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Latest updates On Insolvency & Bankruptcy

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"It's not whether you get knocked down, it's whether you get up"

➤ **NCLT Depreciates Filing Of Bulky Applications By Resolution Professional & Liquidator**

Recently, the National Company Law Tribunal, Principal Bench comprising of Justice Ramalingam Sudhakar and Mr. Avinash Srivastava expressed its displeasure upon the practise of Resolution Professional/ Liquidators for filing bulky applications even for trivial matters such as extension of liquidation period.

The bench was adjudicating an application for extension of time moved by the liquidator of M/s Tirupati Inks Ltd. & Ors and was shocked to discover that the application ran into 122 pages. Looking at the lengthy pleading, the bench observed that the number of paragraphs in the application can be reduced by making concise statement and the pages should not be wasted unnecessarily.

Though the NCLT allowed the application based on its merits but directed the counsel for liquidator to make brief submission instead of filing a 122 pages application however it had directed to forward the copy of the order to Insolvency and Bankruptcy Board of India (IBBI) to ensure that the paper should not be wasted by Resolution Professional and liquidator in trivial matters.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclt-resolution-professional-liquidator-bulky-applications-insolvency-and-bankruptcy-board-of-india-ibbi-212090?infinitescroll=1>

➤ **Homebuyers Are In Default; NCLT Delhi Dismisses Plea For Initiation Of CIRP Against Developer**

The National Company Law Tribunal (NCLT), New Delhi, while adjudicating a petition filed by Homebuyers / Allottees against Developer Company / IREO ("Amit Kumar Sinha & Ors. v. Ireo Private Limited"), has rejected the petition under Section 7 Application under Insolvency and Bankruptcy Code, 2016 ("IBC"), holding that if the allottees themselves are in default, the Corporate Debtor / Developer Company cannot be put to its death.

The Section 7 petition was filed by the Financial Creditors, being Homebuyers, in the project "Ireo Gurgaon Hills" with a prayer to trigger Corporate Insolvency Resolution Process (CIRP) in respect of the Developer Company M/s Ireo Private Limited.

M/s Ireo Private Limited had launched a project "Ireo Gurgaon Hills" built at Gurgaon Faridabad Expressway "Gwal-Phari, Sector-2, Gurugram, Haryana.

The Tribunal noted that the under the Apartment Buyer's Agreement, the Developer was only obligated to construct and deliver units in a 'bare-shell condition', and it was the individual responsibility of the respective homebuyer to customize and finish the interior works of their respective allotted units.

The Homebuyers pleaded that no "Occupancy Certificate" (OC) was obtained and the project was delayed, therefore, a right had accrued in favour of the applicant to initiate CIRP against IREO. While the Tribunal noted that all the requisite formalities on part of IREO for obtaining the OC were already completed in the year 2017, the OC was only issued to IREO in 2022.

That due to lack of Homebuyers interest to complete their part of doing interior works in the bare-shell unit, the completion certificate could not be obtained.

"In fact the process of obtaining occupancy certificate was already initiated by the corporate debtor, hence, the Respondent/ Corporate Debtor could not be blamed for the same rather the fault is on the part of the applicants, who failed not only to make the payment of the regular instalments, but also failed to complete the interior work in the apartment. Thus, it is established that the bare-shell units in the project were already stood ready by February, 2017"

The Tribunal observed that the Homebuyers being obligated to carry out interior works in the flats, failed to do so and thus were themselves at default.

After considering the submissions, the Tribunal relying on the decision of Pioneer Urban Land and Infrastructure Pvt. Ltd. & Anr. v. UOI & Ors. (2019) 8 SCC 416, held that the Homebuyers themselves were in default as they failed to complete their part of the obligation stipulated under the Apartment Buyer's Agreement, whereas the Developer Company / IREO had completed its part of obligations and hence, IREO could not be put into insolvency. Therefore, the Petition was accordingly dismissed since the Homebuyers failed to make out a case against IREO for initiating CIRP.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclt-delhi-insolvency-and-bankruptcy-code-homebuyers-developer-cirp-financial-creditors-212097?infinitescroll=1>

