



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



# IBC AU-COURANT

*Latest updates On Insolvency & Bankruptcy*

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**"Show up, show up, show up, and after a while the muse shows up, too"**

## ➤ **Real estate sector resolution rate under IBC among lowest: Report**

The resolution rate of the real estate sector under the Insolvency & Bankruptcy Code (IBC) is among the lowest even as it comprises only 5 per cent of all cases under the code, a joint report by property consultant Anarock and leading law firm Khaitan & Co said.

IBC has driven better value realisation by creditors in real estate – with this class of creditors realising 66 per cent of the admitted claims as compared to 31 per cent of admitted claims realised in other sectors. Since the IBC code was implemented in 2016, 25,225 cases involving Rs 10.5 lakh crore have been disposed of.

Top names that are admitted resolution in the sector include Ariisto Developers, Unitech Ltd, Supertech, Radius Estates, Jaypee Infratech, Amrapali Group, Lavasa Corp, and DS Kulkarni. The report said one of the milestones in the evolution of IBC was an amendment which recognises homebuyers as financial creditors.

Under this code, homebuyers are now considered at par with banks and other institutional creditors when it comes to recovering dues from developers who have gone bankrupt. IBC's framework is designed keeping in mind a resolution timeline of 330 days. However, the time it takes for a resolution plan to be accepted is usually much longer than that. Of the 17 cases, the average time taken to resolve insolvencies stood at 1.8 years.

Kumar Saurabh Singh, partner, of Khaitan & Co, adds, "The insolvency resolution of real estate companies has its own challenges. Due to the involvement of home buyers in real estate projects and a high level of public interest, the courts have adopted a purposive stance to surmount the unique legal issues that emanate from the insolvency resolution of the real estate sector.'

**Source: The New Indian Express**

**Read Full news at:** <https://www.newindianexpress.com/business/2022/dec/07/real-estate-sector-resolution-rate-under-ibc-among-lowest-report-2525845.html>

## ➤ **NCLT reserves order on Suraksha's bid to acquire Jaypee Infratech, complete 20k flats**

The insolvency tribunal NCLT has reserved its order on Mumbai-based Suraksha group's bid to acquire Jaypee Infratech Ltd and complete around 20,000 flats for aggrieved homebuyers.

While a two-member special bench headed by NCLT President Justice Ramalingam Sudhakar had reserved the order late last month, a written order for this was uploaded recently. After concluding the hearing on November 22, the NCLT bench directed the parties to submit their final written submissions.

In June last year, Mumbai-based Suraksha group received the approval of financial creditors and homebuyers to takeover the Jaypee Infratech Ltd (JIL), raising hopes for 20,000 homebuyers of getting possession of their dream flats in stalled projects, mainly in Noida and Greater Noida.

The Committee of Creditors (CoC) had approved the Suraksha Group bid for the debt-ridden JIL. However, it was pending for approval before the Delhibased Principal bench of the National Company Law Tribunal (NCLT).

Earlier this year, Suraksha ARC Managing Director and Chief Executive Officer Aalok Dave had said that the company was making preparations internally to start construction work on all stalled projects soon after it gets the NCLT approval.

The corporate insolvency resolution process (CIRP) against JIL was started in August 2017. It was among the first list of 12 companies against whom, the Reserve Bank of India (RBI) had directed the banks to approach NCLT to get insolvency proceedings initiated.

Section 12 (1) of the Insolvency and Bankruptcy Code (IBC) mandates a CIRP to be completed within a time frame of 180 days from the date of admission of the application. However, under the request of the RP, the NCLT can extend the duration by another 90 days.

It should be mandatorily completed within 330 days, including any extension and the time taken in legal proceedings. However, JIL was an exceptional case which faced several rounds of litigations and the time period kept on extending.

Even after the finalisation of the bids, it was pending before NCLT for more than 17 months for approval. In the fourth round of bidding process to find a buyer for JIL, Suraksha group had won the bid with 98.66 per cent votes and it had got 0.12 per cent more votes than NBCC.

As many as 12 banks and more than 20,000 homebuyers have voting rights in the CoC. Homebuyers and creditors have 56.63 per cent and 43.25 per cent voting rights, respectively. Fixed deposit holders have 0.13 per cent voting rights.

In its final resolution plan, Suraksha group offered to bankers over 2,500 acres of land and nearly Rs 1,300 crore by way of issuing non-convertible debentures.

It has also proposed to complete all pending flats over the next four years. JIL's lenders have submitted a claim of Rs 9,783 crore and CIRP was initiated over an application by an IDBI Bank-led consortium.

In the first round of insolvency proceeding, the Rs 7,350-crore bid of Lakshadweep, part of Suraksha group, was rejected by lenders. The CoC had rejected the bids of Suraksha and NBCC in the second round held in May-June 2019.

In November 2019, the Supreme Court directed that the revised bids be invited only from NBCC and Suraksha. Then, in December 2019, the CoC approved the resolution plan of NBCC with a 97.36 per cent vote in favour during the third round of the bidding process.

In March 2020, NBCC had got approval from the NCLT to acquire JIL. However, the order was challenged before the NCLAT and later in the Supreme Court. The apex court on March 24, 2021, ordered for fresh round of bidding between the NBCC and the Suraksha group only.

**Source: The Economic Times**

**Read Full news at:** <https://economictimes.indiatimes.com/industry/services/property/-/construction/nclt-reserves-order-on-surakshas-bid-to-acquire-jaypee-infratech-complete-20k-flats/articleshow/96032438.cms>

## ➤ **NCLT rejects claims of foul play in insolvency of Radius Estates**

National Company Law Tribunal (NCLT) has rejected claims of foul play in the resolution process of Mumbai realtor Radius Estates for which Adani group company, Adani Good Homes, has emerged as the successful bidder, as per an order of the tribunal pronounced on 2 December that has been seen by ET.

Debenture holders of the company led by ICICI Prudential and Beacon Trusteeship had approached NCLT with a plea to turn down Adani Good Homes' offer for Radius Estates claiming the company had violated the bidding conditions.

They claimed that Adani Good Homes resolution plan for the Mumbai realtor had unfairly tried to appropriate Rs. 800 crore worth of receivables of the company by incorporating a condition in its bid that the receivables once recovered by the company would accrue to Adani.

The debenture holders claimed that the bidding conditions stated that the recoveries of receivables would accrue to the creditors.

ET had reported on 24 August that Adani later agreed to change the bid condition and allow the creditors to keep the money from the receivables.

NCLT noted that since Adani had changed the condition, the debenture holders' objection to its resolution plan is not valid.

The debenture holders also claimed that the main creditor HDFC colluded with the company's resolution professional Jayesh Sanghrajka to influence the resolution process because it would benefit as it was wearing twin hats, that of a financial creditor as well as a home buyer who holds inventory in the project through mortgage on flats.

They had claimed that HDFC did not care about the haircut as a financial creditor because the inventory it holds in the project would be completed and was valuable. NCLT rejected those allegations as well citing that "suspicion however strong is not a substitution for proof". Adani Good Homes Private Limited is the sole bidder for Radius Estates. Its resolution plan offers Rs. 76 crore to the company's financial creditors who have outstanding claims of around Rs. 1700 crore.

This amounts to a hair cut of nearly 96% for the financial creditors. However, it is constructing flats of the home owners at no further cost to them and has enabled restart of the construction of the company's residential projects.

ICICI Prudential VC fund has a Rs. 150 crore claim against the insolvent realtor and is representing the interests of 1810 investors who invested in its real estate investment scheme that in turn subscribed to debentures of Radius Estates. HDFC Limited has a Rs. 1000 crore outstanding loan to the company. In its 65 page order NCLT noted that home owners had pressed to speed up the insolvency process as halting construction at the project would impact its financial viability.

The home owners who also formed an association had argued that the only asset of Radius Estates was a development agreement to develop high rise buildings on a plot of land granted by Mumbai's urban development authorities. The home buyers had advanced sums of Rs. 800 crore for the project to book their homes.

NCLT also concurred with arguments of counsels during the litigation that debenture holders who are speculative investors cannot be equated with genuine home buyers. Rajesh Sheth is the authorized representative of the home buyers.

**Source: The Economic Times**

**Read Full news at:** <https://economictimes.indiatimes.com/industry/banking/finance/nclt-rejects-claims-of-foul-play-in-insolvency-of-radius-estates/articleshow/96009760.cms>



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