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IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"You may have to fight a battle more than once to win it."

➤ Homebuyers Cannot Ask for Refunds Under RERA Against IBC Plan: NCLT

The individual homebuyers cannot claim refund under Real Estate (Regulation and Development) Act (RERA) if it is in conflict with an insolvency resolution plan backed by the majority of homebuyers, the National Company Law Tribunal (NCLT) Mumbai bench has said in a recent order. The tribunal also held that a new developer taking over a project through insolvency cannot be bound by all contractual terms agreed between the original developer and buyers.

The September 9 ruling is crucial because it establishes that buyers' rights under Section 18 of RERA may change once a project enters insolvency and a resolution plan is approved. The tribunal also made clear that Section 238 of the Insolvency and Bankruptcy Code (IBC) gives the law overriding powers when its provisions conflict with another law. "By virtue of Section 238 of the Code, the provisions of the Code prevail in case of any inconsistency with other enactments," the tribunal said.

Homebuyers were given the status of financial creditors under the IBC in 2018, giving them a formal role in the insolvency process. They vote on resolution plans through an authorised representative, with the decision of the majority of the class binding individual buyers.

"Giving homebuyers financial creditor status under the IBC was an important step which provided them a foothold in the process. In practice, it has not ended their difficulties," said Mukesh Chand, senior counsel at Economic Laws Practice. He said that individual homebuyers have to accept the majority's decision even when their personal situation or contractual rights, such as the right to seek a refund, are different.

The Mumbai bench was hearing a plea by four homebuyers of Spenta Enclave's Altavista project. They had sought a refund after the developer failed to give them possession and argued that their rights under Section 18 of RERA should be protected in the resolution plan.

Source: The Financial Express

Read Full Discussion Paper: [Homebuyers Cannot Ask for Refunds Under RERA Against IBC Plan: NCLT - Business News | The Financial Express](#)

➤ **NCLT Ahmedabad Rejects Benzo Chem's Insolvency Plea Against Aether Industries Over Pre-Existing Dispute**

On 8 September, the Ahmedabad Bench of the National Company Law Tribunal (NCLT) dismissed an insolvency petition filed by Benzo Chem Industries Pvt. Ltd. against Aether Industries Ltd. after finding a pre-existing dispute over the quality of chemicals supplied before the demand notice was issued.

A Bench comprising Judicial Member Chitra Hankare and Technical Member Dr. Velamur G Venkata Chalapathy observed: *"it appears that the Corporate Debtor had raised the issue regarding defective material in the month of December 2024, while the notice was issued in March 2025. Thus, certainly, there was a pre-existing dispute, whether correct or not, before the issuance of the notice."*

Source: Live Law Biz

Read Full Circular: [NCLT Ahmedabad Rejects Benzo Chem's Insolvency Plea Against Aether Industries Over Pre-Existing Dispute](#)

➤ **IBC Can Apply To Personal Guarantors Residing Abroad, Nationality No Bar: NCLT Chennai**

The National Company Law Tribunal (NCLT), Chennai, on 7 September held that the Insolvency and Bankruptcy Code (IBC) can be invoked against a personal guarantor residing abroad, as the Code does not restrict its applicability based on the guarantor's nationality or citizenship.

A Bench of Judicial Member Sanjiv Jain and Technical Member Venkataraman Subramaniam admitted a Section 95 IBC petition filed by M. Gagan Bothra against Senthil Kumar, personal guarantor of PRC International Hotels Private Limited, in relation to alleged outstanding dues of Rs. 14.92 crore, including interest.

Source: Live Law Biz

Read Full News: [IBC Can Apply to Personal Guarantors Residing Abroad, Nationality No Bar: NCLT Chennai](#)



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