NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 2370 of 2024

[Arising out of the Order dated 27.11.2024, passed by the 'Adjudicating Authority' (National Company Law Tribunal, New Delhi in IA No. 1929 of 2024 in CP (IB) No. 496/ND/2018]

IN THE MATTER OF:

Sanjeev Sangal
S/o Late Sh. Jai Prakash Sangal
R/o C-191, Sector-49
Noida – UP **...Appellant**

Versus

M/s Apex Heights Pvt. Ltd.
S-672, School Block, Shakarpur
New Delhi – 110092 **...Respondent**

Present:

For Appellant : Mr. Ishaan Chhaya, Advocate

For Respondent : Mr. Saurabh Kalia and Ms. Tannu Rana, Advocates for RP
Mr. Abhijeet Sinha, Sr. Advocate with Mr. Mirnal Harsh Vardhan and Ms. Rituparna Patra, Advocates for SRA

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

The present Appeal under Section 61 of the Insolvency and Bankruptcy Code, 2016, has been filed against the Common Impugned Order dated 27.11.2024 passed by the Hon'ble National Company Law Tribunal, New Delhi in IA No. 1929 of 2024 in CP (IB) No. 496/ND/2018, wherein the Hon'ble Tribunal directed the Successful Resolution Applicant not to create third-party rights over the flat in question and to first conduct verification of

documents in accordance with the terms of the approved Resolution Plan. IA No. 1929 of 2024 was disposed of with impugned order dated 27.11.2024, which is noted as below:

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IA-817/2024, IA-818/2024, IA-822/2024, IA-823/2024, IA-826/2024, IA-1929/2024, IA-2344/2024, IA-2703/2024, IA-3880/2024, New IA-5591/2024, New IA-5592/2024: The Ld. Counsel for the SRA produced before us a copy of order dated 25.11.2021, to espouse that in IA-4033/2021 which raised the identical issue this Tribunal remitted the matter to SRA for his consideration. The order passed in IA-4033/2021 reads thus:

> "**IA-4033/2021**: It is submitted by the Counsel for the Applicant that the Resolution Plan in the present matter has already been approved by this Adjudicating Authority on 20th February, 2020. The grievance of the Applicant is in regard to his claim vis-à-vis provision in the Resolution Plan. Let the Petitioner submit his grievance first to the Resolution Applicant which will consider and disposed of this same in accordance with the Resolution plan provision. Accordingly, the Petitioner is directed to approach the Resolution Applicant along with the present application, which will be treated as representation. The Resolution Applicant will dispose of the representation within 15 days.
>
> **With this the application stands disposed off."**

The Ld. Counsels for the Applicants could raised a concern that if the dwelling units/flats claimed by them are disposed of before scrutiny is done by SRA, serious prejudice would be caused to them. They espoused that till the scrutiny is done by SRA, the flats claimed by them should be kept on hold and should not be disposed of. In view of rival submissions made by the Ld. Counsels for the parties, the present applications are disposed of with the direction that the Petitioner would approach the SRA

within one week and the SRA would scrutinise the record of Corporate Debtor as also other relevant records and documents, including verification of report and would arrive at a conclusion regarding the claim of the Applicant. Till the scrutiny is done and the report of the scrutiny is made available to the Applicant before us, the flats claimed by them would be kept on hold and would not be disposed of. Nevertheless, it is made clear that the direction of holding the flat and not disposing of would not create any equity or claim in favour of the Applicants in any manner and in all future proceedings (if any), the plea of the Applicants would be examined independent of the direction issued for holding the flat back.

The IAs stands disposed of.

IA-1046/2024: Ld. Proxy Counsel appearing for the Applicant submitted that the arguing counsel is busy before Hon'ble Supreme Court and prayed for pass over. The present Bench is Special Bench assembled only in afternoon, thus the request of pass over cannot be accepted. Nevertheless, in the interest of justice, the hearing is deferred to **08.01.2025**.

Let a copy of the application be made available to Ld. Counsel for Punjab National Bank during the course of the day.

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Reliefs Sought in CA (AT)(Ins.) No. 2370/2024

2. The Appellant prays for the following relief(s):

a. Allow the present Appeal;

b. Set aside the impugned order dated 27.11.2024 passed by the Ld. Adjudicating Authority in I.A. No. 1929 of 2024 in C.P. (IB) No. 496/ND/2018;

c. Direct the Respondent to handover the title and physical possession of the allotted flat i.e. Unit No. B-0102, Tower -B, Area 1560 Sq. ft. in Misty Heights situated at Plot No. GH-01, Sector adjoining Techzone-IV, Sport City, Greater Noida to the Appellant;

d. Restrain the Respondents from disposing of, alienating or otherwise encumbering the Unit No. B-0102, Tower-B, Area 1560 Sq. ft. ir Misty Heights situated at Plot No. GH-01, Sector adjoining Techzone-IV, Sport City, Greater Noida to any third party;

e. pass any other order/direction in the facts and circumstances of the present Appeal and in the interest of the Justice.

Submissions of the Appellant- Sanjeev Sangal

3. The Appellant is a homebuyer and an unsecured Financial Creditor of Maple Realcon Pvt. Ltd (Corporate Debtor). The Appellant purchased and was allotted Flat B-0102, Tower-B having Area 1560 Sq.Ft. (Flat) in the project named Misty Heights situated at Plot No. GH-01, Sector adjoining Techzone-IV, Sport City, Greater Noida (Project) for a total sum of Rs. 47,00,000/- by execution of (i) a Builder Buyer Agreement dated 09.03.2018 (BBA) (Pg 65-92/Appeal Vol I); (ii) two Payment Receipts dated 29.07.2016 [Rs. 22,00,000] and 12.08.2016 [Rs. 25,00,000] (Pg 63-64/Appeal Vol I) and (iii) a Letter dated 09.03.2018 issued by the Corporate Debtor confirming receipt of full payment for the flat.

4. The CIRP of the Corporate Debtor commenced on 18.07.2018 (Pg 94-100/Appeal Vol I). The Appellant duly filed Form C on 06.08.2018 (Pg 101/Appeal Vol I) attaching his BBA and Payment Receipts.

5. The Resolution Professional (RP) on 01.12.2018 issued an e-mail (Pg 103/Appeal Vol I) admitting the claim of the Appellant based on his judgment and the list of homebuyers provided to him by the ex-management of

Corporate Debtor. Thereafter during the CIRP, the Ld. AA passed an Order dated 26.09.2019 (Pg 104/Appeal Vol I) observing that "Despite notice having been given to other allottees in this case, they are still some allottees whose claims have been totally turned down on the ground that the books of accounts of the Corporate Debtor do not reflect the receipts of payment". Pursuant to this observation, the Ld. AA directed that "all bookings done through various collaborators in respect of the project being developed as "Misty Heights" shall be consideration by the IRP on furnishing of appropriate documents i.e. payment receipts and Agreements."

6. On 11.09.2019, the RP filed a Report (Pg 106-116/Appeal Vol I) whereby in Annexure I, the list of the Committee of Creditors was filed with the Ld. AA wherein at Sr. No. 265 (Pg 116/Appeal Vol I), the name of the Appellant was recorded as a financial creditor and homebuyer. It was specifically noted therein that the Appellant's entire claim was admitted, and no amount remained under verification.

7. The Respondent submitted a Resolution Plan dated 04.09.2019 (Pg 117-190/Appeal Vol I) whereby the Term of the Resolution Plan was 36 months from the NCLT approval date (Pg 151/Appeal Vol I) and timeline for payment of financial creditors was X + 60 days (Pg 156/Appeal Vol I). The Resolution Plan provided in Chapter VII, the Financial Proposal wherein:

a. The unsecured financial creditors with an admitted amount of Rs. 84,33,50,117 included the Rs. 47,00,000 paid by the Appellant and admitted by the RP.

b. Unsecured financial creditors (including the Appellant) were promised delivery of flats in Tower B in 21 months. This is the clause in dispute in the present Appeal. (Pg 145/Appeal Vol I).

8. The Resolution Plan was approved by the CoC with an 89.07% vote and was then approved by the Ld. AA on 20.02.2020 (Pg 323-333/Appeal Vol II).

9. The Respondent did not carry out any of its obligations under the Resolution Plan according to its terms. After 2 years of the Respondent's inaction, the Appellant wrote to the present management and previous management of the Respondent from 16.07.2022 (Pg 338/Appeal Vol II) asking them to carry out those obligation and handover the flat.

10. A perfunctory response on 21.07.2022 (Pg 337-338/Appeal Vol II) was issued by the Respondent and stated that scrutiny of original builder buyer agreement original receipts/bank statements would be carried out and would be reconciled with the documents, books and accounts/ERP of the Corporate Debtor and Claim accepted by the IRP.

11. Notwithstanding that the Respondent by this time had already violated the timelines in the Resolution Plan, it also sought to confer upon itself the power to post facto "reconcile" the Appellant's entitlement with the books of accounts, despite the Ld. AA prohibiting the RP to do so in the Order dated 26.09.2019 (Pg 104/Appeal Vol I).

12. However, as instructed, the Appellant visited the Respondent's site office on 08.08.2022 and 28.10.2022 presented the original BBA and Payment Receipts and was assured that a fresh agreement would be executed in terms of the Resolution Plan. However, as no such action was taken, the Appellant wrote another e-mail recording these developments on 09.11.2022 (Pg 337/Appeal Vol II).

13. On 09.12.2022 (Pg. 336/Appeal Vol II), the SRA in a self-serving fashion started an adjudicatory inquiry into the Appellant's entitlement and refused to give delivery of the flat, on the basis that it required proof of reconciliation of amounts through bank statements. The Appellant explained in his e-mail dated 12.12.2022 (Pg. 335/Appeal Vol II), that as payments were made in cash, he was unable to produce bank statements.

14. Several e-mails were issued thereafter by the Appellant uptil February 2024 (334/Appeal Vol II) but were not responded to. Accordingly, the Appellant was constrained to file an Application bearing IA 1929 of 2024 before the Ld. AA under Section 74(3) of the Insolvency and Bankruptcy Code read with Regulation 39(9) of the CIRP Regulations (Pg 340-349/Appeal Vol II) inter alia seeking implementation of the Resolution Plan and handover of the Appellant's flat. This Application was tagged with similar applications of other homebuyers before the Ld. Adjudicating Authority.

15. In its Reply for the first time i.e. 5 years after the approval of the Resolution Plan, the Respondent refused to hand over the allotted flat on the

concocted reason that all documents of the Appellant were somehow forged and fabricated and produced in collusion with the RP and Suspended Management of the Corporate Debtor. (Para I, Pg 357/Appeal Vol III).

16. Even though the SRA had on affidavit in its Reply to IA 1929 of 2024, effectively refused to handover possession of the flat after having inspected the Appellant's documents in between 2022 to 2024, the Ld. AA in the Impugned Order (Pg 6/Appeal Vol I) did not pass any Order on the Appellant's Application or any other application and relegated all homebuyers back to the SRA, while disposing of the application and thereby effectively rejecting the prayers in the IA.

Submissions of the Respondent

17. Respondent- SRA claims that the Ld. NCLT took in consideration that the project was being executed under a collaboration between 2 entities, i.e., Euphoria Sports City Private Limited and Mascot Soho Homes Private Limited. That the Respondent conceded to settle the claims raised from both the entities forming part of the Corporate Debtor. However, the Respondents were bombarded with claims from unrelated transactions and entities. Therefore, the Respondent was constrained to put in a Verification Clause in the Resolution Plan itself so as to scrutinise the claims and check their authenticity and genuineness.

18. Respondent- SRA further claims that the Ld. NCLT, while considering the Resolution Plan, duly took cognizance of the fact that the project in question was being undertaken pursuant to a collaboration arrangement

between two entities, namely, Euphoria Sports City Private Limited and Mascot Soho Homes Private Limited. Subsequently NCLT directed the Resolution Professional to consider the claims raised in respect of the bookings done through the two entities. However, it is pertinent to submit that the Appellant's claim arises directly against the Corporate Debtor and not through either of the two collaborating entities, namely, Euphoria Sports City Private Limited or Mascot Soho Homes Private Limited. It is further submitted that the Order dated 26.09.2019 pertains exclusively to claims channeled through the said two entities and does not relate to any independent claim against the Corporate Debtor itself.

19. In the light of the fraudulent claims originating from entities and transactions wholly unrelated to the Corporate Debtor and in order to prevent the approval of spurious or unsubstantiated claims and to maintain the sanctity of the resolution process, the Respondent was constrained to incorporate a Verification Clause within the Resolution Plan. The said clause was intended to serve as a filtering mechanism, enabling the scrutiny and verification of claims to determine their legitimacy, authenticity, and nexus with the Corporate Debtor.

20. Therefore, the claims remain under active scrutiny by the Respondent and in compliance with the directions of the Ld. NCLT. Vide Order dated 27.11.2024, passed by the Ld. NCLT it has directed the SRA to conduct a thorough scrutiny of the records of the Corporate Debtor, along with all other relevant documents, including the verification report, and thereafter arrive at

a reasoned determination regarding the claims asserted by the Appellant. Additionally, the Ld. Tribunal has categorically directed that until such scrutiny is duly completed by the SRA, the subject flats shall be kept on hold and shall not be disposed of.

21. Accordingly, the flats in question continue to be held in abeyance and active steps are been taken to conduct the scrutiny to check the authenticity and genuineness of the claims of the Appellant. Therefore, no prejudice is being caused to the rights of the creditors, as the process of scrutiny is ongoing.

22. Respondent- SRA further claims that the Appellant is attempting to bypass the verification process as prescribed in the Resolution Plan and thereby, attempting to carve an exception in its favour. However, all the Homebuyers who are the creditors to the Corporate Debtor, irrespective of the amount of their claim or mode of payment, have also gone through the same verification process which is in Strict compliance with the Verification Clause as stipulated in the Resolution Plan.

23. The Certificates dated 29.07.2016 and 12.08.2016, relied upon by the Appellant are forged and fabricated. These documents do not reflect genuine transactions and were fraudulently created to misrepresent the facts. Moreover, it is inconceivable that the Appellant made payments towards the consideration even before the execution of the Builder-Buyer Agreement which was executed on 09.03.2018. Furthermore, the Certificates dated

29.07.2016 and 12.08.2016 do not conform to the standard format in which the genuine Receipts of Payments were issued by the Corporate Debtor and also does not specify the "Mode of Payment" neither bear the official stamp or Company seal.

24. Further, the Certificate dated 17.04.2025 issued by the Chartered Accountants certifies that as per the books of accounts from the period of Financial Year 2015-16 to Financial Year 2022-23, M/s Alphabet Heights Pvt. Ltd. (formally known as Maple Realcon Private Limited) has not received any amount form Mr. Sanjeev Sangal, the Appellant herein.

25. Even otherwise, in a judgement of the Hon'ble Supreme Court in the matter of **The Correspondence, RBANMS Educational Institution v. B. Gunashekar & Anr.,** it was held that transaction of Rs. 2,00,000/- or more cannot be effected in cash payment. The relevant extract of the judgement in reproduced herein for ready reference:

> "However, when the Bill was passed, the permissible limit was capped under Rupees Two Lakhs, instead of the proposed Rupees Three Lakhs. When a suit is filed claiming Rs.75,00,000/- paid by cash, not only does is create a suspicion on the transaction, but also displays, a violation of law. Though the amendment has come into effect from 01.04.2017, we find from the present litigation that the same has not brought the desired change. When there is a law in place, the same has to be enforced. Most times, such transactions go unnoticed or not brought to the knowledge of the income tax authorities. It is settled position that ignorance in fact is excusable but not the ignorance in law. Therefore, we deem it necessary to issue the following directions:

(A) Whenever, a suit is filed with a claim that Rs. 2,00,000/- and above is paid by cash towards any transaction, the courts must intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of the Income Tax Act, if any,

(B) Whenever, any such information is received either from the court or otherwise, the Jurisdictional Income Tax authority shall take appropriate steps y following the due process in law,

(C) Whenever, a sum of Rs. 2,00,000/- and above is claimed to be paid by cash towards consideration for conveyance of any immovable property in a document presented for registration, the jurisdictional Sub-Registrar shall intimate the same to the jurisdictional Income Tax Authority who shall follow the due process in law before taking any action,

(D) Whenever, it comes to the knowledge of any Income Tax Authority that a sum of Rs. 2,00,000/-or above has been paid by way of consideration in any transaction relating to any immovable property from any other source or during the course of search or assessment proceedings, the failure of the registering authority shall be brought to the knowledge of the Chief Secretary of the State/UT for initiating appropriate disciplinary action against such officer who failed to intimate the transactions."

26. The Appellant is seeking to challenge the Resolution Plan which has already been duly approved by the Ld. NCLT vide its Order dated 20.02.2020. The grievance of the Appellant pertains to the implementation of the Verification Clause contained in the said Resolution Plan, a clause that was not only duly incorporated with the approval of the Committee of Creditors but was also subsequently approved by the Ld. NCLT. Therefore, the Appellants cannot be allowed to question the commercial wisdom of the

Committee of Creditors and the judicial mind of Ld. NLCT who have already approved the Resolution Plan.

27. The Appellant have preferred the present appeal challenging the Order dated 27.11.2024, passed by the Ld. NCLT in the matter titled Bindals Merchandise v. M/s Maple Realcon Pvt. Ltd., bearing CP (IB) No. 496/2018, without any specific cause of action being raised. The relevant part of the Order is reproduced herein below for easy reference:

> "The Ld. Counsels for the Applicants could raised a concern that if the dwelling units/flats claimed by them are disposed of before scrutiny is done by SRA, serious prejudice would be caused to them. They espoused that till the scrutiny is done by SRA, the flats claimed by them should be kept on hold and should not be disposed of. In view of rival submissions made by the Ld. Counsels for the parties, the present applications are disposed of with the direction that the Petitioner would approach the SRA within one week and the SRA would scrutinise the record of Corporate Debtor as also other relevant records and documents, including verification of report and would arrive at a conclusion regarding the claim of the Applicant. Till the scrutiny is done and the report of the scrutiny is made available to the Applicant before us, the flats claimed by them would be kept on hold and would not be disposed of. Nevertheless, it is made clear that the direction of holding the flat and not disposing of would not create any equity or claim in favour of the Applicants in any manner and in all future proceedings (if any), the plea of the Applicants would be examined independent of the direction issued for holding the flat back."

28. By way of the impugned order, the Ld. NCLT has directed the SRA, the Respondent herein, to conduct a thorough scrutiny of the records of the Corporate Debtor, along with all other relevant documents, including the

verification report, and thereafter arrive at a reasoned determination regarding the claims asserted by the Appellant. Additionally, the Ld. Tribunal has categorically directed that until such scrutiny is duly completed by the SRA, the subject flats shall be kept on hold and shall not be disposed of.

29. The claims remain under active scrutiny by the Respondent and in compliance with the directions of the Ld. NCLT, the flats in question continue to be held in abeyance. Consequently, no prejudice is being caused to the rights of the creditors, as the process of scrutiny is ongoing, and no action contrary to the Ld. Tribunal's directives has been undertaken. It is submitted that by preferring the present Appeal, the Appellant is attempting to bypass the verification process prescribed in the Resolution Plan. This constitutes an impermissible attempt to carve out an exception in its favor, thereby seeking to evade the verification process by the Respondent. Such an endeavor is contrary to the terms of the Resolution Plan and cannot be permitted.

30. Consequently, no prejudice is being caused to the rights of the creditors, as the process of scrutiny is ongoing, and no action contrary to the Tribunal's directives has been undertaken. And more so, when the Appellant has himself conceded to the said Order of the Ld. NCLT. Furthermore, it is evident that the impugned order is in favour of the Appellant, as it safeguards their interests by ensuring that the flats claimed by them are not disposed of until a final determination is made by the Respondent.

31. Due to the admission of such a huge claim amount totaling to Rs. 95,84,29,258/- by the Resolution Professional and in light of the numerous queries being received by the Claimants to the Respondents, the Respondents vide Letter dated 25.06.2020 sought clarification regarding the admission of claims from the Resolution Professional. In response thereto, the Resolution Professional, vide communication dated 28.06.2020, furnished a reply to the Respondent's aforesaid letter, thereby conveying certain pertinent facts and circumstances relating to the verification and admission of claims.

32. The Resolution Professional via its Letter dated 28.06.2020, informed the Respondents that the total claim filed by the Creditors during the CIRP amounting to Rs. 1,28,56,66,091/-were scrutinized by the Resolution Professional during the claim verification process. That from the total claim amount, a certain amount of Rs. 95,84,29,258/- was ascertained by the Resolution Professional as provisionally admitted based on the limited documents made available by the ex-management and the creditors themselves. Further, the remaining amount from the total claim filed amounting to a total of Rs. 32,72,36,833/- were kept under verification by the Resolution Professional as no sufficient documents were produced or found to be genuine at that stage by the Resolution Professional. The Resolution Professional further clarified that the amount of Rs. 95,84,29,258/- was based solely on the basis of the best possible estimation made by the Resolution Professional at the relevant time. This estimate was made as there was an acute paucity of relevant and complete records/data as

the erstwhile management of the Corporate Debtor did not co-operate with the Resolution Professional to fulfil his duties and verify the claims effectively. As the claims could not be completely and efficiently verified by the Resolution Professional due to the lack of relevant and genuine documents, the claims were provisionally admitted by the Resolution Professional subject to modification or alterations based on the discovery of new facts, circumstances and documents. This position was also duly notified to the creditors whose claims were provisionally admitted. The relevant portion of the letter dated 28.06.2020 are reproduced herein below for ready reference:

> "The amount of claims may undergo a revision on the downward side if some transactions are found to be fraudulent/ bogus/ unsubstantiated discovery of some additional information from external sources"

33. Resolution Professional also expressly stated that no documents were made available to them to independently and effectively verify the claims of the Homebuyers, accordingly, the claims were admitted on the basis of the payment receipts and agreements submitted by the claimants, in the prescribed "Form C" to the Resolution Professional in accordance with the directions of the Ld. NCLT. That such admission was further subject to re-verification by the SRA for checking the authenticity and genuineness of the claims.

34. The Appellant also submitted its claim in the prescribed "Form C" before the Resolution Professional on 07.08.2018. At the time of submission, the only documents furnished by the Appellant in support of its claim were the Payment Receipt and a copy of the Ledger, based on which the Resolution

Professional provisionally admitted a certain amount of the total amount claimed by the Appellant.

35. The provisional admission of the claims of the Appellant was included along with others totaling to an amount of Rs. 95,84,29,258/- which was based solely on the best possible estimation made by the Resolution Professional, considering the limited availability of records due to the financial distress of the Corporate Debtor. It is a well-established principle that in insolvency proceedings, the records of a financially stressed entity may suffer from inconsistencies, data asymmetry, or even inaccuracies. That the Hon'ble Supreme Court in **Deccan Value Investors L.P. & Anr. v. Dinkar Venkatasubramanian & Anr. 2024 SCC OnLine SC 804**, has affirmed that the Resolution Professional is required to assess claims and provide information on a best-effort basis rather than an absolute standard of accuracy. The relevant excerpt of the judgement is reproduced herein below:

> "Records of the corporate debtor, who are in financial distress, may suffer from data asymmetry, debatable or even wrong data. Thus, the provision for transactional audit, etc., but this takes time and is not necessary before information memorandum or virtual data room is set up. Financial experts being aware, do tread with caution. Information memorandum is not to be tested applying "the true picture of risk" obligation, albeit as observed by the National Company Law Appellate Tribunal the resolution professional's obligation to provide information has to be understood on "best effort" basis."

In line with this settled legal position, the Resolution Professional in the present case, in the absence of comprehensive records from the erstwhile

management, provisionally admitted the claim of the Appellant based on an estimated assessment.

36. Thus, the Respondents had to introduce the provision for verification of the Claims in the Resolution Plan itself as a consequence of a huge claim amount of Rs. 95,84,29,258/- being provisionally admitted and an amount totalling Rs. 32,72,36,833/- being kept under verification by the Resolution Professional. A closer scrutiny of the claims revealed that several of them originated from entities and transactions that had no connection to the Corporate Debtor, thereby raising serious concerns regarding their authenticity and legitimacy. In light of such potentially fraudulent or inflated claims, and in order to preserve the sanctity and fairness of the resolution process, the Respondents were compelled to incorporate a Verification Clause within the Resolution Plan.

37. It is therefore submitted that the claims admitted by the Resolution Professional are provisional in nature and are subject to verification as stipulated under the Resolution Plan. Mere admission of claims by the Resolution Professional, without due verification and scrutiny as mandated under the Resolution Plan, cannot be construed as a final or conclusive acknowledgment of such claims. The process of verification is integral to determining the legitimacy and quantum of claims. Any provisional admission made by the Resolution Professional does not, in itself, create a vested right in favour of the such claimant, more so, when the Respondent has an exclusive clause in the Resolution Plan to verify the documents of the

claimants. Accordingly, such admission remains subject to further scrutiny based on the verification process.

38. It is respectfully submitted that the Verification Clause is a general provision applicable to all claims raised by all the creditors against the Corporate Debtor and is not exclusive to the Appellant. The purpose of incorporating this clause is to ensure that only genuine and substantiated claims are admitted by the Respondent. The Verification Clause provides a mechanism for assessing, verifying, and validating the claims in a fair and transparent manner, thereby preventing any wrongful or inflated claims from being admitted to the detriment of other stakeholders. This clause was introduced to facilitate an equitable and just settlement process.

39. The present appeal has been preferred by the Appellant and some other limited number of individuals have also preferred similar Appeals against the Respondent, while a substantial number of claimants have already had their claims duly settled by the Respondent. Notably, the claims of 61 individuals have been fully satisfied by the Respondent, amounting to a total sum of Rs.12,99,38,821/-, despite not filing their claims initially but whose payments were reflected in the accounts of Corporate Debtor. The claims were mutually settled by the SRA in bona fide manner, demonstrating the good faith intent of the Respondent in resolving such claims equitably.

40. In compliance with the directions of the Ld. NCLT. That vide Order dated 27.11.2024, passed by the Ld. NCLT, the Ld. NCLT has directed the

SRA to conduct a thorough scrutiny of the records of the Corporate Debtor, along with all other relevant documents, including the verification report, and thereafter arrive at a reasoned determination regarding the claims asserted by the Appellant.

41. The Appellant is attempting to bypass the verification process as prescribed in the Resolution Plan and thereby, attempting to carve an exception in its favour. However, all the Homebuyers who are the creditors to the Corporate Debtor, irrespective of the amount of their claim, have also gone through the same verification process which is in strict compliance with the Verification Clause as stipulated in the Resolution Plan.

42. Therefore, the present Appeal preferred by the Appellant is liable to be dismissed, as no cause of action arises in favour of the Appellant for filing the instant Appeal. Furthermore, the Appeal lacks merit and does not warrant any interference by this Hon'ble Tribunal.

Appraisal

43. We have heard Appellant as well as SRA and RP. In CA AT (Ins) 2370 of 2024, we note that issue arises out of the Corporate Insolvency Resolution Process (CIRP) of Maple Realcon Pvt. Ltd. (Corporate Debtor), the developer of the “Misty Heights” project in Greater Noida. The Appellant, Sanjeev Sangal, is a homebuyer who had purchased Unit No. B-0102 in Tower B for a total consideration of ₹47,00,000. He paid the entire amount in 2016 through two receipts dated 29.07.2016 and 12.08.2016 [@63 and 64 APB], and thereafter executed an Allotment/Buyer Agreement on 09.03.2018[@ 66 APB] which was

supported by a letter of the same date from the Corporate Debtor confirming full payment – all signed by the then authorized signatory Mr B P Singh.

44. When the Corporate Debtor was admitted into CIRP on 18.07.2018, the Appellant filed his claim before the IRP on 06.08.2018, attaching receipts, BBA, and supporting documents. The IRP fully admitted the claim on 01.12.2018, and the Appellant continued to be reflected in every list of creditors, including the RP's report of 11.10.2019, the Information Memorandum, and the financial creditor lists shared with prospective resolution applicants.

45. It is worthwhile to extract the acceptance of the claim of the appellant by the RP which is as below:

INTIMATION FOR ACCEPTANCE OF CLAIM

PadamDinesh & Co. <padamdinesh@gmail.com>
Sat 12/1/2018 4:24 PM
To:sanjeevsangal@hotmail.com <sanjeevsangal@hotmail.com>

Dear Sir/ Madam,

In the CIRP of Maple Realcon Private Limited, I had received your claim for Rs. 4700000/-, on date 6 August 2018. Due to non provision of records/ information/support from the erstwhile management of the corporate debtor, I am constrained to admit your claim as per my judgement formed on the basis of flat owners records provided to me. This process has taken much more time than the mandate time under the Code due to the reasons mentioned above. I have admitted your claim at Rs 4700000/-.

Rs.47,00,000/- fully accepted

This is for your information and record.

Please note that as per the provisions of the code, the claim amount may be revised at any stage of the process if any information warranting such revision comes to the knowledge of the RP.

Thanks and regards

DINESH CHANDRA AGARWAL
Interim Resolution Professional for Maple Realcon Private Limited
Registration No. IBBI/IPA-001/IP-P00090/2017-2018/10186
11/6B, II Floor, Shanti Chambers, Pusa Road,
Opp. Metro Pillar No.133, New Delhi-110005
E-mail ID: padamdinesh@gmail.com
Ph No.: 9810106892, 011-47060111

46. In 2019–20, the Respondent, Apex Heights Pvt. Ltd.- the SRA, submitted its Resolution Plan, which was approved by the CoC and thereafter by the NCLT on 20.02.2020. The plan assured possession to allottees after execution of a fresh Builder Buyer Agreement (BBA), subject only to verification of original documents (to check the mode and amount of payment). On this basis, the Respondent-SRA took over control of the Corporate Debtor. The Appellant is an unsecured financial creditor and its treatment is governed by the following verification clause which is leading to this dispute:

6th	Unsecured Financial Creditors (consenting)	The unsecured financial creditors are the homebuyers of the residential real estate project of MRPL, namely Misty Heights who would be given delivery of the flats purchased by them as per the Schedule given below. Towers A and B – 21 Months Towers D and E – 30 Months Tower C – 36 months However, the delivery of the flats shall be contingent upon the homebuyers paying the dues against their flats as per the construction linked payment schedule for the residential housing project of MRPL namely Misty Heights. Further, the Resolution Applicant shall be within his rights to verify the original documents, that is, original Builder Buyer Agreement and Payment Receipts for each flat within 60 days. The same shall be done to ascertain the mode of payment being made to the corporate debtor and the actual amount being admitted by them. The RA after ascertaining the payment and mode of payment shall enter in to a new builder buyer agreement under the brand name of Apex. which shall have an overriding effect on any other arrangement entered into with the corporate debtor. The RA proposes not to change any material terms of the Agreement apart from

		date of delivery. The RA proposes to induct only one plan of Payment, that is, CLP (construction link plan) and all future payments shall be done in terms of construction link payment plan only. The RA proposes that shall be no increase in the cost of the flats to be paid by the allottees.

47. We note that a holistic reading of the Clause would show that the extent of the SRA's power under the Resolution Plan was to merely verify the original documents and enter into a fresh Builder Buyer Agreement. In so far as rejection of claims are concerned, the jurisdiction of the SRA extended to finding that the original documents did not exist. Once the documents were in existence, the SRA could not reject claims.

48. We observe that despite repeated follow-ups by the Appellant from July 2022 onward, and despite furnishing all documents twice (physically and via emails), the SRA refused to execute the fresh BBA or hand over possession. By late 2022 and through 2024, the SRA began asserting that the Appellant's documents were unreliable or forged, and demanded repeated re-verification. The Appellant alleges that these acts were delaying tactics intended to deny him possession contrary to the Resolution Plan. Consequently, the Appellant filed IA 1929/2024 under Section 74(3) IBC before NCLT alleging willful non-compliance of the approved plan and seeking directions for enforcement.

49. On 27.11.2024, instead of directing compliance, the NCLT, as noted herein separately, permitted the SRA to re-scrutinize the Appellant's claim and withhold possession until such re-verification was completed—despite the fact that the SRA had already disputed the claim in its reply and refused

handover. The Appellant fears that this liberty enables the SRA to arbitrarily reject the claim and alienate the flat to third parties. We observe that the IA No. 1929 of 2024, IA No. 5591 of 2024 and IA No. 5592 of 2024 were disposed of in the common impugned order dated 27.11.2024, which is noted as below:

> ****
>
> **IA-817/2024, IA-818/2024, IA-822/2024, IA-823/2024, IA-826/2024, IA-1929/2024, IA-2344/2024, IA-2703/2024, IA-3880/2024, New IA-5591/2024, New IA-5592/2024:** The Ld. Counsel for the SRA produced before us a copy of order dated 25.11.2021, to espouse that in IA-4033/2021 which raised the identical issue this Tribunal remitted the matter to SRA for his consideration. The order passed in IA-4033/2021 reads thus:
>
> > "**IA-4033/2021**: It is submitted by the Counsel for the Applicant that the Resolution Plan in the present matter has already been approved by this Adjudicating Authority on 20th February, 2020. The grievance of the Applicant is in regard to his claim vis-à-vis provision in the Resolution Plan. Let the Petitioner submit his grievance first to the Resolution Applicant which will consider and disposed of this same in accordance with the Resolution plan provision. Accordingly, the Petitioner is directed to approach the Resolution Applicant along with the present application, which will be treated as representation. The Resolution Applicant will dispose of the representation within 15 days.
> > **With this the application stands disposed off."**
>
> The Ld. Counsels for the Applicants could raised a concern that if the dwelling units/flats claimed by them are disposed of before scrutiny is done by SRA, serious prejudice would be caused to them. They espoused that till the scrutiny is done by SRA, the flats claimed by them should be kept on hold and should not be disposed of. In view of rival submissions made by the Ld. Counsels for the parties, the present applications are disposed of with the direction that the Petitioner would approach the SRA within one week and the SRA would scrutinise the record of Corporate Debtor as also other relevant records and documents, including verification of report and would arrive at a conclusion regarding the claim of the Applicant. Till the scrutiny is done and the report of the scrutiny is made available to the Applicant before us, the flats claimed by them would be

kept on hold and would not be disposed of. Nevertheless, it is made clear that the direction of holding the flat and not disposing of would not create any equity or claim in favour of the Applicants in any manner and in all future proceedings (if any), the plea of the Applicants would be examined independent of the direction issued for holding the flat back.
The IAs stands disposed of.

IA-1046/2024: Ld. Proxy Counsel appearing for the Applicant submitted that the arguing counsel is busy before Hon'ble Supreme Court and prayed for pass over. The present Bench is Special Bench assembled only in afternoon, thus the request of pass over cannot be accepted. Nevertheless, in the interest of justice, the hearing is deferred to **08.01.2025**.
Let a copy of the application be made available to Ld. Counsel for Punjab National Bank during the course of the day.

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Verification clause under the Resolution plan – bone of contention

50. Respondent-SRA claims that Verification clause, which has been noted by us separately herein earlier, empowers the Resolution Applicant to verify original Builder Buyer Agreements and payment receipts, before entering into any binding new agreement. This clause applies to all claimants and prevents any premature or final admission of unverified claims. Therefore, once the Resolution Plan is approved by the Ld. NCLT, it becomes a binding contract between all stakeholders in accordance with Section 31, IBC, 2016. Respondent claims that the Resolution Plan, including the verification clause therein, was duly placed before the Committee of Creditors and approved with the requisite majority in accordance with the provisions of the Code, 2016. The Appellant, being part of the CoC, casted his vote in favour of the said Resolution Plan. The Plan was thereafter approved by the Ld. Adjudicating Authority vide Order dated 20.02.2020, thereby attaining finality and becoming binding on all stakeholders under Section 31 of the Code, 2016.

Thus, the Appellant cannot circumvent or dilute the verification clause forming an integral part of the approved Plan. Under the guise of seeking implementation of the Resolution Plan, the Appellant is attempting to question or reopen the terms of the Resolution Plan, which is impermissible in law once the Plan has received final approval from the Ld. NCLT and has attained binding force.

51. Respondent further claims that the purpose and intent of the 6th clause in the Resolution Plan was that, owing to lack of cooperation from the ex-management and paucity of records, the RP had provisionally admitted claims aggregating to Rs. 95.84 crores out of Rs. 128.56 crores, while keeping ₹32.72 crores under verification. Since such admissions were made on the basis of insufficient and incomplete documents, the Respondent, in terms of and in compliance with the Verification Clause contained in the Resolution Plan, undertook an independent verification of all claims, whether provisionally admitted or rejected, prior to giving effect to the Resolution Plan. It claims that the provisionally admitted claims included claims such as the Appellant's, which lacked any documentary or accounting support. Given the enormous quantum of provisionally admitted claims and the substantial under-verification amount, the Respondent directed a Letter dated 25.06.2020 to the Resolution Professional, seeking clarity on how claims were being admitted, and the RP's prompt response dated 28.06.2020 confirmed that all claims were provisionally admitted on the limited data available and expressly informed that any claim, if later found to be fraudulent, bogus or

unsubstantiated, could be revised downward or rejected. Owing to the humongous amount of claims admitted on unverified and incomplete documents and also the claims kept under verification, the Respondent incorporated a clause for re-verification in the Resolution Plan, which provides for verification of Builder Buyer Agreements and other documents before final admission.

52. Respondent-SRA contends that the Appellant is not challenging the Resolution Plan itself but is, in fact, seeking its implementation in his favour. However, the very Resolution Plan whose implementation he seeks expressly contains a mandatory verification clause requiring scrutiny of original documents prior to recognition of any claim. While accepting the Plan as binding under Section 31 of IBC, 2016, the Appellant simultaneously seeks to circumvent the verification mechanism embedded within it and draw an exception in his own case. Such a selective approach is impermissible in law. A stakeholder cannot seek enforcement of a Resolution Plan in part while resisting compliance with its essential conditions, particularly when the verification clause applies uniformly to all claimants/allottees.

53. We observe that such a ground taken by the respondent is not tenable for the reason that if the resolution plan has attained the finality, then it had to be implemented as per the terms and conditions of the resolution plan. We note that it was to be implemented in a time bound manner, which the SRA has failed to do so. As per the terms and conditions of the resolution plan the Respondent-SRA had to verify original documents within 60 days which it has

not done and maximum period of delivery of homes was 36 months, which has also not happened. Despite repeated enquiries by the appellant, the respondent has not done so and now challenging the authenticity of the documents of the Appellant.

54. We further note that in this case of the Appellant- Sanjeev Sanghal in CA (AT) (Ins) No. 2370 of 2024, the appellant had filed the claims timely (though in incorrect form but clearly attaching documents of allotment letter), allotment letter, payment receipts (though cash receipts) and furthermore the RP had accepted full claims and intimated about it to the Appellant, which has noted by us separately herein. Furthermore, Appellant's name is in the list of financial creditors/homebuyers at page 16 of APB at serial number 265 and against whom it is noted that nothing is pending verification.

Can the 6th clause in the Resolution plan be interpreted in favour of the homebuyers or not?

55. It is claimed by the Appellant that the 6th Clause has a singular contingency i.e. "homebuyers paying the dues against their flats as per construction linked payment schedule". It is claimed by the Appellant this contingency has been satisfied by the Appellant because his claim has been admitted in full and no part remained under verification. In respect of the construction linked payment schedule, as the payment was made in two tranches, a letter dated 09.03.2018 was also issued by the Corporate Debtor alongwith the BBA clarifying that the complete payment was received and the schedule would not apply. The next part provides that SRA can verify the "original documents" which have been supplied by the Appellant – there is no

dispute on that. The same part also specifies that this verification has to be done within 60 days, which was never carried out by the SRA. Appellant contends that assuming but not conceding that the SRA can carry out this verification after 60 days, the next part i.e. "The same shall be done to ascertain the mode of payment being made to the corporate debtor and the actual amount admitted by them." has to be interpreted in the favour of the homebuyer. It further claims that this clause does not make any legal or grammatical sense and has deliberately been drafted in an ambiguous manner such that illegal benefit may be taken after the Resolution Plan. Appellant further claims that if at all, the clause can only mean that the SRA may "ascertain" the credentials of the Appellant and see if any further amounts need to be paid under the construction linked schedule. Also, the Clause does not provide for any mechanism of the so-called scrutiny only for some particular claims/delayed claims/contingent claims/conditional claims but for all homebuyers' claims, so that clearly means that it is only an administrative or procedural exercise. Moreover, appellant claims that there is no explicit language which empowers the SRA to reject claims and not handover the Flat based on the verification and is now sought to be read into the Resolution Plan by the SRA. Such language clearly was not included because that would have defeated the interests of the homebuyers and the CoC which comprised of the homebuyers, in their commercial wisdom, could not have understood the clause to permit the SRA to resile from satisfying admitted claims of the homebuyers. It is also claimed by the Appellant that as the Resolution Plan has been drafted by the SRA in its own interests, if at

all the clause is operable, applying the principles of *contra proferentem*, the same has to be interpreted in the favour of the homebuyer and within the scheme of the IBC. Furthermore, Appellant brings to our notice that permitting the SRA to judge and reject or admit claims, while not complying with their obligations would be strictly against the principles of natural justice i.e. *nemo judex in causa sua*. Appellant further claims that the SRA's argument goes in the teeth of this principle, because by this approach it can simply pick up some documents and refuse handover of flats purely in its own interest.

56. In the background of above analysis we find that as the appellant in this case had filed the claims timely along with allotment letter, payment receipts and furthermore the RP had accepted full claims and intimated about it to the Appellant, and furthermore, Appellant's name is in the list of financial creditors/homebuyers and against whom it is noted that nothing is pending verification, therefore, the conduct of the SRA to initially keep the claim of the Appellant pending and now questioning the authenticity of the documents is questionable and we find the arguments of the respondent-SRA not to accept the claim of the Appellant as a home-buyer are not sustainable. We cannot countenance such an approach of the SRA and deserves be to be deprecated.

Is the SRA resiling from obligations under the Resolution plan?

57. We note that the Resolution Plan contains clear obligations to handover the flats to all homebuyers within the timelines specified therein. The SRA is required to execute the conveyance deed in the favour of the Appellant when

the Appellant has proved his identity and the shown the original BBA and Payment Receipts to the SRA. We agree with the arguments of the Appellant that beyond that the SRA has no powers to adopt a different approach or interpretation.

58. However, we find force in the arguments of the Appellant that the SRA is unilaterally trying to amend and withdraw its own obligations under the Resolution Plan. The SRA's interpretation to the clause is indeterminate and leads to destruction of the rights of creditors. The clause is now being used by the SRA to resile from the implementation of the Resolution Plan after 5 years from its approval on 20.02.2020.

59. It is argued by the Appellant that a resolution plan cannot have a clause that gives the SRA a right to re-scrutinize/reverify and either admit or reject claims after the plan has been admitted and approved by the Ld. AA (NCLT) and the RP. If such a reading is given to any Resolution Plan, it will lead to opening the gates for any SRA to start acting in its own interests by summarily rejecting admitted claims.

60. We agree with the arguments of the Appellant that a resolution applicant submits their plan based on the verified list of claims provided by the RP. The Financial Proposal considers the admitted claims as the existing liabilities on the basis of which the RP proposes to infuse funds in the Corporate Debtor. It is this background which forms the approval of the Plan by the CoC. The approval of a resolution plan by CoC and then the AA is the

final stage for claims reconciliation after which the assets and liabilities being taken over by the SRA stand crystallized.

61. The successful applicant therefore takes over the corporate debtor "*on an as is where is basis,"* with the liabilities as they are finalized by the RP and CoC. They cannot be given a new right to unilaterally alter the liabilities of the Corporate Debtor to their own benefit after a binding plan has been approved. In fact, specifically in a homebuyers' case, the primary obligation of a resolution applicant is to ensure the handover/delivery of the flats which could not be delivered by the Corporate Debtor prior to the CIRP. It is with this understanding that the SRA has filed the Resolution Plan. In the present case, the SRA seeks to escape this obligation despite knowing fully well that the Appellant's claim stood admitted. The Appellant's case has placed its reliance on the judgment of the Hon'ble Supreme Court in the homebuyers case of ***Amit Nehra & Anr v. Pawan Kumar Garg & Ors*** **2025 SCC OnLine SC 1941**, wherein the Hon'ble Supreme Court in identical circumstances has directed the SRA to transfer the flat to the homebuyer. In paragraphs 28 to 40, it has been held:

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> **"**28. We have given our anxious consideration to the submissions advanced at the bar and perused the material placed on record. The central question which falls for our determination is whether the Appellants, being allottees of an apartment in the project IREO Rise (Gardenia), Mohali developed by the erstwhile Corporate Debtor M/s Puma Realtors Pvt. Ltd. and having admittedly paid a sum of Rs. 57,56,684/- out of the total consideration of Rs. 60,06,368/-, are to be treated as belated claimants entitled only to refund of 50% of their principal deposit under Clause 18.4(xi**), or whether, their claim having been duly verified and**

incorporated in the list of creditors, they are entitled to possession in terms of Clause 18.4(vi)(a) of the Resolution Plan.

29. At the outset, it is not in dispute that the Appellants are bona fide homebuyers, having booked an apartment with the Corporate Debtor as far back as 2010, and having executed a Buyer's Agreement on 27.05.2011. A sum of Rs. 57,56,684/-, constituting almost entirety of the sale consideration, stands paid. The balance was contractually adjustable against penalty for delay in handing over possession**.**

30. The case of the Appellants rests on two principal pillar(s):

first, that their claim was initially submitted on 11.01.2019 in physical form at the project office at Mohali; and second, that pursuant to the Resolution Professional's email dated 31.01.2020 inviting homebuyers who had not filed their claim, to do so, they resubmitted their Form-CA on 07.02.2020 by way of an e-mail. **Their claim was thereafter duly verified, admitted and incorporated in the list of financial creditors published on 30.04.2020 at Serial No. 636.**

31. The Respondent(s) have strenuously disputed the alleged filing of 11.01.2019, contending that no such claim was received at the notified address, and further that the Form-CA itself computes interest up to 07.02.2020. While this factual dispute has occupied considerable attention before the fora below, it appears to us that resolution of the present appeal does not hinge upon the disputed assertion of 11.01.2019.

32. The admitted and undisputed position remains that the Appellants claim was resubmitted on 07.02.2020; that it was duly verified by the Resolution Professional; and that it was incorporated in the published list of creditors dated 30.04.2020**. Once such verification and incorporation occurred, the claim acquired full legal recognition within the CIRP process.**

33. **We are unable to countenance the approach of the NCLAT in brushing aside this admitted position, and in treating the Appellants as if they had not filed any claim at all. The publication of the list of financial creditors is an act in discharge of a statutory duty by the Resolution Professional. It cannot be reduced to a meaningless formality**. Learned Counsel for the Appellants has rightly placed reliance on Puneet Kaur v. K.V. Developers Pvt. Ltd. & Ors., 2022 SCC Online NCLAT 245, wherein it was observed as follows:

"……However, we are of the view that the claim of those homebuyers, who could not file their claims, but whose claims were reflected in the record of the corporate debtor, ought to have been included in the information memorandum and resolution applicant, ought to have taken note of the said liabilities and should have appropriately dealt with them in the resolution plan. Non-consideration of such claims, which are reflected from the record, leads to inequitable and unfair resolution as is seen in the present case. To mitigate the hardship of the appellant, we thus, are of the view that ends of justice would be met, if direction is issued to the resolution professional to submit the details of homebuyers, whose details are reflected in the records of the corporate debtor including their claims, to the resolution applicant, on the basis of which the resolution applicant shall prepare an addendum to the resolution plan, which may be placed before the committee of creditors for consideration….."

In this backdrop, the Resolution Professional rightly admitted the claim of the Appellants to the extent of Rs. 57,56,684/- and reflected it at Serial No. 636 in the list of financial creditors.

34. It is next necessary to examine the structure of Clause 18.4 of the Resolution Plan, which prescribes distinct treatments for different categories of allottees. Clause 18.4(ii) stipulates that where the claim has been filed and admitted by the Resolution Professional, and the allotment letter issued, the claim shall be honored in full. Clause 18.4(vi)(a) sets out the payment plan for existing allottees, providing for handover of units or execution of conveyance. By contrast, Clause 18.4(xi) is residuary in nature, applying where no claim has been filed, or if filed, not verified by the Resolution Professional, or if verified, not communicated to the Resolution Applicant; such allottees are extended only a reduced benefit of refund of 50% of the principal amount deposited. Clause 18.4(xix) clarifies that belated claims filed between submission of the plan and its approval by the Adjudicating Authority are to be dealt with 'in the manner elucidated above and relevant to their case'.

35. The Appellants case, on admitted facts, does not fall within Clause 18.4(xi). **Their claim was filed, verified, and informed to the Successful Resolution Applicant, as is evidenced by the entry at Serial No. 636 in the list of creditors dated 30.04.2020, admitting their claim to the extent of Rs. 57,56,684/.** Once so admitted, their case squarely falls within Clause 18.4(ii) read with Clause 18.4(vi)(a) of the Resolution Plan.

36. The Respondent(s) reliance on Clause 18.4(xi) is misconceived. That clause is intended to apply only to allotees who had defaulted in filing or

pursuing their claims. The Appellants cannot be so characterised, having paid nearly the entire consideration, submitted their claim, and had it duly verified and admitted by the Resolution Professional.

37**. What is critical to note is that this is not a case of entertaining a fresh claim beyond the Resolution Plan. It concerns an allottee whose claim was verified and admitted by the Resolution Professional and reflected in the list of financial creditors well before approval of the Plan by the Adjudicating Authority. To disregard such an admitted claim and confine the Appellants to the limited benefit under Clause 18.4(xi) is not to preserve the binding effect of the plan but to misapply it. Clause 18.4 itself draws a clear distinction between verified claims and belated or unverified claims; to obliterate that distinction would render the scheme otiose. Relegating bona fide allottees, who have paid substantial consideration years in advance, to the status of mere refund claimants runs contrary to the very object of the legislative framework**.

38. The facts of the present case highlight the plight of individual homebuyers, who invest their life savings in the hope of securing a roof over their heads. **The Appellants had paid nearly the entire sale consideration as far back as 2011. To deny them possession today, despite their claim having been duly verified and admitted, would inflict unfair and unwarranted prejudice.**

CONCLUSION AND DIRECTIONS

39. In light of the foregoing analysis and reasoning, the appeal merits acceptance. The judgment of the NCLAT dated 10.01.2025 passed in Company Appeal (AT) (Insolvency) No. 1365 of 2023, as well as the order of the NCLT dated 26.07.2023 passed in I.A. No. 5579 of 2021 in CP (IB) No. 934(PB)/2018, are hereby set aside.

40. Respondent(s) shall execute the Conveyance Deed and hand over possession of Apartment No. GBD-00-001, Block D, IREO Rise (Gardenia), Mohali to the Appellants within a period of two months from today."

[emphasis supplied]

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62. It is also brought to our notice by the Appellant that, subsequent to approval of the Resolution Plan in this case, the IBBI has introduced Regulation 4E into the CIRP Regulations which states: "*After obtaining the approval of the committee with not less than sixty-six percent of total votes, the*

resolution professional shall hand over the possession of the plot, apartment, or building or any instruments agreed to be transferred under the real estate project and facilitate registration, where the allottee has requested for the same and has performed his part under the agreement." Therefore, the power to handover possession/execute registered sale deeds has now been given to the RP.

63. Appellant also brings to our notice that even on a general basis, any clause which permits the SRA perform a post-approval audit/scrutiny and subsequently reject claims admitted in the CIRP in supersession of the RP, the CoC and the Ld. AA should be deemed void, inoperable and contrary to the scheme of the IBC.

64. Another argument presented by the Appellant is that right to carry out any verification/amendment lies with the resolution professional, that too within the CIRP and not with the SRA after the approval of the resolution plan. Appellant claims that Regulation 13 of the CIRP Regulations states that:

> "13. The interim resolution professional or the resolution professional, as the case may be, **shall verify** every claim, as on the insolvency commencement date, within seven days from the last date of receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it."

65. Appellant claims that the said regulation does not give the SRA, the right to re-verify documents or re-adjudicate claims nor can such a statutory/

regulatory right be transferred to the SRA to be utilized in its own favour. Further, there is a bounden duty on the RP to verify the claim. There is no option or "provisional" verification as is sought to be argued by the SRA. In this regard, Regulation 14 of the CIRP Regulations states that:

> "14. Determination of amount of claim
>
> *(1)* Where the amount claimed by a creditor is not precise due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him.
>
> ***(2)*** The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under subregulation (1), as soon as may be practicable, **when he comes across additional information warranting such revision."**

66. Appellant contends that only the RP had the power to revise the amounts of the admitted claims, not the SRA. This is a statutory/regulatory power given to the RP as an independent professional which cannot be transferred. Even if the RP decides to revise the admitted claim (i) it can only be upon "additional information" coming up; and (ii) has to be within the CIRP. None of this has happened in the present case.

67. Appellant also claims that the SRA's so – called "verification" exercise is akin to holding the BBA and Payment Receipts null and void in their legal effect. It is claimed that:

a. The SRA has not been granted any rights to amend and alter admitted claims under the IBC or the underlying Regulations.

b. In the absence of the above, the SRA cannot exercise rights like a civil court by unilaterally terming the Appellant's documents "forged and fabricated", 6 years after the Resolution Plan came into effect.

c. There is no proof nor forensic examination presented by the SRA which establishes that the documents are forged or fabricated.

d. Permitting an SRA to challenge admitted documents and admitted claims on the basis of powers that only a civil court can exercise, will result in SRAs beginning to resile from their obligations to homebuyers merely on the basis of raising these obligations.

e. To the contrary, the erstwhile Director of the Corporate Debtor who signed the BBA and the Payment Receipts has filed an affidavit before this Hon'ble Tribunal confirming his signatures on the documents and accepting the full payment for the flat.

68. The appellant has raised very important questions, which could have been dealt by us, had the Appeal been filed within appealable period. However, in the present case, the approval of the resolution plan through AA was not challenged and its approval has attained finality. And therefore, at this stage we cannot go into the merits of the verification clause in the Resolution Plan. However, the implementation of resolution plan raises lot of questions, which we have already examined herein separately, which go onto assist the case of the Appellant. And the justification provided by the Respondent-SRA that it can continue to verify for an indeterminate period violates the approved

resolution plan and SRA cannot be allowed such a leeway, particularly in the facts and circumstances of the present case in CA AT (Ins) 2370. To argue this point, the appellant has placed its reliance on Hon'ble Supreme Court in **Ebix Singapore v COC Educomp Solutions (2022) 2 SCC 401** where it was held that:

> " 164. *The approval of the Adjudicating Authority under Section 31(1) of the IBC has the effect of making the Resolution Plan binding on all stakeholders. These stakeholders include the employees of the corporate debtor whose terms of employment would be governed by the Resolution Plan, the Central and State Governments who would receive their tax dues on the basis of the terms of the Resolution Plan and local authorities to whom dues are owed. These stakeholders are not direct participants in the CIRP but are bound by its consequence by virtue of the approval of the Resolution Plan, under Section 31(1) of the IBC. Section 31(1) ensures that the Resolution Plan becomes binding on all stakeholders after it is approved by the Adjudicating Authority. The language of Section 31(1) cannot be construed to mean that a Resolution Plan is indeterminate or open to withdrawal or modification until it is approved by the Adjudicating Authority or that it is not binding between the CoC and the successful Resolution Applicant."*
>
> *167. Regulation 38(3) mandates that a Resolution Plan be feasible, viable and implementable with specific timelines.* ***A Resolution Plan whose implementation can be withdrawn at the behest of the successful Resolution Applicant, is inherently unviable, since open-ended clauses on modifications/withdrawal would mean that the Plan could fail at an undefined stage, be uncertain, including after approval by the Adjudicating Authority****. It is inconsistent to postulate, on the one hand, that no withdrawal or modification is permitted after the approval by the*

Adjudicating Authority under Section 31, irrespective of the terms of the Resolution Plan; and on the other hand, to argue that the terms of the Resolution Plan relating to withdrawal or modification must be respected, in spite of the CoC's approval, but prior to the approval by the Adjudicating Authority. The former position follows from the intent, object and purpose of the IBC and from Section 31, and the latter is disavowed by the IBC's structure and objective. The IBC does not envisage a dichotomy in the binding character of the Resolution Plan in relation to a Resolution Applicant between the stage of approval by the CoC and the approval of the Adjudicating Authority. The binding nature of a Resolution Plan on a Resolution Applicant, who is the proponent of the Plan which has been accepted by the CoC ***cannot remain indeterminate at the discretion of the Resolution Applicant****. The negotiations between the Resolution Applicant and the CoC are brought to an end after the CoC's approval. The only conditionality that remains is the approval of the Adjudicating Authority, which has a limited jurisdiction to confirm or deny the legal validity of the Resolution Plan in terms of Section 30 (2) of the IBC. If the requirements of Section 30(2) are satisfied, the Adjudicating Authority shall confirm the Plan approved by the CoC under Section 31(1) of the IBC.*

69. We further find that the SRA has seriously breached the timelines for implementation in the Resolution Plan. It has been brought to our notice, firstly, the SRA admittedly never implemented the plan within X + 60 mentioned in the Term. Secondly, the SRA never delivered Tower B (and even other towers of the Project) within 21 months of the approval of the Resolution Plan; and thirdly and most importantly, the SRA did not verify any documents within 60 days of the approval of the Resolution Plan. Hence, even if it is assumed that the Clause permits the SRA to adjudicate upon any documents,

it failed to do so within the timeline specified, thereby giving up its self-appointed right to do so.

70. Instead, we note that the SRA has simply taken over the assets of the Corporate Debtor from the year 2020 immediately upon approval of the Resolution Plan and taken benefit of the Corporate Debtor thereafter. At the same time the SRA gave a complete go-bye to the timelines for implementation in the Resolution Plan and never made any efforts to address creditor interests or satisfy the claims of homebuyers with the hope that some homebuyers would not approach the SRA or lose hope. It is only when the Appellant wrote an e-mail dated 16.07.2022 that the SRA suddenly requested for documents to be submitted. Even thereafter it is evident that despite the original BBA and Payment Receipts being shown to the SRA, it was making the Appellant go around in circles for several years. We find that not once was it alleged that the BBA and Payment Receipts are forged and fabricated as is now being sought to be argued before this Hon'ble Tribunal.

71. We also look into the claim of the Appellant that it has fully paid the claim for the flat and it has been admitted in full by the RP. The appellant brings to our notice Regulation 8A(2) of the CIRP Regulations which states that

> "…existence of debt due to a creditor in a class may be proved on the basis of:…(b) other relevant documents, including any- (i) agreement for sale; (ii) letter of allotment; (iii) receipt of payment made;…"

72. Appellant contends that the RP has accepted the Appellant's claim after examining the BBA and Payments Receipts submitted at the time of claim submission; and by cross verifying the same with the list of homebuyers that was maintained by the Corporate Debtor in its records. Furthermore, the RP's claim admission e-mail specifically states that the admission was made: "*as per my judgment formed on the basis of flat owners records provide to me*." The RP has therefore admitted the debt exactly on the basis of the documents required by Regulation 8A(2) of the CIRP Regulations. Per the RP's claim admission e-mail itself, he has used "his judgment" and existing "*list of homebuyers*" of the Corporate Debtor where the Appellant's name already featured as one of the flat allottees. The RP says that the claim was "fully accepted". It is claimed that if the RP was really concerned about the authenticity of the Appellant's claim, then same could have been kept "under verification" as with several other cases, but it was not. No questions were asked, nor were additional documents sought by the RP.

73. Appellant claims that the language used in RP's claim admission e-mail reserving right to revise the claim amount is a standard boilerplate disclaimer that features in all e-mails sent by the RP. It is not in dispute that this reservation of right was never exercised by the RP at any time during the CIRP. After the RP had sent the claim admission e-mail on 01.12.2018, an Order dated 26.09.2019 was passed by the Ld. AA in the CIRP directing that:

> "The IRP is directed to consider all payments made by allottees towards flats to be constructed on this project.

> Despite notice having be(en) given to other allottees in this case, **they are still some allottees whose claims have been totally turned down on the ground that the books of accounts of the Corporate Debtor do not reflect the receipts of payment**. It is noticed that this project was being executed under a collaboration between 2-3 entities and the bookings were done by its multiple parties. Under such circumstances we direct that all bookings done through various collaborators in respect of the project being developed as "Misty Heights" over plot No. GH-01-SC-1 Sport City, Greater Noida, shall be consideration by the IRP on furnishing of appropriate documents i.e. payment receipts and Agreements."

74. Appellant brings to our notice that the above Order dated 26.09.2019 passed by the Ld. AA was not challenged by the RP in Appeal. Accordingly, SRA's arguments on books of accounts not reflecting payments, while completely false on merits, are no longer res integra because this issue has already been decided. The RP then filed a Report dated 12.10.2019 which enclosed a "Complete list of Committee Creditors" (containing the Appellant's fully verified claim at Sr. No. 265) and in paragraph 5 of the Report stated, without any reservations:

> "5. That it is submitted that the **Resolution Professional has verified** the claims received by him from the financial creditors of the class of homebuyers in accordance with the Order of this Hon'ble Tribunal dated 26.09.2019."

75. Appellant argues that it never needed to take benefit of the Order dated 26.09.2019 passed by the Ld. AA because its claim had already been admitted in fully on the basis of his BBA and Payment Receipts. However, even if assuming that the claim was not admitted, it stood fully admitted in view of

the Order dated 26.09.2019 read with the RP's Report dated 12.10.2019, which cannot be negated after the acceptance of the Resolution Plan.

76. Finally, the RP has filed the Complete List of Creditors in its Reply to I.A. No. 7051 of 2025 in CA (AT) (Ins) Nos 109 of 2025 where at page 16 at serial no. 265, the Appellant's name reflects a fully paid-up admitted and verified claim. There is no other allottee of Flat B-0102 clearly showing that it is the Appellant who is the genuine allottee of the said flat. The said flat is currently being used by the SRA itself for its own purposes.

77. No preferential or undervalued transactions have been reported by the RP. No applications under S.43 to S.50 or S.66 of the IBC were filed by the RP at any point in time. The Appellant's admitted claim formed part of the crystallized liabilities of the Corporate Debtor.

78. In view of the above, Appellant contends that any statements by the RP at this stage that "provisional verification" was carried out, is directly against the CIRP Regulations, the Clean Slate doctrine and the duties of the RP to ensure that interests of creditors are looked after in the resolution process; appears to be an unreliable afterthought; and is clearly an attempt to favour the SRA at this stage.

79. We find strong force in the arguments of the Appellant that its claim as a homebuyer is admitted in full on the basis of his BBA and Payment Receipts and is not to be further verified and the Appellant needs to be allotted this flat without any further delay.

Was SRA not required to conduct due diligence prior to resolution plan?

80. We find that the SRA has justified its ability to carry out a post approval audit on the basis that there was a lack of documents and information available to the RP in the CIRP. However, we note that the SRA had prepared the Resolution Plan on the basis of all the material available to the RP. All this data was available to the SRA in the Information Memorandum. Regulation 36(2) of the CIRP Regulations specifies that:

> "(2) The information memorandum shall highlight the key selling propositions and contain all relevant information which serves as a comprehensive document conveying significant information about the corporate debtor including its operations, financial statements, to the prospective resolution applicant and shall contain the following details of the corporate debtor-
> (a) assets and liabilities 7 [including contingent liabilities] with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their values.
> Explanation: 'Description' includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, depreciation charged, book value, 8 [geographical coordinates of fixed assets] and any other relevant details.
> (b) the latest annual financial statements;
> (c) audited financial statements of the corporate debtor for the last two financial years and provisional financial statements for the current financial year made up to a date not earlier than fourteen days from the date of the application;
> (d) a list of creditors containing the names of creditors, the amounts claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims;
> (e) particulars of a debt due from or to the corporate debtor with respect to related parties;"

81. We find that there are no allegations made that some data was sought by the SRA and was withheld by the RP. No allegation of fraud against the RP has been made. Furthermore, the Appellant's BBA and Payment Receipts (and

all other documents of all homebuyers) were available to the SRA to check before it filed its Resolution Plan with the COC and it met the Ld. AA's approval. We find force in the arguments of the Appellant that the SRA cannot now state that because some documentation or books of accounts did not accurately represent the claims, it should be handed over the RP's rights and duties to tamper with admitted claims. Appellant also argues that if the SRA did not carry out such due diligence, the SRA is deemed to have waived its rights to object to admitted claims and their underlying documents now. The filing of the Resolution Plan and the promise of delivery of the flats acts as estoppel against any attempt to misinterpret the Resolution Plan and avoid the obligations. Appellant also brings to our notice that a false and mischievous assertion has been made by the SRA that there was limited availability of records during the CIRP and this same position has been parroted by the RP. The appellant also argues that mutually contradictory pleas have been taken by the SRA i.e. before CIRP, "limited records" were available. However, after the CIRP, SRA now claims to have complete records with which it purports to check the Appellant's claims. In fact, the SRA cannot purport to have something different from what the RP had during the CIRP. It is the same books of accounts and CRM data which led the RP to come to its conclusion. This data was available to the SRA beforehand. Till date, the SRA has not come to the Tribunal with clean hands and submitted not a single page of the books of account of the Corporate Debtor such that this Hon'ble Tribunal may examine them. Appellant claims that instead, it is due to the efforts of the homebuyer Appellant, that some Tally data has been provided

by the erstwhile Director, which shows at least one transaction of the Appellant. The Appellant has also provided the chain of e-mails by which he acquired the data. The Appellant has found one of its transactions recorded in the ledger of Corporate Debtor. Appellant claims that this ledger should have been produced by the SRA but what it consistently kept doing throughout the Appeal is suppressing this information and covering it up that the books of accounts do not record the name of the Appellant. Appellant further brings to our notice that when the ledger was produced, the SRA neither disputed it nor explained why it kept stating on oath that the Appellant's name was not reflected in the books of accounts. Instead, it started attacking the treatment accorded by the Corporate Debtor to the transaction in its books, which is not in control of the Appellant. Thus, we can conclude that books of accounts were available during the CIRP, the Appellant's transaction is reflected in the same (in whatever form), the RP correctly admitted the claim and the SRA failed to either carry out due diligence of the claims, or is now suppressing the books of accounts to escape its obligations to handover the Flat.

Genuineness of payments and receipts

82. With respect to the payments and receipts of the Appellant, SRA has raised few issues that the payment receipts are not in the "standard format", the payment receipts do not specify the mode of payment and the Cash was not an acceptable mode of payment under the BBA. Strongly reb these arguments the appellant brings to our notice firstly that the Appellant is not responsible for the format in which the receipts were provided. Further, the

SRA cannot say what is the correct format of issuance of receipts because it has stepped into the shoes of the Corporate Debtor after the approval of the Plan. Lastly, it has been sworn on oath by the ex-Director of the Corporate Debtor that he has signed the receipts and received the money. With respect to mode of payment the Appellant has throughout stated that the payments were made in cash (which mode also reflected in the Corporate Debtor's ledger entry). Therefore, the SRA is aware of the mode of payment throughout the history of the dispute. Nevertheless, this was not brought into question ever by the RP during the CIRP. And with respect to the argument that Cash was not an acceptable mode of payment under the BBA, the Appellant claims that this is absolutely wrong. The SRA has filed a so-called "genuine" receipt and the said invoice is also for a cash payment.

83. Furthermore, on the argument of the SRA that cash is not a legally permissible method of purchase of property, Appellant claims that that the law and judgments restricting cash payments has come into force several years after Appellant's transaction and after the payment receipts were executed in 2016. Nonetheless, the Hon'ble Supreme Court has recently in **Georgekutty Chacko v MN Saji Civil Appeal No. 11309 of 2025 01.09.2025** held the below:

> "There being specific stand by the appellant that he has paid Rs.30,80,000/- (Rupees thirty lakhs eighty thousand) to the respondent pursuant to a promissory note, which incidentally has been upheld and not disbelieved, the onus would be on the respondent to dispel such fact. Further, it is not uncommon that in money transactions, there is a component of cash also involved and just because a person is not able to

prove the transfer through official modes i.e., through any negotiable instrument or bank transaction, would not lead to the conclusion that such amount was not paid through cash, especially when there was a categorical statement to this effect by the appellant before the Court concerned. Moreover, the initial presumption of legally enforceable debt comes from the Negotiable Instruments Act, 1881 also and thus the onus is on the respondent to prove that no such amount was given. Only because documentary proof was not available, we find such view taken to be erroneous. A person who gives cash obviously would not be having any documentary proof per se. Sometimes there may be an occasion where even for a cash transaction, a receipt is taken, but absence of the same would not negate and disprove the stand that the cash transaction also took place between the parties"

84. Accordingly, merely because cash was used in this particular transaction in 2016 would not ipso facto negate its legal import in the peculiar facts of this case where the RP has admitted that such payments were made.

Suspicious circumstances – Is SRA proxy of erstwhile promoters?

85. Appellant has also strongly argued that although not directly but the situation on the ground is that this is a classic case where the SRA is actually being run by the same group of persons as were running the Corporate Debtor. It also raises the issue that CIRP has been misused to specifically get rid of the debts of the Corporate Debtor. Only a sum of INR 6,00,00,000 has been infused by the SRA into the Corporate Debtor to take over the entire project. This is against admitted debt of INR 98 Crores and Liquidation Value of INR 37 – 43 Crores. The singular secured financial creditor was paid in full

in 24 EMI and the Corporate Debtor/SRA got the benefit of restructuring its debt.

86. The Appellant claims that in a tagged I.A. No. 7051 of 2025 in Comp. App. No. 109 of 2025 has verily pointed out that there were transactions between the SRA and the Corporate Debtor in 2016 and those transactions have never been explained by the RP or the SRA. And by the Order dated 20.11.2025, this Appellate Tribunal had noticed these suspicious circumstances and directed the RP to explain S.29A compliance for this limited purpose only. Instead, the RP comes and files an affidavit in reply, trying to repeatedly paint a narrative of "having no documents" and "no records" during the CIRP. RP overreaches the ambit of the Order dated 20.11.2025 and tries to defend the SRA's position. Appellant further claims that the affidavit only contains a single paragraph 16 which simply says S.29A compliance was done. There is again no explanation of what these transactions were and how the RP was satisfied that S.29A compliance was done. Appellant claims that notwithstanding anything in the Appeal, the SRA, the RP, the management must be investigated as the entire motive behind the SRA rejecting delivery of possession of flats is to recover their initial investment of INR 6,00,00,000 by selling off these flats privately for a 100% profit. SRA initially rejected delivery of possession of several flats to homebuyers, as is evident from the number of similar applications before the Ld. AA. Following the Impugned Order and the filing of the present Appeal, the SRA, realizing that the number of rejections may raise suspicions before this Hon'ble Tribunal, made offers of settlement to various aggrieved

homebuyers. The Appellant can state with 100% surety that not all homebuyers have received their flats and if any homebuyers are not before this Hon'ble Tribunal it is because the SRA has exerted undue influence and duress on them to accept either their initial investment or a reduced amount, while their respective flats have been sold at a much higher amount. This is a blatant violation and circumvention of the Resolution Plan and must be investigated.

87. In their reply the respondent has contradicted the claims of the appellants and bring to our notice that Appellants have attempted to introduce completely irrelevant material through the present Application, not for the purpose of assisting this Hon'ble Tribunal but only to divert the scope of the Appeal, mischaracterise commercial transactions of the year 2015-16, and create a false narrative. Such material has no role whatsoever in the consideration of the issues arising in CA (AT)(Ins.) No. 109 of 2025.

88. Vehemently denying all allegations the Respondent has brought to our notice indeed there have been commercial transactions between the SRA and the corporate debtor and only Rupees 1.20 Crs and not Rs 10 crores as alleged by the appellant is the net amount standing between two of them. The respondent also denies that SRA is the mask of the ex-directors. It also brings to our notice that the resolution professional had satisfied itself that SRA is not a related party of the corporate debtor and the SRA had transparently disclosed all past transactions between itself and the corporate debtor in section 29A declaration.

89. At this stage we are not looking at other issues raised by the appellant with respect to the past dealings of the SRA with the Corporate Debtor. These were not the issues for consideration in this appeal. But we hasten to add that the admitted facts indicate there have been close business dealings between the SRA and the corporate debtor prior to CD entering into CIRP. We presume that these issues have been gone into by the resolution professional in great depth and at this stage we do not intend to go into the details as these are not the issues before us at this stage. On the other hand, we find sufficient force in the arguments of Appellant that they have been given a short shrift and their case needs to be considered without any further delay by the SRA, which we have examined separately in this case.

Conclusions

90. SRA claims that the impugned order is not adversarial and the SRA is scrutinizing the claims of the appellant as per the approved resolution plan, which contains a verification clause as per which the adjudicating authority has been allowed it to scrutinize the claims. SRA also claims that the purpose of the verification clause was that the resolution professional had provisionally admitted the claims, and the appellant cannot seek implementation of the resolution plan while by-passing the terms of the resolution plan. It also claims that the resolution professional admitted the claim with a caveat that it could be revised at any stage of the process. And now it claims that the appellant has placed reliance on forged payment receipts and BBA and other documents and there are many procedural irregularities. SRA claims that the appellant has consented to the approval of

the resolution plan, which contained a clause for verification, and delivery of homes was contingent upon verification of the original documents. SRA also claims that they have started the implementation of the resolution plan, and 95% of the plan has been implemented for about 380 home buyers. SRA also claims that they have the right to verify and it derives strength from Section 31 of the Code.

91. We observe that the Appellant is a homebuyer and had originally bought a home from a sister concern of the corporate debtor and later on basis of settlement between the promoters of the sister concerns, became an unsecured financial creditor of Maple Realcon Pvt. Ltd- Corporate Debtor. We find materials on record to show that the Appellant purchased Flat B-0102, Tower-B having Area 1560 Sq.Ft. in the project named Misty Heights situated at Plot No. GH-01, Sector adjoining Techzone-IV, Sport City, Greater Noida for a total sum of Rs. 47,00,000 by execution of (i) a Builder Buyer Agreement dated 09.03.2018; (ii) two Payment Receipts dated 29.07.2016 [Rs. 22,00,000] and 12.08.2016 [Rs. 25,00,000] (*Pg 63-64/Appeal Vol I)* and (iii) a Letter dated 09.03.2018 issued by Mr B P Singh, the Authorized representative of the Corporate Debtor confirming receipt of full payment for the flat.

92. We find that the claim of the appellant was admitted by the RP to the full extent of Rs 47 lakhs on 1st December 2018. Furthermore, the name of the appellant exists in the list of the Committee of Creditors, which was filed before the Adjudicating Authority, and the name of the appellant was recorded as a financial creditor and homebuyer. We further find that the resolution

plan dated 4 September 2019 was approved by the CoC and later on by the Adjudicating Authority.

93. All these materials were on record before the adjudicating authority. We agree with the contention of the appellant that this is not challenge to the resolution plan which has the clause for verification, but prayer to implement the resolution plan. Instead of giving directions for implementation of the resolution plan, the adjudicating authority in the impugned order has allowed the appellant to appear before the successful resolution applicant and directed SRA to scrutinize his claim. This goes very much against the earlier order of the adjudicating authority approving the resolution plan, by which the verification, if any, was to be done within 60 days of the approval of the resolution plan. However, this was not done by the SRA in the stipulated period, and in such a situation, the right of the successful resolution applicant to further scrutinise beyond that period lapses. In such facts and circumstances, at this belated stage, the successful resolution applicant cannot claim to be further scrutinizing the claims of the appellant, which were already admitted by the resolution professional.

94. We further note that it is the resolution professional, who has the final say in the matter. Even if it was to be further verified, there are sufficient materials on record which go on to confirm the claim of both the appellants. In such a situation, the SRA doesn't have indefinite period available to him to further scrutinize the claims, which essentially fall within the jurisdiction of the resolution professional. It was the duty of the successful resolution

applicant to accept all those claims, which had been admitted by the resolution professional and which also form part of the resolution plan.

95. We find it very intriguing that, instead of scrutinizing the documents presented by the appellant, the successful resolution applicant is now questioning the authenticity of the documents and claims that they are forged and fabricated. In fact, now the authority of Mr. B.P. Singh is being questioned, who is the signatory of these documents. SRA alleges that Mr BP Singh is in loggerheads with the erstwhile directors of the CD and an application under Section 241 and 242 is pending before the NCLT along with the other pending litigations. On the other hand, we find that the appellants have been pursuing their case with the police authorities also, and the police authorities have also investigated the matter. These are independent investigations and being pursued independently.

96. At this stage the successful resolution applicant cannot turn around and claim to disown their relationship with Mr. B.P. Singh, who has signed the documents on record and who has also signed the settlement deed. It is the responsibility of the SRA to now take care of the admitted liability of the home buyers (the appellants) in the resolution plan.

97. In short, we find that the appellant is a home buyer and has made full payment of Rs 47 lakhs and has a receipt thereof and has also allotment/builder agreement. Furthermore, the name of the appellant is in the list of FCs/Homebuyers prepared by the resolution professional, and the RP has accepted its claims to the fullest extent. This list was also placed before

the adjudicating authority while approving the resolution plan. The SRA sat over the claims for almost six years, even though it had to decide the claim after scrutiny within 60 days as per the resolution plan. In this background we find it strange that at this stage, in the name of scrutiny using the sixth clause in the approved resolution plan, the SRA is not accepting the claim and is claiming it to be based on fraudulent and forged documents.

98. It was also brought to our notice by the appellant that as per the orders of the adjudicating authority, when they went for a meeting with the SRA, instead of SRA they found ex-directors of the CD present in the meeting. Appellant has a strong argument to canvass that the SRA is a mask of the ex-promoters of the Directors. This goes on to show further investigation as apparently ex-Directors appear to have come back in the SRA. We don't want to come to a conclusion on the issues, but it will suffice to say that it needs further investigation.

99. This is a peculiar situation in which a verification clause has been included in the resolution plan and its verification depends on Successful Resolution Applicant. The claims were admitted by the resolution professional before the preparation of the information memorandum and the claimants-home-buyers are totally dependent on the successful resolution applicant. The SRA will have a great incentive not to accept the claims using such a verification clause. Normally, such a clause should not be included in the Resolution Plan, as it leads to uncertainty and provides a lot of leeway to the Successful Resolution Applicant, and that is what has happened in the

instant case also. We find that this case brings into focus how a clause in the resolution plan which enables the successful resolution applicant to re-verify the claims of the home buyers, which the resolution professional had earlier admitted in full. This not only creates uncertainty but also holds the potential to breed litigation. Indeed, any clause that enables SRA to re-verify a claim reduces the entire exercise undertaken by the RP and the COC to redundancy. No act done pursuant to and in aid of the statue should be allowed to go wasted. Working of a Statue can never be a medium for speculation. It is hence to avoid such situation the IBBI may step in to ensure that no resolution plan which provides for creating uncertainty vis-a-vis the claims already admitted by the resolution professional should be allowed to be reopened at the instance of the SRA. An insolvency resolution process is not a casino where SRA can wager on the rights of stranded homebuyers.

100. In such a situation, the role of the resolution professional should not cease to exist after the approval of the resolution plan and should not be solely dependent on the monitoring committee. Ultimately, it should be the resolution professional, who has to adjudicate the claims of the home buyers. In this case even though he had admitted the claim of the Appellant to the full extent, but due to the verification clause, uncertainty exists. To avoid such situations, IBBI should take care that normally no such verification clause exists in the resolution plan, and even if it exists, the finalization of the claims should not be dependent on the Successful Resolution Applicant, who could be the ultimate beneficiary in rejecting the claims. Such finalization of claims and its verification should be done by the resolution professional. And as

discussed earlier IBBI should bring about necessary clarifications in this regard.

101. In the above backdrop, we find that the adjudicating authority has erred in not admitting the appeal and we are inclined not to agree with its findings.

Orders

102. We allow the Appeal and set aside the impugned order dated 27.11.2024 passed by the Ld. Adjudicating Authority in I.A. No. 1929 of 2024 in C.P. (IB) No. 496/ND/2018 and also direct the Respondent to handover the title and physical possession of the allotted flat i.e. Unit No. B-0102, Tower - B, Area 1560 Sq. ft. in Misty Heights situated at Plot No. GH-01, Sector adjoining Techzone-IV, Sport City, Greater Noida to the Appellant.

103. Furthermore, since serious issues of the conduct of the CIRP have been raised and which have not been gone into by the RP, therefore without being biased by our observations herein, the matter needs to be investigated by IBBI, to find out whether there was fraudulent initiation of section 9 proceedings or otherwise to bring about systemic improvements in the IBC ecosystem. This may be accordingly investigated by IBBI.

[Justice N Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

New Delhi.
April 21, 2026.

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