

**FREE OF COST COPY**  
**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**BENGALURU BENCH**

C.P. (IB) No.167/BB/2018  
U/S 7 of the IBC, 2016  
R/w Rule 4 of the I&B (AAA) Rules, 2016

**In the matter of:**

M/s. Phoenix ARC Pvt. Ltd  
(Trustee of Phoenix Trust FY 16-15 Scheme B)  
5<sup>th</sup> Floor, Dani Corporate Park 158  
CST Road, Kalina, Santacruz(East),  
Mumbai - 00 098.

- Petitioner/Financial Creditor

**And**

M/s. Sovereign Developers and  
Infrastructure Ltd.,  
No. 16, 2<sup>nd</sup> Floor, Jaladarshini Layout,  
New BEL Road,  
Bengaluru - 560 054

- Respondent/Corporate Debtor

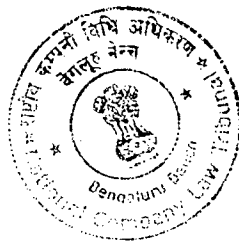
**Date of Order: 16<sup>th</sup> July, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

**Parties/Counsels Present:**

For the Petitioner : Shri Om Prakash.E,  
Senior Counsel a/w  
Shri Rafeeulla Shariff, PCS  
Ms.Uthara Priyadharshini

For the Respondent No.1 : Shri Ajay Kumar.M



**ORDER**

Per : Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB) No.167/BB/2018 is filed by Phoenix ARC Private Limited (Petitioner/Financial Creditor) U/s 7 of the IBC, 2016 R/w Rule 4 of the I&B(AAA) Rules, 2016 by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s.Sovereign Developers and Infrastructure Limited ("Respondent/Corporate Debtor") that it has committed a default for total outstanding amount of Rs.42,80,92,640/-(Rupees Forty Two Crores Eighty Lakhs Ninety Two Thousand Six Hundred and Forty Only).
2. Brief facts of the case, as mentioned in the Company Petition, are as follows:

(1) M/s.Phoenix Arc Private Limited (Trustee of Phoenix Trust FY 16-15 Scheme B) (Petitioner/Financial Creditor/Applicant) is incorporated on 02.03.2007 registered address at: 5<sup>th</sup> Floor, Dani Corporate Park 158, CST, Road.Mumbai.

(2) M/s.Sovereign Developers and Infrastructure Limited (Respondent/Corporate Debtor) is incorporated on 21.04.2006, approached Karnataka Bank Ltd( hereinafter referred to as the "Assignor Bank") for grant of a Loan amounting to a sum of Rs.25,00,00,000/- for the purpose of the construction of residential apartments. The Loan amount (hereinafter referred to as the "Assigned



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Debt") comprised a Term Loan of Rs.25,00,00,000/- along with interest at the prime Lending Rate compounded monthly, along with further interest at the rate of 2% per annum in case of non-repayment of the Loan amount by the due date.

- (3) As per the terms of the Loan Agreement, the Assigned Debt taken by the corporate debtor was to be repaid by May, 2014, in installments, commencing from November, 2012 until May, 2014 along with future interest and other charges thereon. In view of the repeated defaults by the Corporate Debtor, the assignor Bank was constrained to classify the amount of the Corporate Debtor as a Non-performing Asset on the 16th of August, 2013, in accordance with the Reserve Bank of India directives and guidelines. On 17th of February, 2014, the Assignor Bank was constrained to issue the Corporate Debtor, a Demand Notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act") calling upon them to repay the amount due, as on 15.02.2014, amounting to a sum of Rs.19,32,25,988.22/- along with further interest and other charges, within sixty days of their receipts of the Notice. The Assignor Bank having given the Corporate Debtor, ample opportunity to repay the sum given as loan, but to no avail, and



thus subsequently it took session of the properties mortgaged to it.

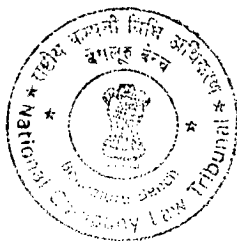
- (4) It is stated that the Corporate Debtor, in spite of the preceding sequence of events failed to regularize its accounts with the Assignor Bank, leaving the Assignor Bank left with no other alternative, constrained to assign the debt arising under the Loan Agreement to the Applicant herein, namely, Phoenix ARC Private Limited (in its capacity as Trustee of Phoenix Trust FY 16-15 Scheme B) together with all underlying securities, vide an assignment agreement dated 29th March, 2016. The Original Title Documents are in the custody of the Applicant. In pursuant to the aforementioned assignment Agreement, the assignor Bank assigned all its rights, titles, interests and benefits under the said security documents in favour of the applicant acting in its capacity as Trustee of Phoenix Trust FY 16-15 Scheme B herein. As a result, the applicant acting in its capacity as trustee of Phoenix Trust FY 16-15 scheme B herein, stepped into the shoes of the Assignor Bank and became solely entitled to receive repayments and enforce payment of all debts under the Loan Agreement.
- (5) Subsequent to the assignment of the debt as per the Assignment Agreement dated 29.03.2016, the Corporate Debtor, in a grave financial situation, approached the applicant acting in its capacity as



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Trustee of Phoenix Trust FY 16-15 Scheme B herein, seeking to restructure their debt and also seeking additional funding from the applicant and accordingly agreed to recognize the assignment of the Assigned Debt and also agreed to restructure the said Assigned Debt. The Board of Directors of the Corporate Debtor dated 04.05.2016, resolved and give consent for and accepting the terms of the Assignment of the debt to the applicant herein by the Assignor Bank. As per the terms of the restructuring agreed upon by the parties, the Corporate debtor sought additional funding of Rs.5,00,00,000/-. The Board of Directors of the Corporate Debtor dated 04.05.2016, resolved and gave consent for availing of a Term Loan of Rs.6,00,00,000/- from the Applicant herein. The Applicant acting in its capacity as Trustee of Phoenix Trust FY 16-15 Scheme B herein accepted the offer of the Corporate Debtor and entered into a Letter of Acceptance with the defendants on the 9th of June, 2016 with conditions for granting of additional loan.

- (6) On the 09.06.2016, a New Loan Agreement was executed by the parties herein, for the grant of additional financial assistance to the Corporate Debtor by the applicant herein, amounting to a sum of Rs.5,00,00,000/- (herein referred to as the "New Loan") along with interest at the rate of 24% compounded monthly and penal interest at the rate



of 6% p.a. the New Loan, taken by the respondent was to be repaid by 2016, along with future interest and other charges thereon, at the rates and in the manner prescribed in the New Loan Agreement. As security for the New Loan of Rs.5,00,00,000/- granted by the Applicant herein, along with Personal Guarantees undertaking that in the event of the failure by the Borrower (Corporate Debtor ,the Guarantors shall, upon demand, forthwith, pay the Applicant herein, the entire amount as quantified and demanded by the Applicant herein, without demur, and that such quantifications will be conclusive and binding upon them. In addition to the Personal Guarantees executed by the other parties, as security for the Assigned Debt and the New Loan availed by the Corporate Debtor, the Applicant also executed a Deed of Simple Mortgage on the 10th June, 2016.

- (7) However, the Corporate Debtor made no attempts to repay the money borrowed even after repeated reminders, and as a result, the Applicant both for itself and in its capacity as Trustee of Phoenix Trust FY 16 – 15 Scheme B, on the 24th August, 2017 issued a Recall Notice to Corporate Debtor, for the recovery of an amount of Rs.35,33,34,286/- towards the dues of the Assigned Debt as well as the New Loan as on the 16th of August, 2017 along with



further interest at the Contractual rates from the 17th of August till realization/payment.

(8) It is submitted that the Applicant both for itself and in its capacity as Trustee of Phoenix Trust FY 16-15 Scheme B is concerned about the non-compliance of the Corporate Debtor the Applicant, has filed a case under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993, against the Corporate Debtor and presently the case is still pending before the Debt Recovery Tribunal, Bangalore.

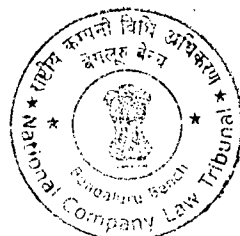
(9) The total amount due to the Applicant both for itself and in its capacity as Trustee of Phoenix Trust FY 16 -15 Scheme B along with interest, calculated up to 2nd of September, 2018 in Rs.42,80,92,640/- being the cumulative claim for both the Assigned Debt and the New Loan along with further interest at contractual rate (interest at 14% p.a compounded monthly with Penal Interest at 4% p.a. on Assigned Debt and interest at 24% p.a. compounded monthly with penal interest at 6% p.a. on New Loan.

3. The Respondent/Corporate Debtor has filed Statement of Objections dated 25.01.2019, by inter alia contending as follows:

(1) It is alleged that there is distortion of facts apart from suppression of material facts and the Petition is not maintainable either in law or facts and the same is liable to be dismissed.

(2) The Petitioner is an Asset Reconstruction Company, who took on assignment, a loan obtained by the

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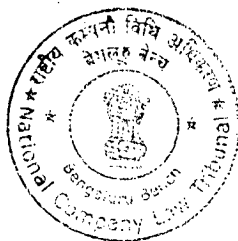
Respondent from Karnataka Bank. The Karnataka Bank had sanctioned a total of Rs.25 Crores as term loan. Though the Respondent had flagged several issues with the Karnataka Bank, who had not disbursed the loan amounts as per terms of loan agreement and had not disbursed the entire loan amounts. Yet, the Karnataka Bank, in a hurried and hastily manner assigned the loan to the Petitioner. The Respondent, after assignment had brought to the notice of the Petitioner that the project commissioned by the Respondent was fast approaching completion and as such, was in need of little funding in order to complete the project at the earliest.

- (3) The Respondent also informed the Petitioner that it has built about 1192 flats, which is exclusive of the share of the owners, out of which about 1077 have been sold to the various flat owners and the total receivables from the flat owners towards balance payment itself was around 106 Crores. However, the same could only be realized at the time of the execution of the sale deed, as such, additional funding was sought and though the Respondent had made out strong case for additional funding of about 90 Crores, the Petitioner did not consider the request and rather sanctioned a sum of Rs.5 Crores only, despite the Respondent having sought for minimum of Rs.6 Crores to be disbursed.



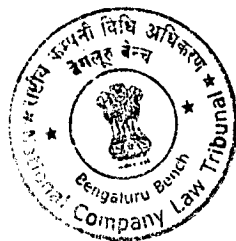


- (4) The Respondent had invested the entire amount of additional funding towards completion of the project strictly in accordance with the terms and conditions of the additional loan and escrow agreements. As per the terms of the additional loan agreement, no part of the additional loan was to be handed over the Respondent directly, the same was to be paid to the supplied by the Petitioner. As such, the total amount of Rs.5 Crores which was paid by the Petitioner, was spent towards completion of the project. However, the Petitioner raised frivolous objections about the utilization of the fund of additional loan, which was contrary to the very terms of the additional loan agreement.
- (5) It is alleged that the situation got escalated solely on account of stubborn attitude of the Petitioner, in not releasing the amount received in the Escrow account towards the payment of statutory dues, which was wrongfully appropriated by the Petitioner. Since the Petitioner refused to release the payment received in Escrow Account, which was deposited by the flat owners for payment of statutory dues only, the statutory authorities resorted to attaching Escrow account itself in order to receive the statutory dues. It is averred had the petitioner been reasonable and rational in handling of the Escrow account, the present situation would have never arisen. The Respondent, even wrote to the Petitioner requesting



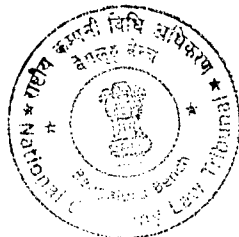
them to remit the amounts of flat owners paid by them to escrow account towards statutory dues, so that work could go on peacefully.

- (6) Since the flat owners were coming forward to make payment of the balance (including the statutory dues), the Petitioner would have benefitted by receiving the amounts, which at the same time would have helped the Respondent to complete the project at the earliest. Even after escrow account was attached by the sale tax authorities, virtually freezing all the modes of receiving the payment by the Respondent further steps have been taken by the Respondent to complete the project and handover the flats to the owners and the same have begun to yield fruits, the Respondent has been now registered with RERA and a number is being assigned for the project. Further, the Respondent and its promoters gone a step further to get the attachment of the Escrow account removed by the Sales Tax Authorities, which once again proves the bonafide on the part of the Respondent in completing the project.
- (7) Despite repeatedly being pointing out to the Petitioner that the receivables from the project was itself more than sufficient to cover the total amount due towards the Petitioner and that all that is need is for them to issue NOCs for registration of the flats towards which the flat owners would pay balance consideration, the Petitioner, on one ground or the



Other, has been delaying the same, leading to escalation in the total amount due and at the same time has reduced the pace of completion of the project. Therefore, it is contended though above a year ago, the total amount required for completion of the project was about Rs.90 Crores, has now been brought down to about Rs.15 Crores only and the project is on the verge of the completion and handing over to the flat owners. As such, it has been requested to the Petitioner to take into account all these aspects and fund the last mile of the Project, which would result in completion of the project and also in recovery of all the receivables from the flat owners. Further it has been also pointed out that there are about 115 units unsold in the project, which could be utilized for the purpose of either securing the interest of the Petitioner or for the recovery and thus they are proposing to Petitioner to consider the request of the Respondent, which is viable for both the parties. However, the Petitioner has not brought on record, any of these aspects since it would point out that the default as claimed in the Petition is not at the hands of the Respondent but solely on account of actions of the Petitioner itself. It is averred that even the flats owners, who are aware about the situation had in fact lodged a complaint with the Regulator - RBI alleging injustice at the hands of the Petitioner. The Petitioner, even then instead of taking

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corrective measures, issued a reply blaming the flat owners for the escalation of dispute.

- (8) It is further stated that the entire project costs is about 380 Crores as on today, out of which, the lion's share of the investment has come from the flat owners themselves, who have invested amounts of about Rs.202 Crores and rest come in the form of investment by the promoters, the amount borrowed from the bank and other sources. As such, it is clear that the share of the Petitioner herein as far lesser, when compared with all other investors. The principal amount which is due towards the Petitioner is Rs.16,69,15,829/-+Rs.2,31,70,963/- is about 19 Crores only, which certainly exclusive of the interest calculated on the said principal amount.
- (9) It is contended that the Respondent is not having any role in this matter, as the Assignment Agreement was made between two Financial Institutions, which was informed to the Respondent on 4 April 2016, by way of email first and later by a letter. It is denied the averments of petitioner that the Respondent made 'No Attempts to repay the money and stated the Respondent paid Rs.3,97,94,703/- till March 2018 towards repayment of loan amount. Out of this Rs.2,90,80,058/- went towards repayment of principle amount, Rs. 95,24,816/- went towards repayment of interest and Rs. 11,89,829/- went towards repayment penal rate



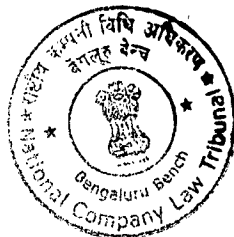
of interest. All these repayment are towards repayment of principle and interest of additional loan of Rs. 5 Crore availed from Phoenix ARC. It was an established fact that Phoenix ARC appropriated the taxes amounts and special purpose fund amounts like BWSSB/KEB amounts paid into Escrow Account towards repayment obligations of loan dues.

- (10) The Respondent wrote several communications, requesting the Phoenix ARC to refund the Tax amounts for onwards payment to statutory authorities fell on deaf ears and also the amounts paid by customers for special purposes like getting approvals for BWSSB/KEB also not refunded to the Respondent for getting approvals. All these issues escalated and Sales Tax Authorities issued 'Attachment Orders' on Escrow Account. There was no effort from Phoenix ARC to resolve the issues and their adamant attitude to adjust the loan dues led to the present situation, which is deplorable.
- (11) It is stated that the petitioner has not brought on record the Escrow account maintained through its Escrow manager to which the payments were being made until recently and as such, the complete statement of facts have not been placed on record by the petitioner. The numbers do not tally with the numbers mentioned in the assignment deed executed by the Karnataka Bank in favour of the



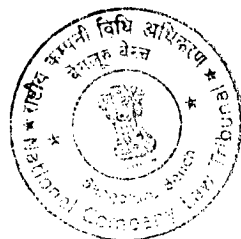
petitioner above. The total number amount arising as on the date of the execution of the assignment deed was Rs.16,69,15,829/- and non-charged interest was Rs.11,40,44,578/- and as such, the total outstanding was Rs.28,09,60,407.22/-. And there is no mention about the amounts, which were paid by the Respondent either before execution of the assignment or for that matter after execution of the assignment. The Respondent before execution of the assignment, in fact made payment of about 12 crores to Karnataka Bank in service of payment and the amounts which was due to the tune of Rs.25 crores though it is a different matter that out of the said 25 crores, Rs.2.5 crores were never released and 2.5 crores was simply moved across the ledger in an attempt to window dress accounts and the said sum of Rs.2.5 crores were never realized by the Respondent which is reflected in the account. Not bringing on record these matters and opting not to produce the account statements amounts to wilful suppression of material facts.

(12) It is further stated that the total outstanding in so far as additional funding of Rs.5 crores as on the date of filing the above petition is only Rs.2,31,70,063/- as in, a sum of Rs. 2,68,00,000/- and odd was repaid apart from the interest portion. As such, it would have to be seen that the petitioner has not come



before this Hon'ble Tribunal with clean hands and has suppressed the material facts and withheld production of material documents therein. On this count alone, the above petition is liable to be dismissed forthwith.

- (13) It is also stated that the Respondent had sent letters to Hon'ble Prime Ministers' Office, the Finance Minister's office and also to Reserve Bank of India; when the Respondent's efforts, pleadings, requests to share the receivables and to remit the taxes amounts to Statutory Authorities fell on deaf ears from Petitioner's side. When all receivables from Project are going into Escrow Account and also when there is no other account to operate, in view of NPA status, it is impossible to run a company without funds, which are getting remitted into Escrow Account. The Respondent's request to remit the tax amounts to statutory authorities, to refund the specific purpose funds meant for BESCO and BWSSB, is just & practical. It is impractical to do restructuring without sharing of receivables and to appropriate entire receivables in Escrow Account towards repayment obligations.
- (14) The Respondent has been registered with the RERA Authority and has been given a registration number. The said registration in fact came after filing of the above Petition, which again shows that the project is under progress and has not been



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abandoned, as wrongly painted by the Petitioner. There are about 115 units, which are yet to be sold by the Respondent and the same can be liquidated or taken over by the Petitioner towards payment of their dues. A direction may also be given to the Petitioner to issue NoCs, to all the flat purchasers who have already given requests to the Petitioner, since it has not stated any reasons for non-issuance of the NoCs.

(15) It is stated that there are about 900 families waiting for possession of their flats and if CIRP is initiated, all such families stand to lose their moneys. The only scenario where all parties concerned stand to gain, is only when the Respondent is able to complete the project, as the flat purchasers get their homes and the Petitioner recovers its dues and the Respondent would be free from liability. The project in hand, as on April 2018 is valued at Rs.380 Crores and the loan obtained put together is only Rs.30 Crores and after repayment, the balance of principal amount is only Rs.19 Crores. As such the application filed by the Petitioner is not a fit case for admission under the IBC.

(16) The loan/escrow, agreement imposed reciprocal promises of performance on both parties. The Respondent had to make sure all payments are routed through escrow account and similarly, there is a reciprocal obligation on part of the Petitioner to issue NOC to the flat owners as and when they come





for registration, since without NoC, they cannot avail loans for purchase of the flats. If the reciprocal obligations are not performed by one party, then they cannot claim breach of contract by the other. In the instant case, despite issuing several requests as mentioned above, the Petitioner refused to issue NoCs. The same is clear breach of its obligations which virtually amounts to refusal to received repayments. The Project under the loan is a real-estate project and the income is mostly generated from the Flat-Buyers. The non-issue of the NOCs clearly resulted in flat buyers becoming unable to obtain the loans which in turn resulted in impossibility of performance of contract on part of the Respondent.

(17) It is stated that even now it is well within the ambit of the Petitioner to take proper steps and allow for inflow of money. The Petitioner has been unable to show that the default within the meaning of Section 7 of the IBC was caused at the hands of the Respondent and as such has not made out a case for commencement of Insolvency/resolution Proceedings and for admission of the present Petition.

4. Heard Shri Om Prakash, Learned Senior Counsel for the Petitioner and Shri Ajay Kumar.M, learned Counsel for Respondent. We have carefully perused the pleading of both the parties and extant provisions of the Code and law on the issue.



5. Shri Om Prakash, Learned Senior Counsel for the Petitioner, while pointing out various averments made in the Company Petitioner, has further submitted that they have established that there is debt and default by producing substantial proof in that context and the application is filed in accordance with law. He has also relied upon the following judgments in support of his case:
- *Innovative Industries Limited Vs. ICICI Bank & Others (AIR 2017SC4084)*
  - *Swiss Ribbons Private Limited & Others Vs. Union of India & Others.*
6. Shri Ajay Kumar.M, learned Counsel for Respondent, while pointing out various averments made in the written arguments dated 11.07.2019, as briefly mentioned supra, has further submitted that while admitting that there is a debt and default and it was due to the circumstances/non-co-operation created by the Petitioner, and they are ready to pay the outstanding amount provided they give no objection to register the plots as requested, and they are having more property than the outstanding amount.
7. Earlier, the Adjudicating Authority has allowed I.A No.351/2018 in C.P(IB) No.167/BB/2018 is filed by Shri Vishal M.Poonater, vide order dated 17.12.2018, by directing the Applicant/Petitioner to implead the application. However, the same was set aside by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No.184 of 2019, filed by M/s.Phoenix ARC Pvt.



Ltd, by remitting the case to the Adjudicating Authority with a direction to decide the application, after hearing the Appellant and 'Corporate Debtor' in accordance with law.

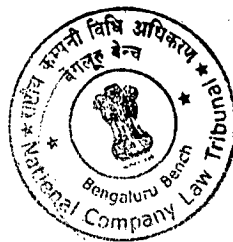
8. It is a settled position of law that a case filed U/s 7 of the Code, the Adjudicating Authority has to merely see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed 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.
9. As stated supra, the Karnataka Bank Ltd (hereinafter referred to as the "Assignor Bank") has granted Loan amounting to a sum of Rs.25,00,00,000/- along with interest at the prime Lending rate compounded monthly, along with further interest at the rate of 2% p.a in case of non-repayment of the Loan amount by the due date. Accordingly, the Corporate Debtor has to repay the loan in instalments commencing from November, 2012 until May, 2014 along with interest and other charges thereon. However, the Corporate Debtor failed to pay outstanding instalments resulting to classify the account of Corporate Debtor as a Non-Performing Asset ("NPA") on 16.08.2013, in accordance with the RBI directives and guidelines. The Bank has also issued a Demand Notice to the Corporate Debtor U/s 13(2) of the Securitization and

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Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("**SARFAESI Act**"), calling upon them to repay the amount due, as on 15.02.2014, amounting to a sum of Rs.19,32,25,988.22/- along with further interest and other charges, within sixty (60) days of their receipt of the notice. However, the Corporate Debtor failed to repay the amount. Therefore, the Assignor bank assigned the debt arising under the Loan agreement to the applicant herein, namely Phoenix ARC Private Limited (in its capacity as Trustee of Phoenix Trust FY 16-15 scheme B) together with all the underlying securities, vide an Assignment agreement dated 29<sup>th</sup> March, 2016.

10. As stated supra, the assignment of the loan by the Bank to petitioner is not only accepted by the Respondent but it also obtained additional funding for Rs.5, 00,00,000/- Accordingly new loan agreement dated 09.06.2016 was executed by the parties and also furnished personal guarantees for the loan. The Corporate debtor failed to pay the outstanding amount even after repeated demands made to the Corporate Debtor for total amount of Rs.35,33,34,286/- towards the dues of the Assigned Debt as well as the New Loan as on 16<sup>th</sup> August, 2017, which became Rs.42,80,92,640/- along with interest as on 02.09.2018. The assigned debt and additional loan in question and subsequent debt and default are not in dispute. The Petitioner has also given a sufficient opportunity to the Respondent to pay the outstanding amount and also issued a Legal Notice dated 26<sup>th</sup> June, 2017, by inter alia stating that they have sanctioned additional loan of Rs.5,00,00,000/- in the



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larger interest of the purchasers of the apartments to complete Phase-I works. However, it is alleged that the Corporate Debtor failed to complete Phase-I works, even though the additional funding was granted for the said purpose and due to the failure to complete Phase - I Works, the customers, who had intended to purchase the apartments did not deposit the amounts towards BWSSB and BESCOM charges. As a result, the amount due was not paid, and they have also denied the allegations that they have charged interest at 42% p.a by clarifying that they have charged interest at 14% p.a compounded monthly. The Respondent also addressed letters to the Prime Minister's office, Finance Minister and Reserve Bank of India.

11. The Petitioner has also filed a Certificate Under Section 2A(a) of the Banker's Book of Evidence Act, 1891 (as amended), by certifying that the statement of account obtained from the Assignor Bank by virtue of the Assignment Agreement executed and all such data/entries are stored in the Safe Custody in the ordinary course of Business of Phoenix.
12. In the light of above facts and circumstance of the case, and the law on the issue, we find that the Instant Petition is filed in accordance with extant provisions of Code and the rules made thereunder, and debt and default in question are not in dispute, and qualified Resolution Professional namely, Shri Guruprasad Makam with Registration No.IBBI/IPA-001/IP-P00932/2017-18/11550, is suggested to appoint him as IRP, who has declared that he is qualified Resolution Professional not

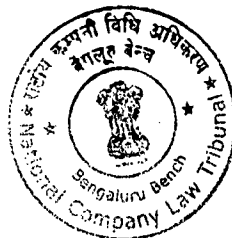
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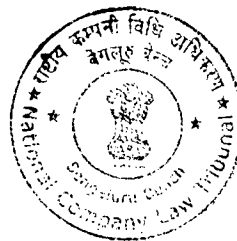
undergoing any disciplinary proceedings and also filed Written Communication dated 03.09.2018. Therefore, we are of considered opinion that it is a fit case to admit and appoint said Insolvency Professional as IRP.

13. In view of the above facts and circumstances of the case, and by exercising powers conferred on this Adjudicating Authority, **U/s 7(5)(a)** of the Code, C.P. (IB)No.167/BB/2018 is hereby admitted by initiating Corporate Insolvency Resolution Process (CIRP) in respect of Sovereign Developers and Infrastructure Limited (the Corporate Debtor ) with following consequential directions;

- (1) We hereby appointed Shri Guruprasad Makam with Registration No.IBBI/IPA-001/IP-P00932/2017-18/11550 is hereby appointed as Interim Resolution Professional in respect of the Corporate Applicant to carry on the functions as per provisions of Code and various rules issued by IBBI from time to time.
- (2) The following moratorium is declared prohibiting all of the following, namely:
  - a. the 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;
  - b. transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;




- c. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
  - d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor;
  - e. The supply of essential goods and services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period;
  - f. The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
  - g. The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process.
- (3) The IRP is directed to follow all extant provisions of the IBC, 2016 and all the extant rules including fees rules as framed by IBBI from time to time. The IRP is hereby directed to file progress reports to the Tribunal from time to time.
- (4) The Board of Directors and all the staffs of the Corporate Applicant are hereby directed to extend full co-operation



to the IRP in order to carry out her statutory duties as IRP.

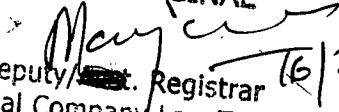
- (5) The IRP is further directed to take expeditious steps so as to complete the process of CIRP within stipulated time.
- (6) Post the case for report of the IRP on 19<sup>th</sup> August, 2019.

  
**(ASHOK KUMAR MISHRA)**  
**MEMBER, TECHNICAL**

  
**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

Raushan



CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL  
  
Deputy Registrar  
National Company Law Tribunal  
Bengaluru Bench