepaid Payment Instruments for Public Transit

In a move to enhance the safety and convenience of digital payments in public transportation, the Reserve Bank of India has issued an amendment to the Master Direction on Prepaid Payment Instruments (PPIs) under the Payment and Settlement Systems Act, 2007.

PPIs have emerged as a popular instrument for making payments to merchants for goods, services, and financial services. The latest amendment introduces key changes to the various types of PPIs that banks and non-bank entities can issue.

The process has been streamlined into five stages spanning a maximum of nine months - preliminary screening, application assessment, test design formulation, testing phase and comprehensive evaluation.

What's particularly noteworthy is RBI's openness to relax certain regulatory requirements like liquidity, board composition, management experience and statutory restrictions on a case-to-case basis for the sandbox duration. This calibrated approach provides regulatory leeway for innovative concepts to be tested in a controlled environment.

However, the central bank hasn't let its guard down on the fundamentals. Core areas like customer privacy, data protection, secure payment systems, KYC/AML/CFT compliance and statutory obligations remain inviolable, with no concessions permitted.

This judicious mix of facilitating innovation while upholding systemic safety makes the revised sandbox framework a potential catalyst for path-breaking solutions in areas like digital payments, wealthtech, regtech, insurtech and more.

As India's fintech ecosystem continues its upward trajectory, RBI's responsive initiative could prove to be the launchpad for the next game-changing applications and business models in financial services. The sandbox awaits the entrepreneurial wizards to conjure their magic!

The primary objective of this regulatory tweak is to pave the way for wider adoption of prepaid payment solutions in public transit systems across the country. After obtaining the RBI's approval, PPI issuers will be permitted to roll out dedicated PPIs for facilitating payments within public transport networks.

This strategic move could revolutionize the way commuters pay for their transit fees, ushering in a seamless, cashless experience. Picture this - a prepaid transit card or mobile wallet that allows you to breeze through metro gates, board buses, or even pay for cabs, all with a simple tap or scan!

By embracing prepaid payments for public transit, cities could leapfrog into a future where physical tickets and cash transactions are a relic of the past. The benefits are multifold - quicker boarding times, reduced revenue leakages for transit authorities, and a more hygienic, hassle-free experience for commuters.

The RBI's prescription comes at an opportune time when India's urban mobility sector is undergoing a massive transformation, with cities actively enhancing public transit infrastructure and services. Prepaid payment instruments could be the catalyst that takes the 'Digital India' vision to the masses through their daily commutes.

As PPI issuers gear up to roll out transit-focused solutions, commuters can look forward to a more convenient and integrated way to pay for their rides across multiple modes of public transport.

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