PROCEEDINGS OF THE DAY	110
Day and Date	Tuesday and 27.05.2025
Complaint No.	CR/4680/2023 Case titled as Krishna Bhargava VS Dhoot Infrastructure Projects Limited
Complainant	Krishna Bhargava
Represented through	Shri Devender Sharma Advocae
Respondent	Dhoot Infrastructure Projects Limited
Respondent Represented	Shri Shubham Mishra Advocate
Last date of hearing	18.02.2025
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings-cum-order

The present complaint was filed on 13.10.2023 and the reply on behalf of the respondent was filed on 15.02.2024.

The respondent in its reply raised an preliminary objection that the complaint is not maintainable as the resolution plan submitted by the consortium of KGK Realty (India) Private Limited and Dhoot Infrastructure Projects Limited which emerged as the successful resolution applicant (collectively referred to as the "**Respondents**") in the corporate insolvency resolution process (the "**CIRP**") of Sare Gurugram Private Limited ("**SGPL**").

That one of the financial creditors of SGPL namely Asset Care and Reconstruction Enterprises Limited ("**ASREC**") filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the "**Code**") before the Hon'ble National Company Law Tribunal, New Delhi, Principal Bench ("**NCLT**"). That the Hon'ble NCLT *vide* its order dated 09.03.2021 (the "**Admission Order**") in C.P. (IB) No. 300 (PB)/2020 admitted the application filed by ASREC and thereby commenced the CIRP of SGPL from 09.03.2021, further to which a moratorium as prescribed by the code was declared.
For the representation of home buyers of the project (which are recognized as a class of Financial Creditors under the Code) (the "**Homebuyers**") in the CoC, the Resolution Professional shortlisted names of three Insolvency Professionals to

act as their authorized representative, further to which Mr. Rakesh Verma was appointed as an authorized representative to represent the home buyers of the project under Section 21(6A) (b) of the Code. The resolution professional thereafter filed an application on 05.04.2021 for approval of the authorised representative and the Hon'ble NCLT *vide* order dated 01.06.2021 appointed Mr. Rakesh Verma as the authorized representative for the homebuyers.

That the resolution professional has made every endeavour to protect and preserve the assets and the value of the corporate debtor and manage the operations of SGPL as a going concern. Pursuant to section 20(2)(e) of the Code, the resolution professional had allowed all the home buyers to reach out to him to harmoniously address their concerns. Further, the resolution professional had been continuously engaged in monitoring and verifying the claims which were received in the CIRP of the corporate debtor.
Thereafter, the CoC after satisfactorily examining the feasibility and viability of the resolution plans received, approved the resolution plan of the respondents with 100% votes in its favour in terms of section 30(4) of the Code.

Pursuant thereto, the Resolution Professional filed an application before the Hon'ble NCLT *inter alia* seeking approval of the Hon'ble NCLT on the Successful Resolution Plan. The Hon'ble NCLT vide its order dated 24.04.2023 ("**Approval Order**") in *M/s Asset Care and Reconstruction Enterprises Limited v. M/s Sare Gurugram Private Limited* being IA No.702 (PB) 2022 in CP No: IB 300(PB)/2020, approved the Successful Resolution Plan.

That the claim of complainant which is the subject matter before this Hon'ble Authority has already been dealt with in the Successful Resolution Plan which subsequently provides for the settlement of all claims that were not filed, by the clean slate doctrine, which in principle provides that once the Resolution Plan is accepted by the Committee of Creditors and approved by the Adjudicating Authority, no claim (whether satisfied or dissatisfied) would survive, thus all the claims of the Complainant has been settled *vide* approved resolution plan dated 24.04.2023. That the clause O of the approved resolution plan provides for settlement of claims which were not filed before the resolution professional and the same reads as under:

> *"O. It is hereby clarified that for the units/flats for which no claims have been received by the Resolution Professional as on the date of submission of this plan by the Resolution Applicant or November 20,2021, whichever is earlier, (i) all claims in relation to such units/flats shall be fully and finally settled by the Resolution Applicant by way of payment of NIL*

Consideration; (ii) all monies paid in relation to such units/flats shall stand forfeited; (iii) all allotments in respect of such units/flats shall stand cancelled; (iv) the Resolution Applicant or the Corporate Debtor, as the case may be, shall have the right to deal with/ dispose off such units/ flats in the manner as it may deem appropriate at its sole and absolute discretion....".

It is pertinent to highlight that the complainant has failed to file their claim before the IRP and hence in light of the Approved Resolution Plan any claim arising at a later stage shall be settled by way of payment of NIL Consideration and further cancellation of allotment leading to forfeiture of consideration. That the complainant *vide* an application bearing I.A. No. 119 of 2023 before the Hon'ble NCLT Principal Bench, New Delhi have belatedly attempted to exercise their alleged rights as a homebuyer against the respondents. The same being frivolous and barred in terms of limitation and law laid down is non maintainable. That further no case can be made out against the respondents whatsoever who are the successful resolution applicant.

The Authority observes that the committee of creditors after satisfactorily examining the feasibility and viability of the resolution plan, approved the resolution plan of the respondent no.1 with 100% votes in its favour. Pursuant thereto, upon application of approval on resolution plan, Hon'ble NCLT approved the successful resolution plan of respondent no.1 vide order dated 24.04.2023. Moreover, the claim of the complainant has been accepted and already dealt with in the Successful Resolution Plan. It is further observed that the complainant-allottee was party to the revival plan filed before NCLT and if the same is not being honored by the respondent, the complainant is at liberty to approach the concerned court/tribunal for relief and necessary directions. In view of the objections raised by the respondent w.r.t. maintainability of complaint and in light of reasons above, the present complaint stands **dismissed.** File be consigned to the registry.

Ashok Sangwan
Member

Vijay Kumar Goyal
Member

Arun Kumar
Chairman
27.05.2025