2026 INSC 58

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10261 of 2025

ELEGNA CO-OP. HOUSING AND COMMERCIAL SOCIETY LTD. … APPELLANT(S)

VERSUS

EDELWEISS ASSET RECONSTRUCTION COMPANY LIMITED & ANR. … RESPONDENT(S)

WITH

CIVIL APPEAL NO. 10012 OF 2025

TAKSHASHILA HEIGHTS INDIA PRIVATE LTD. … APPELLANT(S)

VERSUS

EDELWEISS ASSET RECONSTRUCTION COMPANY LIMITED & ANR. … RESPONDENT(S)

J U D G M E N T

R. MAHADEVAN, J.

1. The present appeals are directed against the final judgment and order dated 01.07.2025 passed by the National Company Law Appellate Tribunal[1], Principal Bench, New Delhi, in Company Appeal (AT) (Insolvency) No. 2261 of 2024.

2. By the impugned judgment, the NCLAT set aside the order dated 06.11.2024 passed by the Adjudicating Authority, National Company Law Tribunal[2], Ahmedabad Bench, in CP (IB) No. 140 (AHM) / 2024, and directed admission of the application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016[3], thereby initiating the Corporate Insolvency Resolution Process[4] against the appellant in C.A. No. 10012 of 2025 – Takshashila Heights India Private Limited. The NCLAT further rejected the intervention application filed by the appellant in C.A. No. 10261 of 2025 – Elegna Co-operative Housing and Commercial Society Ltd.[5] on the ground that it lacked *locus standi* to intervene in the aforesaid company appeal.

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[1] For short, "NCLAT"
[2] For short, "NCLT"
[3] For short, "IBC"
[4] For short, "CIRP"
[5] For short, "Society"

3. For the sake of convenience, the parties to the present appeals are arrayed as under:

Name of the Party	**Before NCLT** **[CP (IB) No. 104(AHM)/2024]**	**Before NCLAT** **[CA (AT) (Ins.) No. 2261 of 2024]**	**Before this Court** **[CA No. 10261 of 2025 / CA No. 10012 of 2025]**
Elegna Co-operative Housing and Commercial Society Ltd.	Not a party	Intervenor	Appellant / -
Takshashila Heights India Private Ltd. **(Corporate Debtor)**	Respondent	Respondent	Respondent No. 2 / Appellant
Edelweiss Asset Reconstruction Company Ltd. **(Financial Creditor)**	Applicant	Appellant	Respondent No. 1 / Respondent

Brief facts

4. The necessary facts leading to the filing of the present appeals are as follows:

4.1. The appellant in C.A. No. 10012 of 2025 (Corporate Debtor) availed financial assistance of Rs. 70 crores from ECL Finance Ltd. (Original Lender), on 19.07.2018 under two term loan facilities, for the purpose of developing a residential -cum- commercial project titled “Takshashila Elegna”. To secure the said facilities, the Corporate Debtor and its promoters executed loan

agreements, promissory notes, and other security documents on 25.07.2018 (for Term Loan – I of Rs. 40 crores) and 26.09.2018 (for Term Loan – II of Rs.30 crores). An Indenture of Mortgage was subsequently executed on 04.09.2020 in favour of the Original Lender to secure repayment of the said loans. There was delay in repayment of the loan instalments and the Corporate Debtor made its last payment on 30.09.2021, after which the loan accounts were classified as Non-Performing Assets (NPA) on 30.12.2021.

4.2. On 09.05.2022, the Original Lender executed an Assignment Agreement transferring all its rights, title, and interest in the said loan to Edelweiss Asset Reconstruction Company Ltd.[6] (Financial Creditor). Following the same, the Financial Creditor issued a recall and invocation of guarantee notice dated 31.05.2022, demanding a sum of Rs. 53,03,18,487/- from the Corporate Debtor and its personal guarantors against Term Loans I and II. They also initiated recovery proceedings by filing of O.A. No. 367 of 2022 before the Debts Recovery Tribunal, Ahmedabad, and issued a demand notice dated 21.07.2022 under Section 13(2) of the SARFAESI Act, 2002 for Rs. 57,24,96,064/- as on 30.06.2022.

4.3. Pursuant to commercial discussions, the Corporate Debtor and the Financial Debtor entered into a Restructuring – cum – One Time Settlement Agreement on 23.05.2023, under which the Corporate Debtor agreed to discharge its outstanding liability of Rs. 55 crores in a phased manner. The

[6] For short, "EARCL"

Corporate Debtor made payment of Rs. 5.5 crores towards the first instalment on 30.06.2023. The Corporate Debtor *vide* communication dated 25.09.2023, requested the Financial Creditor to issue a provisional No Objection Certificate to facilitate the sale of unsold secured units in the project. However, the Financial Creditor declined to issue NOC and subsequently revoked the restructuring arrangement on 29.12.2023 citing default in payment of instalments.

4.4. Thereafter, the EARCL – Financial Creditor filed a petition under Section 7 of the IBC before the NCLT, seeking initiation of the CIRP against the Corporate Debtor. During pendency of the said proceedings, the Financial Creditor issued a sale notice dated 10.04.2024 under Rule 8(6) read with Rule 9(1) of the Security Interest (Enforcement) Rules, 2002[7] and the notice was published in newspapers on 18.05.2024.

4.5. By a detailed and reasoned order dated 06.11.2024, the NCLT dismissed the Section 7 petition, holding that the facts of the case did not warrant initiation of the CIRP as the IBC was being invoked as a recovery mechanism rather than as a tool for insolvency resolution. The NCLT further noted that the project was viable and substantially complete, and that insolvency proceedings would adversely affect the interests of homebuyers and other stakeholders.

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[7] For short, "Securitisation Rules"

4.6. Challenging the order of the NCLT, the Financial Creditor preferred Company Appeal (AT)(Ins.) No. 2261 of 2024 before the NCLAT. The Society filed an intervention application under Rule 11 of the NCLAT Rules, 2016, on the ground that the outcome of the appeal would directly affect the proprietary and contractual rights of its members.

4.7. The NCLAT, by its judgment dated 01.07.2025, allowed the appeal filed by the Financial Creditor, set aside the order of the NCLT, and directed admission of the Section 7 petition, thereby initiating CIRP against the Corporate Debtor. The NCLAT, however, rejected the intervention application, holding that the Society lacked *locus standi* as it was not a party to the financial transaction forming the subject matter of the appeal.

4.8. Aggrieved thereby, the Society as well as the Corporate Debtor have preferred the present Civil Appeals independently.

Contentions of the Parties

5. The learned senior counsel for the appellant in C.A. No. 10261 of 2025 – Society at the outset, submitted that the impugned judgment suffers from procedural impropriety and has been passed in undue haste, without affording a fair and reasonable opportunity of hearing to the appellant.

5.1. It was submitted by the learned senior counsel that the appellant Society is a registered co-operative body representing more than 189 confirmed unit holders of the real estate project “Takshashila Elegna”, developed by the

Corporate Debtor. The rights and interests of its members are directly and substantially affected by the outcome of the appeal arising under Section 7 of the IBC. The Society's intervention application was based on its status as a collective body of homebuyers, who are recognised as "financial creditors" under Explanation (i) to Section 5(8)(f) of the IBC, as affirmed by this Court in ***Pioneer Urban Land and Infrastructure Ltd v. Union of India***[8] which held that allottees in a real estate project are to be treated as financial creditors and are entitled to participate in the CIRP.

5.2. The learned senior counsel further submitted that the appellant is neither a stranger nor an intermeddler, but a directly interested stakeholder whose members' proprietary and contractual rights stand imperilled by the initiation of the CIRP of the corporate debtor. However, the NCLAT erred in holding that the appellant had no *locus standi* to intervene on the ground that it was not a party to the underlying financial transaction.

5.3. It was further contended by the learned senior counsel that the NCLAT misdirected itself in treating the appellant as an "unrelated third party" merely because its members belong to a completed tower of the same project. The creation of such an artificial distinction between unit holders of completed and uncompleted towers within a single real estate development is arbitrary, lacks *intelligible differentia*, and bears no rational nexus to the object sought to be

[8] (2019) 8 SCC 416

achieved. Such sub-classification within a homogeneous class of allotees offends Article 14 of the Constitution of India.

5.4. The learned senior counsel pointed out that upon commencement of CIRP, the contractual right of allottees to seek specific performance of their agreements to sell stands extinguished by virtue of Regulation 4E of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016[9], which mandates that any registration or possession of units shall be subject to the approval of the Committee of Creditors (CoC). The NCLAT failed to take this statutory consequence into account.

5.5. It was emphasised by the learned senior counsel that initiation of CIRP suspends the operation of the Real Estate (Regulation and Development) Act, 2016 (RERA), thereby depriving homebuyers of their statutory remedies under RERA. Simultaneously, their participation before the CoC remains uncertain and disproportionately weak owing to their limited voting share as unsecured financial creditors.

5.6. Reliance was placed on ***Chitra Sharma v. Union of India***[10], wherein this Court underscored the need to afford special protection to the interests of homebuyers in real estate insolvencies. Denying the appellant a hearing in such circumstances constitutes a violation of the principle of *audi alteram partem* and results in a grave miscarriage of justice.

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[9] For short, "CIRP Regulations"
[10] (2018) 18 SCC 575

5.7. It was further urged by the learned senior counsel that the NCLAT failed to exercise its inherent powers under Rule 11 of the NCLAT Rules, 2016, which empower it to pass such orders as may be necessary to meet the ends of justice. The rejection of the intervention application was mechanical and devoid of due consideration of the equities involved, thereby defeating the participatory and transparent process envisaged under the IBC.

5.8. The learned senior counsel also pointed out that the intervention application was neither properly registered nor reflected in the cause title of the impugned judgment, evidencing procedural irregularity and lack of due process. The omission to adjudicate upon the same in a reasoned manner renders the impugned judgment unsustainable in law.

5.9. It was next submitted that the initiation of CIRP in real estate cases often extends far beyond statutory timelines, leaving homebuyers in prolonged uncertainty. During this period, allottees continue to pay EMIs on their home loans without possession of their units, causing serious financial hardship.

5.10. The learned senior counsel contended that exclusion of the appellant from the appellate proceedings causes procedural unfairness and violates Article 14 by denying similarly placed financial creditors the opportunity to be heard. The question of intervention is not merely procedural but concerns the substantive rights of the allottees, who risk losing their proprietary interest and right to possession in the event of liquidation under Section 53 of the IBC.

5.11. It was further submitted by the learned senior counsel that the participation of the appellant would not have prejudiced the appellate proceedings. On the contrary, it would have advanced the cause of justice by ensuring that all affected stakeholders are heard before any order impacting their rights is passed. The rejection of the appellant's intervention application, therefore, results in manifest injustice and warrants interference by this Court under Section 62 of the IBC.

5.12. The learned senior counsel submitted that the conduct of the financial creditor in simultaneously pursing CIRP, while also attempting to sell units and recover amounts under the Securitisation Rules, is clearly *mala fide* and squarely attracts Section 65 of the IBC. In this regard, reliance was placed on the judgment of this Court in ***Innoventive Industries Ltd v. ICICI Bank***[11], wherein it was held that once an order of admission is passed, the CIRP commences and the moratorium comes into effect, thereby imposing a freeze on, *inter alia*, the sale or alienation of assets.

5.13. It was further submitted by the learned senior counsel that in ***Swiss Ribbons (P) Ltd. v. Union of India***[12], this Court underlined the defining qualities of a financial creditor, who is required to have the long-term interests of the Corporate Debtor at heart and not be merely interested in quick recovery regardless of the future of the Corporate Debtor. Whereas, in the present case,

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[11] (2018) 1 SCC 407
[12] (2019) 4 SCC 17

the Respondent – Financial Creditor, being in the business of acquiring debts and instituting Section 7 proceedings on the strength of such debts, is purely in the business of recovery, at the cost of the real estate project as a whole. They have shown no regard for the interest of the other financial creditors, who are deeply invested in the project, having sunk their hard-earned savings into the purchase of flats in the real estate project. According to the learned senior counsel, the project is 90% complete. However, the Financial Creditor is intent upon taking the Corporate Debtor into CIRP, thereby creating a situation of instability and uncertainty, apart from bringing the project to a standstill and depleting the value of the units, both sold and unsold. Such conduct, far from protecting the interests of the corporate debtor imperils them.

5.14. In light of the foregoing, it was submitted by the learned senior counsel that the impugned judgment rejecting the appellant's intervention application is arbitrary, procedurally irregular, and violative of Articles 14 and 21 of the Constitution, as well as the principles of natural justice and the same therefore, deserves to be set aside, and the appellant ought to be permitted to intervene in the proceedings initiated against the Corporate Debtor to safeguard the legitimate interests of homebuyers, who are the end users of the project "Takshashila Elegna".

6. Continuing further, the learned senior counsel for the appellant in C.A. No. 10012 of 2025 – Takshashila Heights India Private Limited submitted that

the NCLAT has mechanically applied Section 7(5)(a) of the IBC without considering the *bona fide* commercial viability of the project, the recovery-oriented conduct of the respondent – Financial Creditor, and the grave prejudice caused to hundreds of homebuyers whose interests the IBC is designed to safeguard.

6.1. According to the learned senior counsel, the appellant is a real estate developer engaged in the construction of a residential – cum – commercial project titled "Takshashila Elegna" situated at Ahmedabad, Gujarat, comprising four towers and 279 units (259 residential + 20 commercial). The project is duly registered under Gujarat RERA and has achieved substantial completion, with Building Use Certificates issued by the Ahmedabad Municipal Corporation for all towers. Out of 279 units, 189 have been sold, 80 allottees have taken possession, and an amount of Rs. 103 crores has been realised from homebuyers. The remaining unsold inventory constitutes a ready and monetizable asset pool sufficient to discharge all outstanding liabilities. To finance the project, the corporate debtor availed two term loans aggregating to Rs. 70 crores from ECL Finance Limited on 19.07.2018, secured by mortgage of project assets and personal guarantees. Due to Covid-19 disruptions and delays in statutory approvals, repayment timelines were adversely affected, and the accounts were classified as NPA on 30.12.2021. Subsequently, on 31.12.2021 (as amended on 09.05.2022), ECL Finance assigned the debt to EARCL, acting as Trustee of EARC Trust SC 444. EARCL issued a recall

notice dated 31.05.2022 demanding Rs. 53.03 crores, followed by a SARFAESI notice dated 21.07.2022 for Rs. 57.24 crores and filed OA No. 367 of 2022 before the DRT, Ahmedabad – clearly reflecting a recovery driven approach.

6.2. The learned senior counsel further submitted that after negotiations, the parties entered into a Restructuring – cum – One Time Settlement (OTS) on 23.05.2023, fixing the liability at Rs. 55 crores (Rs. 39 crores by the corporate debtor and Rs. 16 crores by Raghav Conpro LLP), payable in eight instalments. The OTS obligated EARCL to issue provisional NOCs for sale of secured units to enable repayment. The corporate debtor paid Rs. 5.5 crores towards the first instalment and Rs. 0.86 crores towards the second. However, EARCL refused to issue NOCs, thereby obstructing monetisation of unsold units and directly preventing further payments. Despite being in breach of its own obligation, EARCL unilaterally revoked the OTS on 29.12.2023 alleging default. This default, being the result of EARCL's own non-performance, is a manufactured and self-induced default. Thereafter, EARCL filed a Section 7 petition on 23.02.2024 claiming Rs. 93.54 crores (as on 31.01.2024) – an inflated figure nearly Rs. 40 crores higher than the OTS amount, primarily due to arbitrary penal interest. Simultaneously, EARCL pursued the proceedings under the SARFAESI Act through a sale notice dated 10.04.2024 and a public notice dated 18.05.2024, amounting to forum shopping and parallel recovery in contravention of the IBC framework.

6.3. The learned senior counsel submitted that the NCLT after detailed consideration, dismissed the Section 7 petition holding that (a)the project was substantially complete; (b)initiation of CIRP would gravely prejudice homebuyers; and (c)EARCL's actions amounted to abuse of the IBC for recovery. The NCLAT, however, reversed the order solely on the ground that "proof of debt and default" was sufficient for admission and that ***Vidarbha Industries Power Ltd v. Axis Bank Ltd***[13] was inapplicable. Such a conclusion ignores the discretionary nature of Section 7(5)(a) and is contrary to settled law.

6.4. The learned senior counsel submitted that the sequence of actions – recall notice, SARFAESI proceedings, DRT filing, OTS, revocation, and Section 7 filing – demonstrates that EARCL has invoked every recovery mechanism, treating the IBC as an additional coercive tool. In ***Swiss Ribbons,*** this Court held that the IBC is a beneficial legislation aimed at revival of the corporate debtor and not a mere debt recovery instrument. In ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.***[14] adopting the UNCITRAL Legislative Guide, it was recognised that insolvency proceedings may be denied where their purpose is improper or coercive. Recently, in ***GLAS Trust Co. LLC v. BYJU Raveendran***[15]***,*** this Court reaffirmed that IBC must not be misused by individual creditors as a tool for coercion or recovery, especially where the corporate debtor is viable and operation. EARCL, being an Asset Reconstruction

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[13] (2022) 8 SCC 352
[14] (2018) 1 SCC 353
[15] (2024) INSC 811 : (2025) 3 SCC 625

Company, inherently seeks debt recovery. While such a pursuit is permissible under SARFAESI Act, it cannot justify recourse to IBC when the project is commercially viable, substantially complete, and capable of generating sufficient cash flow.

6.5. It was also submitted by the learned senior counsel that EARCL's own records disclose inconsistent and inflated demand figures. The demand escalation of nearly Rs. 40 crores within 18 months, driven by penal interest and arbitrary charges, is commercially unreasonable and evidences *mala fide* intent to create a façade of default.

6.6. It was also pointed out that this Court in ***Vidarbha Industries*** held that the Adjudicating Authority "may" admit a petition under Section 7, thereby conferring discretion to assess the expedience and necessity of CIRP based on the corporate debtor's financial position and overall circumstances. The NCLT rightly exercised such discretion, noting that the project was substantially complete, receivables were assured, and CIRP would harm homebuyers. The NCLAT erred in reducing the process to a mechanical admission test, disregarding ***Vidarbha Industries***, which remains binding and unaltered in law. Discretion under Section 7(5)(a) serves as a vital safeguard against abuse of process, ensuring that viable enterprises are not forced into insolvency due to tactical defaults or recovery motives.

6.7. It was submitted by the learned senior counsel that the appellant's project is substantially complete with 189 units sold and 80 possessions delivered.

Admission of CIRP would freeze conveyances and registrations, suspend ongoing possession and maintenance, deprive homebuyers of their contractual and statutory rights under RERA, and destroy the viability of a function project. Such outcomes defeat the IBC's twin objectives of value maximisation and continuation of viable enterprises. As recognised in ***Chitra Sharma***, the rights of homebuyers warrant special protection in real estate insolvencies. The Gujarat High Court in ***State Bank of India v. Hubtown Bus Terminal (Vadodara) Pvt. Ltd.***[16] similarly recognized that settlement through sale of inventory and escrow appropriation is a legitimate alternative to CIRP, aligning with the IBC's revival- oriented scheme.

6.8. It was submitted by the learned senior counsel that the corporate debtor has already proposed a renewed repayment plan and sought a meeting with EARCL *vide* email dated 13.08.2025, indicating continued willingness to repay. If EARCL issues the required NOC and facilities sales of unsold units, the entire outstanding liability can be liquidated without recourse to CIRP.

6.9. Therefore, it was submitted by the learned senior counsel that the Section 7 petition filed by EARCL constitutes a misuse of the IBC for coercive recovery. The alleged default is manufactured, the project is viable and substantially complete, and there exists sufficient receivable to discharge all dues. The NCLT correctly exercised discretion under Section 7(5)(a) in dismissing the petition. The NCLAT, in reversing it without considering

[16] R/LPA No. 1 of 2022 in R/Special Civil Application No. 10985 of 2021 etc cases dated 18.10.2022

expedience, viability, or stakeholder impact, committed an error apparent on the face of record. Therefore, the learned senior counsel prayed that this court may be pleased to allow the appeal, set aside the impugned judgment of the NCLAT dated 01.07.2025, and restore the reasoned order of the NCLT dated 06.11.2024 dismissing the Section 7 petition.

7. The learned senior counsel appearing on behalf of Respondent No.1, EARCL – Financial Creditor made the following submissions:

Lack of *locus standi* of the appellant Society

(i) The appellant is merely a maintenance society constituted for upkeep and administration of the project premises and not a representative body formed by allottees for protection of their collective interests. Consequently, it cannot be regarded either as a "financial creditor" under Section 5(7) or as an "operational creditor" under Section 5(20) of the IBC. It therefore lacks *locus standi* to intervene in or object to proceedings under Section 7 of the Code.

(ii) The appellant is not a party to any loan agreements, debenture subscription agreements, or restructuring arrangements executed between Respondent No. 1 and the Corporate Debtor. Any grievance on behalf of homebuyers could only have been raised through a duly recognized association or by a sufficient number of allottees jointly,

and before the Adjudicating Authority (NCLT) not belatedly before the NCLAT in appeal.

(iii) The appeal itself suffers from procedural infirmities: the Appellant failed to annex its registration certificate; the supporting affidavit is sworn by one Mr. Vishal Parmar, who is neither an allottee nor a unit holder; and no resolution or collective authorization from the allottees empowering him to act on their behalf has been produced.

Necessity and urgency of admitting the Corporate Debtor into CIRP

(i) The Corporate Debtor's liability is not confined to Respondent No. 1 alone. Multiple creditors, including IDBI Trusteeship Services Ltd., have independently initiated proceedings under Section 7 (Company Petition (IB) No, 190/AHM / 2025), establishing persistent defaults across creditors. This demonstrates systemic financial stress and underscores the necessity of admitting CIRP to preserve value, prevent asset dissipation, and ensure equitable treatment of all stakeholders.

(ii) In ***E.S. Krishnamurthy v. Bharath Hi- Tech Builders Pvt. Ltd***[17], this Court reiterated that the enquiry under Section 7 of the IBC is confined to the existence of a financial debt and the occurrence of

[17] (2022) 3 SCC 161

default. Once these twin conditions are established, admission of the petition is mandatory.

(iii) Reliance on ***Vidarbha Industries*** is wholly misplaced. In ***M. Suresh Kumar Reddy v. Canara Bank and others***[18]**,** this Court clarified that ***Vidarbha Industries*** turned on its peculiar facts and does not dilute or override the binding principles laid down in ***Innoventive Industries and E.S. Krishnamurthy***. Any interpretation of ***Vidarbha Industries*** as conferring broad discretion upon the Adjudicating Authority to refuse admission despite an undisputed debt and default would defeat the scheme and objective of the IBC.

(iv) The IBC framework incorporates comprehensive safeguards to protect homebuyers' interests. Homebuyers are statutorily recognized as financial creditors and are represented in the Committee of Creditors (CoC) through an Authorised Representative under Section 21(6A) read with Regulation 16A of the CIRP Regulations.

(v) Regulation 4E of the CIRP Regulations pertains to post-admission procedures and cannot be invoked to resist initiation of CIRP. It casts mandatory obligations on the Resolution Professional, upon CoC approval, to deliver possession and facilitate registration of units. This provision strengthens, rather than restricts, the protection available to homebuyers.

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[18] 2023 SCC OnLine SC 608

(vi) Even in liquidation, allottees in possession remain protected, as such units are expressly excluded from the liquidation estate under Regulation 46A of the IBBI (Liquidation Process) Regulations, 2016. Further, ***Pioneer Urban Land*** affirms the harmonious coexistence of homebuyers' rights under RERA with the IBC framework.

(vii) Admission of CIRP does not extinguish the contractual or proprietary rights of allottees. On the contrary, it facilitates project completion, enables infusion of new capital, and maximises value for all stakeholders. Several real estate insolvency cases demonstrate that CIRP has expedited delivery of possession and improved project viability as compared to fragmented individual enforcement or recovery proceedings.

(viii) The corporate debtor defaulted on the very second instalment, paying only Rs.86 lakhs against the agreed Rs. 3 crores. Despite repeated reminders and a contractual cure period, it failed to rectify the default. Extensive email correspondence evidences repeated indulgence by the financial creditor and sustained non-compliance by the corporate debtor. Consequently, the Respondent lawfully revoked the restructuring arrangement and recalled the outstanding liability on 29.12.2023.

(ix) Initiation or continuation of recovery proceedings prior to admission of CIRP is legally permissible and does not bar initiation of insolvency

proceedings under section 7. The NCLAT has consistently held that pendency of recovery proceedings before the DRT or enforcement under the SARFAESI Act does not preclude a financial creditor from invoking the IBC.

With these submissions, the learned senior counsel prayed for dismissal of the appeals by affirming the judgment of the NCLAT.

Analysis

8. We have considered the submissions made by the learned counsel appearing for the parties and perusal of the materials available on record carefully and meticulously.

9. By order dated 06.08.2025, this Court stayed the operation of the impugned judgment and order passed by the NCLAT till the pronouncement of the judgment, and further directed all parties to maintain *status quo* with regard to the nature, character and possession of the property.

10. This Court has, time and again, been called upon to protect the rights of homebuyers navigating the turbulent waters of India's real estate sector. Conscious of its constitutional and statutory duty, this Court has made sustained efforts, within the four corners of the law, to safeguard the legitimate interests of homebuyers.

10.1. In theory, the Insolvency and Bankruptcy Code, 2016 presents an effective solution to their woes: a distressed project is rescued through the corporate insolvency resolution process, construction is completed, and the allotted units are ultimately delivered. On paper, the framework appears straightforward. In practice, however, homebuyers are often gripped with anxiety when a project enters CIRP. Caught between the developer on one hand and institutional lenders on the other, their interests are particularly vulnerable.

10.2. While homebuyers seek completion of the project they have invested in, lenders, who ordinarily command a dominant position in the Committee of Creditors, may prefer to accept a haircut and press for liquidation, rather than undertake the complexities and commercial risks involved in reviving a struggling real estate project. It is at such junctures that this Court must reiterate, and indeed remind, that the fundamental object of the IBC is resolution and revival, and not mere recovery.

10.3. If creditors elect to invoke the provisions of the Code, they must do so with a genuine willingness to pursue revival of the corporate debtor. Should revival not be their objective, the Code cannot be converted into a tool for expedient recovery; alternative statutory remedies, including under SARFAESI or other applicable laws, remain available in accordance with law.

10.4. The interests of homebuyers are undoubtedly of paramount importance. However, such interests must be protected strictly within the legal framework. The resolution mechanism under the IBC contains adequate safeguards for

homebuyers, which have been repeatedly strengthened by judicial interpretation. The appropriate course lies in constructive engagement with the Committee of Creditors, with a view to completing the project and advancing the collective good, rather than fragmenting the process through individual self-interest.

10.5. In light of the above, we proceed to examine the issues involved in the present case, mindful of the delicate task of balancing genuine yet competing interests.

11. In these appeals arising out of a common judgment, the two questions that arise for consideration, are as follows:

1) Whether the NCLAT was correct in admitting Corporate Debtor into the Corporate Insolvency Resolution Process?
2) Whether the NCLAT was correct in rejecting the Intervention application filed by the Society.

12. Question No. 1 – Admission of the Corporate Debtor into CIRP

12.1. The Corporate Debtor contends that the initiation of CIRP by the respondent – EARCL lacked *bona fides* and was intended to operate as a recovery mechanism rather than a resolution process. It is urged that the Corporate Debtor was a going concern; that the real estate project was substantially completed; and that adequate receivables from unsold inventory were available to service the debt. The default, according to the Corporate

Debtor, was not wilful but occurred due to EARCL's refusal to issue provisional No Objection Certificate, which allegedly frustrated further sale of remaining units. Such conduct, it is contended, disentitles EARCL from invoking Section 7 of the Code.

12.2. *Per contra*, EARCL submits that admission under Section 7 is governed exclusively by the existence of a financial debt and the occurrence of default. Once these twin conditions are satisfied, admission is mandatory. Considerations such as project viability, stage of completion, alleged conduct of the creditor, or perceived prejudice to homebuyers are wholly irrelevant at the admission stage.

12.3. The legal position is now well settled. In ***Innoventive Industries*****,** this Court held that once the Adjudicating Authority is satisfied that a financial debt exists and a default has occurred, it must admit the application unless it is incomplete. The inquiry under Section 7(5)(a) is confined strictly to the determination of debt and default, leaving no scope for equitable or discretionary considerations.

12.4. This principle was reiterated in ***E.S. Krishnamurthy***, wherein this Court clarified that no discretion survives once default is established. Similarly, in ***Swiss Ribbons***, this Court reaffirmed that the trigger for CIRP is default, and the object of the Code is to ensure timely resolution to preserve enterprise value.

12.5. The reliance placed by the Corporate Debtor on ***Vidarbha Industries*** is wholly misconceived. That decision has consistently been recognised as a narrow exception confined to its peculiar facts, namely the existence of an adjudicated and realisable claim in favour of the corporate debtor exceeding the debt owed.

12.6. This position now stands authoritatively clarified in ***M. Suresh Kumar Reddy***, wherein this Court held that ***Vidarbha Industries*** does not dilute the binding ratio of ***Innoventive Industries*** and ***E.S. Krishnamurthy.*** Admission under Section 7 thus remains mandatory once debt and default are established, with ***Vidarbha Industries*** operating only in exceptional circumstances.

12.7. In any event, the scope of the Adjudicating Authority's powers stands elaborately discussed by a three-Judge Bench of this Court in ***Indus Biotech Private Ltd. v. Kotak India Venture (Offshore) Fund and others***[19]. While recognising that the NCLT is not expected to act mechanically and is empowered to examine the material on record to satisfy itself that a default has in fact occurred, this Court unequivocally held that once the ingredients of Section 7, most importantly, default, are satisfied, admission must follow. The relevant passages from ***Indus Biotech*** are extracted below for ready reference:

> ***"14.*** *In order to arrive at a conclusion on the correctness or otherwise of the impugned order [Indus Biotech (P) Ltd. v. Kotak India Venture Fund (1), 2020 SCC OnLine NCLT 1430], at the outset it is necessary for us to take note of the scope of the proceedings under Section 7 of the IB Code to which detailed reference is made with reference to the definitions in Sections 3(6), 3(8), 3(11),*

[19] (2021) 6 SCC 436

3(12) and 5(7) of the Code. It provides for the "financial creditor" to file an application for initiating corporate insolvency resolution process against a "corporate debtor" before the adjudicating authority when "default" has occurred. ***The provision, therefore, contemplates that in order to trigger an application there should be in existence four factors: (i) there should be a "debt" (ii) "default" should have occurred (iii) debt should be due to "financial creditor" and (iv) such default which has occurred should be by a "corporate debtor". On such application being filed with the compliance required under sub-sections (1) to (3) of Section 7 of IB Code, a duty is cast on the adjudicating authority to ascertain the existence of a default if shown from the records or on the basis of other evidence furnished by the financial creditor, as contemplated under sub-section (4) to Section 7 of IB Code.***

15. *This Court had the occasion to consider exhaustively the scheme and working of the IB Code in Innoventive Industries Ltd. v. ICICI Bank [Innoventive Industries Ltd. v. ICICI Bank, (2018) 1 SCC 407 : (2018) 1 SCC (Civ) 356]. The proceeding under Section 7 of the IB Code and the scope thereof is articulated in paras 27 to 30 which read hereunder: (SCC pp. 437-39)*

> *"27. The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. Default is defined in Section 3(12) in very wide terms as meaning non-payment of a debt once it becomes due and payable, which includes non-payment of even part thereof or an instalment amount. For the meaning of "debt", we have to go to Section 3(11), which in turn tells us that a debt means a liability of obligation in respect of a "claim" and for the meaning of "claim", we have to go back to Section 3(6) which defines "claim" to mean a right to payment even if it is disputed. The Code gets triggered the moment default is of rupees one lakh or more (Section 4). The corporate insolvency resolution process may be triggered by the corporate debtor itself or a financial creditor or operational creditor. A distinction is made by the Code between debts owed to financial creditors and operational creditors. A financial creditor has been defined under Section 5(7) as a person to whom a financial debt is owed and a financial debt is defined in Section 5(8) to mean a debt which is disbursed against consideration for the time value of money. As opposed to this, an operational creditor means a person to whom an operational debt is owed and an operational debt under Section 5(21) means a claim in respect of provision of goods or services.*
>
> *28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the Explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor—**it need not be a debt owed to the applicant financial creditor.***

*Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to adjudicating authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in Part III, particulars of the financial debt in Part IV and documents, records and evidence of default in Part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, **the application must be admitted** unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.*

*29. The scheme of Section 7 stands in contrast with the scheme under Section 8 where an operational creditor is, on the occurrence of a default, to first deliver a demand notice of the unpaid debt to the operational debtor in the manner provided in Section 8(1) of the Code. Under Section 8(2), the corporate debtor can, within a period of 10 days of receipt of the demand notice or copy of the invoice mentioned in sub-section (1), bring to the notice of the operational creditor the existence of a dispute or the record of the pendency of a suit or arbitration proceedings, which is pre-existing i.e. before such notice or invoice was received by the corporate debtor. **The moment there is existence of such a dispute, the operational creditor gets out of the clutches of the Code**.*

30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence

> *produced by the financial creditor to satisfy itself that a default has occurred.* ***It is of no matter that the debt is disputed so long as the debt is "due"*** *i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date.* ***It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.****"*
>
> *(emphasis supplied)*

16. *Dr Singhvi, learned Senior Counsel while seeking to repel the contention put forth on behalf of Indus Biotech Pvt. Ltd. seeks to emphasise that a proceeding under Section 7 of IB Code is to be considered in a stringent manner. Referring to the Preamble to the IB Code, it is contended that the same has evolved after all the earlier processes like civil suit, winding-up petition, Sarfaesi proceeding and SICA have failed to secure the desired result. The provision under the IB Code is with the intention of making a debtor to seek the creditor. In that regard, Dr Singhvi has referred to the decisions in Swiss Ribbons (P) Ltd. v. Union of India [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17] and Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd. [Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd., (2011) 5 SCC 532 : (2011) 2 SCC (Civ) 781] to contend that the proceeding under Section 7 of IB Code is an action in rem. As such insolvency and winding-up matters are non-arbitrable. In that background, the nature of transaction under the SS and SA was referred. It is in that regard contended that the agreement provides for the manner of redemption as also the redemption value. The date of redemption is fixed as 31-12-2018. The OCRPS when redeemed is payable within 15 days from the date of redemption. In such situation, there is no other issue which requires resolution by arbitration. Further, it is contended that Clauses 5.1 and 5.2 in Schedule J to the agreement provided that the redemption value shall constitute a debt outstanding by the Company to the holder. Hence the amount being debt on the redemption date, if not paid within 15 days of redemption constituted default. In that background, when the petition under Section 7 of IB Code was filed the adjudicating authority ought to have looked into that aspect alone and the consideration of an application filed under Section 8 of the 1996 Act is without jurisdiction is the contention.*

17. *The procedure contemplated will indicate that before the adjudicating authority is satisfied as to whether the default has occurred or not, in addition to the material placed by the financial creditor,* ***the corporate debtor is entitled to point out that the default has not occurred and that the debt is not due, consequently to satisfy the adjudicating authority that there is no default.*** *In such exercise undertaken by the adjudicating authority if it is found that there is default, the process as contemplated under sub-section (5) of Section 7 of IB Code is to be followed as provided under sub-section (5)(a); or if there is no*

default the adjudicating authority shall reject the application as provided under sub-section (5)(b) to Section 7 of IB Code. In that circumstance if the finding of default is recorded and the adjudicating authority proceeds to admit the application the corporate insolvency resolution process commences as provided under sub-section (6) and is required to be processed further. In such event, it becomes a proceeding in rem on the date of admission and from that point onwards the matter would not be arbitrable. The only course to be followed thereafter is the resolution process under IB Code. ***Therefore, the trigger point is not the filing of the application under Section 7 of IB Code but admission of the same on determining default.***

18. *In that circumstance, though Dr Singhvi has referred to the evolution of IB Code after all earlier legal process had failed to give the rightful place to the creditor; which is sought to be achieved by the IB Code,* ***it cannot be said that by the procedure prescribed under the IB Code it means that the claim of the creditor if made before NCLT, more particularly under Section 7 of IB Code is sacrosanct and the corporate debtor is denuded of putting forth its version or the contention to show to the adjudicating authority that the default has not occurred and explain the circumstance for contending so.*** *In fact, in the very decision relied on by both the parties in Innoventive Industries Ltd. [Innoventive Industries Ltd. v. ICICI Bank, (2018) 1 SCC 407 : (2018) 1 SCC (Civ) 356] , this Court while considering the scope of the various provisions under the Act and while referring to the procedure contemplated in a petition under Section 7 of the IB Code, which is also extracted supra reads thus : (SCC p. 438, para 28)*

> *"28. ...* ***It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact."***

19…

20. *Therefore, in a fact situation of the present nature when the process of conversion had commenced and certain steps were taken in that direction, even if the redemption date is kept in view and the clause in Schedule J indicating that redemption value shall constitute a debt outstanding is taken note of; when certain transactions were discussed between the parties and had not concluded since the point as to whether it was 30% of the equity shares in the company or 10% by applying proper formula had not reached a conclusion and thereafter agreed or disagreed, it would not have been appropriate to hold that there is default and admit the petition merely because a claim was made by Kotak Venture as per the originally agreed date and a petition was filed. In the process of consideration to be made by the adjudicating authority the facts in the particular case are to be taken into consideration before arriving at a*

conclusion as to whether a default has occurred even if there is a debt in strict sense of the term, which exercise in the present case has been done by the adjudicating authority.

***21.** In such circumstance if the adjudicating authority finds from the material available on record that the **situation is not yet ripe to call it a default, that too if it is satisfied that it is profit making company and certain other factors which need consideration, appropriate orders in that regard would be made; the consequence of which could be the dismissal of the petition under Section 7 of IB Code on taking note of the stance of the corporate debtor.** As otherwise if in every case where there is debt, if default is also assumed and the process becomes automatic, a company which is ably running its administration and discharging its debts in planned manner may also be pushed to the corporate insolvency resolution process and get entangled in a proceeding with no point of return. Therefore, the adjudicating authority certainly would make an objective assessment of the whole situation before coming to a conclusion as to whether the petition under Section 7 of IB Code is to be admitted in the factual background. Dr Singhvi, however contended, that when it is shown the debt is due and the same has not been paid the adjudicating authority should record default and admit the petition. He contends that even in such situation the interest of the corporate debtor is not jeopardised inasmuch as the admission orders made by the adjudicating authority are appealable to NCLAT and thereafter to the Supreme Court where the correctness of the order in any case would be tested. We note, it cannot be in dispute that so would be the case even if the adjudicating authority takes a view that the petition is not ripe to be entertained or does not constitute all the ingredients, more particularly default, to admit the petition, since even such order would remain appealable to NCLAT and the Supreme Court where the correctness in that regard also will be examined."*

12.8. Applying the aforesaid principles to the present case, the Corporate Debtor admittedly possesses no adjudicated or realisable claim exceeding the amount in default. Its reliance on business viability, unsold inventory, project status, or anticipated receivables does not constitute "good reasons" in law to defer or deny admission of CIRP.

12.9. The existence of a financial debt owed to EARCL is undisputed. Persistent defaults stand admitted and are conclusively established on record, including breach of the restructuring agreement and failure to pay instalments within the stipulated cure period. The restructuring arrangement failed due to non-payment by the Corporate Debtor, thereby triggering an express event of default under its terms.

12.10. Any alleged non-cooperation by EARCL occurred subsequent to the default and cannot absolve the Corporate Debtor of its admitted failure to comply with its payment obligations. The NCLAT correctly held that considerations such as ongoing operations, partial project completion, or anticipated receivables are extraneous to the statutory mandate under Section 7.

12.11. The contention that EARCL misused the Code as a recovery tool is equally untenable. The Code does not prohibit a financial creditor from invoking CIRP merely because recovery proceedings under the SARFAESI Act or before the DRT are pending or have been initiated. Section 238 accords overriding effect to the Code, and upon admission, the moratorium under Section 14 stays all such proceedings.

12.12. Allegations of *mala fide* invocation can be examined only within the framework of Section 65 of the Code, which requires specific pleadings and proof of abuse of process by the Corporate Debtor. No such case has been pleaded or established on the facts of the present case.

12.13. In ***Kotak Mahindra Bank Ltd. v. A. Balakrishnan and another***[20], this Court held that the trigger point for CIRP is default, and that even a recovery certificate constitutes a fresh cause of action for initiation of insolvency proceedings. The mere pendency of parallel recovery proceedings does not establish *mala fides* unless abuse under Section 65 is demonstrated. The following paragraphs are apposite in this context:

> *"40. From the scheme of the IBC, it could be seen that where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself is entitled to initiate CIRP in respect of such corporate debtor in the manner as provided under the said Chapter. The default has been defined to mean non-payment of debt. The debt has been defined to mean a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt. A claim means a right to payment, whether or not such right is reduced to judgment, fixed, disputed, etc.* ***It is more than settled that the trigger point to initiate CIRP is when a default takes place. A default would take place when a debt in respect of a claim is due and not paid. A claim would include a right to payment whether or not such a right is reduced to judgment."***
>
> ***"54. In any case, we have already discussed hereinabove that the trigger point for initiation of CIRP is default of claim.*** *"Default" is non-payment of debt by the debtor or the corporate debtor, which has become due and payable, as the case may be, a "debt" is a liability or obligation in respect of a claim which is due from any person, and a "claim" means a right to payment, whether such a right is reduced to judgment or not. It could thus be seen that unless there is a "claim", which may or may not be reduced to any judgment, there would be no "debt" and consequently no "default" on non-payment of such a "debt". When the "claim" itself means a right to payment, whether such a right is reduced to a judgment or not, we find that if the contention of the respondents, that merely on a "claim" being fructified in a decree, the same would be outside the ambit of clause (8) of Section 5 IBC, is accepted, then it would be inconsistent with the plain language used in the IBC. As already discussed hereinabove, the definition is inclusive and not exhaustive.* ***Taking into consideration the object and purpose of the IBC, the legislature could never have intended to keep a debt, which is crystallised in the form of a decree, outside the ambit of clause (8) of Section 5 IBC.***

[20] (2022) 9 SCC 186

> ***55.*** *Having held that a liability in respect of a claim arising out of a recovery certificate would be a "financial debt" within the ambit of its definition under clause (8) of Section 5 IBC, as a natural corollary thereof, the holder of such recovery certificate would be a financial creditor within the meaning of clause (7) of Section 5 IBC. As such, such a "person" would be a "person" as provided under Section 6 IBC who would be entitled to initiate the CIRP.*
>
> ***56.*** *Insofar as the contention of the respondents with regard to clause (a) of sub-section (1) of Section 14 IBC is concerned, we do not find that the words used in clause (a) of sub-section (1) of Section 14 IBC could be read to mean that the decree-holder is not entitled to invoke the provisions of the IBC for initiation of CIRP. A plain reading of the said Section would clearly provide that once CIRP is initiated, there shall be prohibition for institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority.* ***The prohibition to institution of suit or continuation of pending suits or proceedings including execution of decree would not mean that a decree-holder is also prohibited from initiating CIRP, if he is otherwise entitled to in law. The effect would be that the applicant, who is a decree-holder, would himself be prohibited from executing the decree in his favour."***

12.14. The above position was reiterated in ***Tottempudi Salalith v. SBI***[21]. Relying upon ***Kotak Mahindra,*** this Court held as follows**:**

> ***"20. On behalf of the appellant, submissions have been made that the banks having approached the DRT, were barred under the doctrine of election from approaching NCLT for recovery of same set of debts****. This is a doctrine embodied in the law of evidence, which bars prosecution of the same right in two different fora based on the same cause of action. But so far as the present appeal is concerned, the recovery proceedings before the DRT had commenced in the year 2014. At that point of time, IBC had not come into existence. Moreover, it has been held by this Court in Kotak Mahindra-1 [Kotak Mahindra Bank Ltd. v. A. Balakrishnan, (2022) 9 SCC 186 : (2022) 4 SCC (Civ) 548]* ***that the recovery certificate itself would give rise to a fresh cause of action entitling a financial creditor to initiate Corporate Insolvency Resolution Process (CIRP). By this judgment, the right of the financial creditor to invoke the mechanism under IBC after issue of recovery certificate stood acknowledged as a valid legal course.*** *This Court, in that case also dealt with the question of instituting a CIRP on the strength of recovery certificate. Needless to add, such*

[21] (2024) 1 SCC 24

recovery certificate arose out of a proceeding from the DRT. The enforcement mechanism for a recovery certificate is an independent course, which a financial creditor may opt for realisation of its dues crystalised under the 1993 Act, instead of chasing the mechanism under the 1993 Act.

21. IBC itself is not really a debt recovery mechanism but a mechanism for revival of a company fallen in debt, but the procedure envisaged in IBC substantially relates to ensuring recovery of debts in the process of applying such mechanism. *The question of election between the fora for enforcement of debt under the 1993 Act and initiation of CIRP under IBC arises only after a recovery certificate is issued. The reliefs under the two statutes are different and once CIRP results in declaration of moratorium, the enforcement mechanism under the 1993 Act or the SARFAESI Act gets suspended. In such circumstances, after issue of recovery certificate, the financial creditor ought to have option for enforcing recovery through a new forum instead of sticking on to the mechanism through which recovery certificate was issued. In Transcore v. Union of India [Transcore v. Union of India, (2008) 1 SCC 125 : (2008) 1 SCC (Civ) 116], application of SARFAESI mechanism was held permissible even though the subject-proceeding was instituted under the 1993 Act.*

22. *Thus, the doctrine of election cannot be applied to prevent the financial creditors from approaching NCLT for initiation of CIRP."*

12.15. Further, in ***Haldiram Incorporation (P) Ltd. v. Amrit Hatcheries (P) Ltd.***[22]**,** this Court upheld proceedings under the SARFAESI Act even where sale concluded shortly before the moratorium. While we express our strong disapproval of lenders pursuing parallel proceedings after having approached the NCLT, such conduct, though deprecated, is not illegal *per se*. What is prohibited is malicious recovery within the meaning of Section 65, and not recovery in the traditional sense.

[22] 2023 SCC OnLine SC 1706

12.16. The concept of revival under the IBC does not exclude recovery altogether; it excludes abuse of insolvency as a pressure tactic. The Adjudicating Authority retains a crucial gatekeeping role at later stages, particularly at the time of approval of the resolution plan, to ensure compliance with the Code while respecting the primacy of the commercial wisdom of the Committee of Creditors.

12.17. In ***Karad Urban Cooperative Bank Limited v. Swwapnil Bhingardevay and others***[23], this Court reiterated that questions relating to feasibility and viability fall squarely within the domain of the CoC, and cannot be examined at the threshold stage. The following paragraphs are relevant in this regard:

> *"**12.** We have carefully considered the rival submissions. On the first question regarding the viability and feasibility of a resolution plan, the law is now well-settled. In K. Sashidhar v. Indian Overseas Bank, (2019) 12 SCC 150, it was held as follows:*
>
> > *"52…There is an intrinsic assumption that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan…The opinion on the subject matter expressed by them after due deliberations in the CoC meetings through voting, as per voting shares, is a collective business decision. The legislature, consciously, has not provided any ground to challenge the "commercial wisdom" of the individual financial creditors or their collective decision before the adjudicating authority. That is made non-justiciable.*
> >
> > *…*
> >
> > *57…The provisions investing jurisdiction and authority in NCLT or NCLAT as noticed earlier, have not made the commercial decision exercised by CoC of not approving the resolution plan or rejecting the same, justiciable. This position is reinforced from the limited grounds specified for instituting an appeal that too against an order "approving a resolution plan" under Section 31.*
> >
> > *58…Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge*

[23] (2020) 9 SCC 729

only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters "other than" enquiry into the autonomy or commercial wisdom of the dissenting financial creditors.

...

64…At best, the adjudicating authority (NCLT) may cause an enquiry into the "approved" resolution plan on limited grounds referred to in Section 30(2) read with Section 31(1) of the I&B Code. It cannot make any other inquiry nor is competent to issue any direction in relation to the exercise of commercial wisdom of the financial creditors — be it for approving, rejecting or abstaining, as the case may be. Even the inquiry before the appellate authority (NCLAT) is limited to the grounds under Section 61(3) of the I&B Code. It does not postulate jurisdiction to undertake scrutiny of the justness of the opinion expressed by financial creditors at the time of voting."

13. *Thereafter, in Essar Steel (India) Ltd. Committee of Creditors v. Satish Kumar Gupta, (2020) 8 SCC 531, this Court held:*

"67…Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of Section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and Section 32 read with Section 61(3) of the Code, insofar as the Appellate Tribunal is concerned.

...

73…Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of."

14. *The principles laid down in the aforesaid decisions, make one thing very clear. If all the factors that need to be taken into account for determining whether or not the corporate debtor can be kept running as a going concern have been placed before the Committee of Creditors and the CoC has taken a conscious decision to approve the resolution plan, then the adjudicating authority will have to switch over to the hands off mode. It is not the case of the corporate debtor or its promoter/Director or anyone else that some of the factors which are crucial for taking a decision regarding the viability and feasibility, were not placed before the CoC or the Resolution Professional. The only basis for the corporate debtor to raise the issue of viability and feasibility is that the ownership and possession of the ethanol plant and machinery is the subject matter of another dispute and that the resolution plan does not take care*

> *of the contingency where the said plant and machinery may not eventually be available to the Successful Resolution Applicant."*

Thus, if the CoC approves a resolution plan in derogation of the objectives, scheme, and ethos of the Code, the NCLT is not rendered powerless at the stage of approval. The contention of the Corporate Debtor that the respondent – Financial Creditor is merely seeking recovery is, therefore, wholly untenable in law.

12.18. The NCLAT, upon a detailed examination of the material on record, found that the Corporate Debtor had persistently acknowledged defaults under both the sanction letters and the restructuring agreement. It further noted that the Corporate Debtor was facing acute financial distress, had failed to comply with regulatory requirements, was unable to obtain mandatory compliance certificates, and could not sell units at prevailing market rates despite multiple attempts. Even according to another creditor, SBI, which had advanced money under the SWAMIH Fund, a public fund sponsored by taxpayers for the completion of stalled projects, the Corporate Debtor had refused to cooperate in relation to completion of the project as well as adherence to the repayment schedule. These circumstances, taken cumulatively, substantiated EARCL's request for initiation of CIRP.

12.19. The NCLAT further held that EARCL's revocation of the restructuring arrangement was contractually justified owing to the Corporate Debtor's failure to pay instalments. The breach of the restructuring terms triggered express

events of default under the relevant clauses, thereby entitling EARCL to recall the entire outstanding liability. Despite repeated reminders, the Corporate Debtor failed to cure the defaults within the stipulated cure period, and EARCL was under no legal or contractual obligation to reopen or renegotiate the restructuring.

12.20. The NCLAT rejected the plea of *mala fide* invocation, observing that acceptance of such argument would render lenders effectively remediless. It also rejected the contention that the Corporate Debtor's alleged viability could excuse non-payment of admitted dues, noting that financial distress was manifest from the continuing and acknowledged defaults.

12.21. The debt and default having been conclusively established, and the narrow exception carved out in ***Vidarbha Industries*** being clearly inapplicable, the NCLAT was fully justified in admitting the Corporate Debtor into the CIRP. The NCLT's refusal was contrary to the settled law and the statutory mandate of Section 7.

12.22. Accordingly, the impugned judgment admitting the Corporate Debtor into the CIRP does not suffer from any legal infirmity.

13. Question No. 2 – Rejection of the Intervention Application filed by the Society

13.1. While it is undisputed that individual homebuyers are financial creditors within the meaning of the IBC, the core question that arises for determination is whether a society or association of homebuyers possesses *locus standi* to intervene in proceedings under Section 7 of the Code, either at the admission stage or at the appellate stage.

13.2. The appellant Society contends that it represents the collective interest of the allottees, membership being mandatory under its bye-laws. It is urged that the summary rejection of its intervention application by the NCLAT violates the principles of natural justice and leaves homebuyers, particularly minority financial creditors, remediless in the CIRP. It is further argued that the distinction drawn by the NCLAT between completed and uncompleted towers is artificial, arbitrary, and unsustainable.

13.3. *Per contra,* EARCL submits that the Society lacks *locus standi*, it being neither a financial creditor under Section 5(7) nor an operational creditor under Section 5(20) of the Code. The Society is not a party to any transaction documents, has no privity of contract with EARCL, and does not qualify as a recognised stakeholder under the statutory framework of the IBC.

13.4. It is further submitted that the Society is a promoter-controlled maintenance entity constituted for the upkeep of a completed tower, and not a

representative body of all homebuyers in the project. No registration certificate, general body resolution, minutes, or document evidencing collective authorisation has been produced to substantiate any representative capacity.

13.5. The issue of *locus* at the Section 7 stage is no longer *res integra*. In ***GLAS Trust Company,*** this Court held that while there is no rigid requirement restricting the right to appeal only to the applicant creditor and the corporate debtor, such latitude applies when proceedings are *in rem* post-admission of CIRP. At the pre-admission stage, proceedings under Section 7 remain *in personam*, and neither the Adjudicating Authority nor the Appellate Authority is required to hear other creditors, much less unrelated third parties. When proceedings are *in personam*, no right of audience inheres in persons who are strangers to the debt and default forming the basis of the application. The relevant paragraphs are reproduced below:

> ***"(b) Insights from the evolution of the legal framework***
> ***63.*** *In essence, after a series of deliberations by the legislature, the executive and nudges by this Court, the framework created by Rule 8 of the NCLT Rules and Section 12-A IBC read with Rule 30-A of the CIRP Regulations lays down an exhaustive procedure for the withdrawal of an application filed by creditors under Sections 7, 9, or 10 IBC. Withdrawal may be sought at four stages, all of which have a procedure prescribed under the existing framework. These may be summarised as follows:*
>
> ***63.1. Before the application under Sections 7, 9 or 10 is admitted by NCLT****: Such cases are squarely covered by Rule 8 of the NCLT Rules, which requires that the applicant approach NCLT directly. NCLT may then pass an order permitting the withdrawal of the application.* ***At this stage, as CIRP process has not been initiated, the proceedings are still in personam, as between the applicant creditor and the corporate debtor.*** *Therefore, while approving the withdrawal at this stage,* ***NCLT may restrict its enquiry to only hear the***

> ***applicant creditor and corporate debtor, and other potential creditors are not stakeholders at this stage.***
> 63.2.……
>
> ***75.*** *The provision stipulates that "any person" who is aggrieved by the order of NCLAT may file an appeal before the Supreme Court within the prescribed limitation period. Similar language is used in Section 61 IBC, which provides for appeals to NCLAT from orders of NCLT.*[24] *The use of the phrase "any person aggrieved" indicates that there is no rigid locus requirement to institute an appeal challenging an order of NCLT, before NCLAT or an order of NCLAT, before this Court. Any person who is aggrieved by the order may institute an appeal, and nothing in the provision restricts the phrase to only the applicant creditor and the corporate debtor. As noted above, once CIRP is initiated, the proceedings are no longer restricted to the individual applicant creditor and the corporate debtor but rather become collective proceedings (in rem), where all creditors, such as the appellant, are necessary stakeholders.* ***The appellant is not an unrelated party to CIRP, but is in fact, an entity whose claims had been verified by the IRP*** *vide letter dated 19-8-2024. The appellant who claims to be a financial creditor, has expressed reasonable apprehensions about the prejudice it would face if there were roundtripping of the funds, and the prioritisation of the debts of the second respondent, an operational creditor."*

13.6. This position was reiterated in ***Independent Sugar Corpn. Ltd. v. Hindustan National Gas & Industries Ltd. (Resolution Professional)***[25]**.** Though the said case concerned the *locus* of a failed resolution applicant, the Court reaffirmed that participatory rights depend upon the stage of the proceedings and that, even otherwise, a party must demonstrate legally cognizable prejudice and cannot be a complete stranger to the insolvency process. The relevant paragraph is extracted for reference:

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[24] "**61. Appeals and appellate authority**.—(1) Notwithstanding anything to the contrary contained under the Companies Act, 2013 (18 of 2013), any person aggrieved by the order of the adjudicating authority under this part may prefer an appeal to the National Company Law Appellate Tribunal." (emphasis supplied)

[25] (2025) 5 SCC 209

> ***"24. Once the CIRP is initiated, the nature of proceedings are no longer in personam but rather become in rem. In light of the same****, the expression "any person aggrieved" in the context of IBC has been held to be indicative of there being no rigid locus requirements to institute an appeal challenging an order of NCLT before NCLAT or an order of NCLAT before this Court. [GLAS Trust Co. LLC v. Byju Raveendran, (2025) 3 SCC 625 : (2024) 247 Comp Cas 687] Similarly, in the context of the Competition Act, even those persons that bring to CCI information of practices that are contrary to the provisions of the Competition Act, could be said to be "aggrieved". [Samir Agrawal v. CCI (Cab Aggregators Case), (2021) 3 SCC 136] Therefore, the term "any person aggrieved" appearing in Section 62 IBC and Section 53-T of the Competition Act must be understood widely and not in a restricted fashion.*
>
> ***25.*** *In the present case, the appellant as an unsuccessful resolution applicant whose resolution plan could have otherwise been approved by CoC, satisfies the requirement of being aggrieved. This preliminary locus standi objection vis-à-vis the appellant, therefore, does not merit acceptance."*

13.7. The IBC is a self-contained code which confers participatory rights only on persons falling within statutorily defined categories. A financial creditor under Section 5(7) must be a person to whom a financial debt is owed. While the Explanation to Section 5(8)(f) deems individual allottees to be financial creditors, it does not extend such status to societies or associations unless the entity is itself a creditor in its own right, or is statutorily recognised as an authorised representative under the Code.

13.8. A society is a distinct juristic entity separate from its members. Unless it has itself advanced funds, executed allotment agreements, or received allotments, it cannot claim financial creditor status. The right to initiate or participate in CIRP flows from the debt transaction and the statute, not from associative or representational interest.

13.9. Homebuyers' societies or welfare associations are ordinarily constituted for maintenance and management of common facilities. Their office-bearers cannot litigate on behalf of allottees or claim representative status before adjudicatory fora absent explicit statutory recognition or legally valid authorisation.

13.10. Any contrary interpretation would impermissibly enlarge the statutory definition of "financial creditor", encroach upon individual rights of allottees, and create an extra-statutory layer of representation. It would also enable errant corporate debtors to obstruct and delay insolvency proceedings under the guise of purported collective interests – an abuse expressly cautioned against in ***Pioneer Urban Land.***

13.11. Proceedings under Section 7 are essentially bipartite at the admission stage, involving only the financial creditor and the corporate debtor. Unrelated third parties including other creditors, have no independent right of audience at this stage, a principle consistently affirmed by this Court.

13.12. Collective representation of homebuyers is statutorily regulated and arises only after admission of CIRP through the authorised representative mechanism under Section 21(6A) read with Regulation 16A of the CIRP Regulations. The Code does not contemplate *ad hoc* or self-appointed representation at the pre-admission or appellate stage. In the context of real estate allottees, Section 7 itself mandates that an application must be filed jointly by the prescribed number of allottees and not through any authorised

representative, much less through a non-party housing society formed for maintenance purposes.

13.13. In ***Phoenix ARC Pvt. Ltd v. Spade Financial Services Ltd.***[26]**,** this Court reiterated that financial creditor status must be determined strictly with reference to the nature of the transaction and cannot be conferred by implication or association.

13.14. Though in ***Chitra Sharma***, homebuyer associations were permitted to participate, such intervention was exceptional, grounded in Article 142 of the Constitution, and cannot be treated as a precedent conferring general *locus* on societies in statutory insolvency proceedings.

13.15. Rule 11 of the NCLAT Rules preserves inherent powers to meet the ends of justice. However, such powers are residual and cannot override the statutory structure of the Code or create substantive participatory rights where the statute deliberately excludes them. In this context, reference was made to the decision in ***GLAS Trust Company,*** wherein, it was held as follows:

> ***"(iii) Scope of "inherent powers" under Rule 11***
> ***67.*** *Section 151 of the Code of Civil Procedure ("CPC") reads as follows:*
> *"**151. Saving of inherent powers of Court**.—Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court."*
>
> ***68.*** *Rule 11 of the NCLT Rules, 2016 and Rule 11 of the NCLAT Rules, 2016, which preserve the inherent powers of NCLT and NCLAT, respectively, mirror Section 151CPC and read as follows:*
> *"**11. Inherent powers**.—Nothing in these Rules shall be deemed to limit or otherwise affect the inherent powers of the Appellate Tribunal to make*

[26] (2021) 3 SCC 475

such orders or give such directions as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Appellate Tribunal."

69. *In a consistent line of precedent, this Court has held that "inherent powers" may be exercised in cases where there is no express provision under the legal framework. However, such powers cannot be exercised in contravention of, conflict with or in ignorance of express provisions of law. We may helpfully refer to the observations of a two-Judge Bench of this Court in one such case. In Ram Chand & Sons Sugar Mills (P) Ltd. v. Kanhayalal Bhargava [Ram Chand & Sons Sugar Mills (P) Ltd. v. Kanhayalal Bhargava, (1967) 37 Comp Cas 42 : 1966 SCC OnLine SC 215] a two-Judge Bench of this Court, speaking through K. Subba Rao, J. (as the learned Chief Justice then was), opined : (SCC OnLine SC para 5)*

"5. ... Having regard to the said decisions, the scope of the inherent power of a court under Section 151 of the Code may be defined thus: The inherent power of a court is in addition to and complementary to the powers expressly conferred under the Code. But that power will not be exercised if its exercise is inconsistent with, or comes into conflict with, any of the powers expressly or by necessary implication conferred by the other provisions of the Code. If there are express provisions exhaustively covering a particular topic, they give rise to a necessary implication that no power shall be exercised in respect of the said topic otherwise than in the manner prescribed by the said provisions. Whatever limitations are imposed by construction on the provisions of Section 151 of the Code, they do not control the undoubted power of the Court conferred under Section 151 of the Code to ***make a suitable order to prevent the abuse of the process of the Court****."*

(emphasis supplied)

70. When a procedure has been prescribed for a particular purpose exhaustively, no power shall be exercised otherwise than in the manner prescribed by the said provisions. In such cases, the court must be circumspect in invoking its "inherent powers" to deviate from the prescribed procedure. If such deviation is made, the court must justify why this was necessary to "prevent the abuse of the process of the Court".

71. *The need to be circumspect while invoking "inherent powers", when there is an exhaustive legal framework is amplified in the context of a legislation like the IBC. In Ebix Singapore (P) Ltd. v. Educomp Solutions Ltd. (CoC) [Ebix Singapore (P) Ltd. v. Educomp Solutions Ltd. (CoC), (2022) 2 SCC 401 : (2022) 1 SCC (Civ) 586 : (2022) 231 Comp Cas 110], a two-Judge Bench of this Court, speaking through one of us (D.Y. Chandrachud, J.), affirmed this position and observed as follows: (SCC p. 481, para 101)*

> *"101. Any claim seeking an exercise of the adjudicating authority's residuary powers under Section 60(5)(c) IBC, NCLT's inherent powers under Rule 11 of the NCLT Rules, 2016 or even the powers of this Court under Article 142 of the Constitution must be closely scrutinised for broader compliance with the insolvency framework and its underlying objective. The adjudicating mechanisms which have been specifically created by the statute, have a narrowly defined role in the process and must be circumspect in granting reliefs that may run counter to the timeliness and predictability that is central to IBC. Any judicial creation of a procedural or substantive remedy that is not envisaged by the statute would not only violate the principle of separation of powers, but also run the risk of altering the delicate coordination that is designed by IBC framework and have grave implications on the outcome of CIRP, the economy of the country and the lives of the workers and other allied parties who are statutorily bound by the impact of a resolution or liquidation of a corporate debtor."*

13.16. As clarified in ***GLAS Trust Company,*** invocation of Rule 11 to oppose admission of a Section 7 petition is impermissible once debt and default are established. The inherent power preserved under Rule 11 does not confer a substantive right of participation where the statute has consciously and deliberately excluded it.

13.17. In the present case, the appellant Society is neither a financial nor an operational creditor. It is a maintenance society not constituted for insolvency representation. No documentary proof of registration, collective authorisation, or general body resolution has been produced. Membership is automatic and mandatory, negating consensual representation. Reliance on compulsory membership to claim representational authority on behalf of allottees is nothing but a *brutm fulmen*. Notably, the intervention application was filed only at the appellate stage and not before the NCLT. The Society is not a party to the

financial transaction forming the substratum of the Section 7 application. Hence, no statutory right of appeal inheres in the appellant.

13.18. While the NCLAT's distinction between completed and uncompleted towers may be overbroad and untenable, the ultimate conclusion on absence of *locus standi* rests on sound legal footing. Permitting such intervention would undermine the expeditious and structured insolvency framework envisaged under the Code.

13.19. The plea of violation of principles of natural justice is equally untenable. It is settled that such violation cannot be alleged in the absence of demonstrable prejudice, particularly where no foundational right of participation exists. Reference may be made to ***Bishambhar Prasad v. Arfat Petrochemicals Pvt. Ltd. and others***[27]**,** the relevant paragraphs of which are usefully extracted below:

> ***"77.*** *The importance of Principles of Natural Justice, among which we are concerned with* ***audi alterem partem*** *in this case, have been deliberated upon by this Court numerous times in the past. As far back as in Union of India v. P.K. Roy (1968) 2 SCR 186, the Court held:*
>
> > *"12…****But the extent and application of the doctrine of natural justice cannot be imprisoned within the strait-jacket of a rigid formula****. The application of the doctrine depends upon the nature of the jurisdiction conferred on the administrative authority, upon the character of the rights of the persons affected, the scheme and policy of the statute and other relevant circumstances disclosed in the particular case…"*
>
> ***78.*** *Further, in A.K. Kraipak v. Union of India (1969) 2 SCC 262, the nature of an administrative power and the obligations reposed upon the State to function in a just and fair manner was explained:*

[27] 2023 SCC OnLine SC 458

> *"13. The dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated. For determining whether a power is an administrative power or a quasi-judicial power one has to look to the nature of the power conferred, the person or persons on whom it is conferred, the framework of the law conferring that power, the consequences ensuing from the exercise of that power* ***and the manner in which that power is expected to be exercised.*** *Under our Constitution the rule of law pervades over the entire field of administration. Every organ of the State under our Constitution is regulated and controlled by the rule of law.* ***In a welfare State like ours it is inevitable that the jurisdiction of the administrative bodies is increasing at a rapid rate. The concept of rule of law would lose its vitality if the instrumentalities of the State are not charged with the duty of discharging their functions in a fair and just manner. The requirement of acting judicially in essence is nothing but a requirement to act justly and fairly and not arbitrarily or capriciously. The procedures which are considered inherent in the exercise of a judicial power are merely to facilitate if not ensure a just and fair decision. In recent years the concept of quasi-judicial power has been undergoing a radical change. What was considered as an administrative power some years back is now being considered as a quasi-judicial power…"***

79. *In this context, it may be true that the Principles of Natural Justice entailed giving Respondent No. 1 an opportunity to defend its rights.* ***However, the most decisive and crucial factor is whether any legally vested 'right' ever accrued in favour of Respondent No. 1, which the State Government could not have despoiled behind its back.*** *It has already been held by us categorically that RIICO had no authority whatsoever to accord permission for conversion and sub-division of the industrial land allotted to Respondent No. 1. We have further opined that the State Government has always retained its authority as lessor and was the only competent authority to grant such permissions to Respondent No. 1 within the framework of the 1959 Rules.* ***The irresistible conclusion would be that the self-styled power exercised by RIICO, was without any sanction in law;*** *it lacked inherent competence and RIICO acted beyond its jurisdiction in respect of LIA, Kota. The permissions accorded by RIICO in favour of Respondent No. 1 did not confer any rights whatsoever, much less any enforceable right in the eyes of law. RIICO usurped the powers vested in the State Government and passed palpably illegal orders in favour of Respondent No. 1. The agreements between RIICO and Respondent No. 1 are nothing but* ***brutum fulmen****."*

13.20. Accordingly, in the instant case, in the absence of any foundational right to participate in the proceedings before NCLT or NCLAT, the appellant society cannot claim a vested right to be heard at the appellate stage, for such right flows from the statute and is not a matter of right.

13.21. Even otherwise, no prejudice is demonstrated:

- Homebuyers already in possession stand outside the insolvency estate.
- Pending allottees are recognised financial creditors who are entitled to file claims and participate in the CoC through authorised representatives.
- Regulation 4E protects possession subject to 66% CoC approval.
- Any approved resolution plan binds all stakeholders and ensures equitable treatment.
- RERA rights stand harmonized with the IBC, as held by this Court in ***Pioneer Urban Land and Mansi Brar Fernandez***.

13.22. Accordingly, we hold that

- The right to initiate or participate in insolvency proceedings is statutory, not equitable.
- A society or Resident Welfare Association, not being a creditor in its own right and not recognised as an authorised representative of allottees under the IBC, has no *locus standi* to intervene in proceedings arising out a Section 7 petition.

- The NCLAT was justified in rejecting the Society's intervention application.
- No prejudice has been caused to homebuyers, whose interests are adequately safeguarded under the Code.

14. At this juncture, we may aptly refer to the decision in ***Mansi Brar Fernandes v. Shubha Sharma and another***[28], wherein while dealing with the growing misuse of the insolvency framework by speculative investors in real estate projects, this Bench revisited, reiterated, and consolidated the settled principles governing the interplay between RERA, the Consumer Protection Act, and the IBC. In the said decision, the Court not only underscored the primacy of sector-specific remedies in real estate disputes but also issued a series of consequential directions, recognising the right to shelter as an integral facet of the right to life under Article 21 of the Constitution. The following paragraphs are apposite and merit extraction:

> *"15.2. In this necessary in this backdrop to reiterate certain settled principles:*
> *• RERA remains the primary forum for redressal of homebuyers' grievances;*
> *• The IBC is a forum of last resort, intended to secure revival and completion of viable projects, not to serve as a debt recovery mechanism; and*
> *• Consumer forums should confine themselves to adjudicating individual service deficiencies, thereby avoiding conflicting or overlapping orders across multiple fora.*
>
> *15.4. Strict adherence to IBC timelines and settled precedent is imperative to realise two complementary objectives:*

[28] 2025 INSC 1110

(i)ensuring revival and completion of stalled projects for the benefit of genuine homebuyers; and
(ii)curbing speculative activity which has functioned as a "slow poison" for the residential real estate sector and, by extension, the Indian middle class.

18.3.1. The Court further noted that remedies under RERA and the Consumer Protection Act are additional, not exclusive. Both statutes operate alongside the IBC, but with distinct purposes: RERA protects individual investors by enforcing compliance with project obligations, while the IBC operates in rem to revive the corporate debtor and maximise value for all stakeholders.
18.3.2. Importantly, Pioneer Urban held that once a prima facie default is established under Section 7 of the Code, the burden shifts onto the developer to demonstrate that the applicant is a defaulter, or that the process has been invoked fraudulently, with malicious intent, or by a speculative investor. These safeguards were intended to prevent "trigger-happy" investors from destabilising projects or prematurely driving developers into insolvency.

*21.2. In exercise of this Court's jurisdiction, and to advance the constitutional and statutory objectives, the following **directions** are issued to the concerned authorities, in the larger interests of bona fide homebuyers and the stability of the real estate sector, which demand coordinated action by all stakeholders:*
...
(6) Resolution of real estate insolvency should, as a rule, proceed on a project specific basis rather than the entire corporate debtor, unless circumstances justify otherwise. This would protect solvent projects and genuine homebuyers from collateral prejudice. IBBI shall also devise a mechanism to enable handover of possession to willing allottees where substantial units in a project are complete.

(8) Regulations shall ensure meaningful representation of allottees in the CoC through authorized representatives, with safeguards against conflicts of interest."

Conclusion

15. For the foregoing reasons,

- The appeal challenging admission of the Corporate Debtor into CIRP is dismissed.

- The appeal challenging rejection of the intervention application is also dismissed, subject to the clarification on the limited scope of *locus standi* and inherent powers.

It is clarified that upon commencement of CIRP, any aggrieved stakeholder may avail remedies strictly in accordance with the Code.

15.1. While the commercial wisdom of the Committee of Creditors is paramount and is not ordinarily amenable to judicial review, the width of powers vested in the CoC carries with it a corresponding duty of responsibility. Any extraordinary or non-routine decision taken by the CoC must, therefore, be supported by cogent reasons duly recorded in writing. Accordingly, with a view to advancing transparency, ensuring accountability, and safeguarding the interests of homebuyers, we issue the following directions:

i) The Information Memorandum shall mandatorily disclose comprehensive and complete details of all allottees; and

ii) Where the Committee of Creditors, upon due consideration, finds it not viable to approve handover of possession in terms of Regulation 4E of the CIRP Regulations, it shall mandatorily record cogent and specific reasons in writing for such decision.

iii) Any recommendation for liquidation by the Committee of Creditors shall be accompanied by a reasoned justification recorded in writing,

evidencing proper application of mind and due consideration of all viable alternatives, in consonance with the objective of the Code.

These directions shall operate prospectively and shall be complied with forthwith.

16. There is no order as to costs. Pending application(s), if any, shall stand disposed of in the above terms.

……J.
[J.B. PARDIWALA]

……J.
[R. MAHADEVAN]

NEW DELHI;
JANUARY 15, 2026.