



IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH-I

C.P (IB) No.48/MB/C-I/2024

Petition under Section 7 of the Insolvency and
Bankruptcy Code, 2016

Filed by

Nitco Realities Private Limited

...Petitioner

Versus

Sonata Realty Private Limited

...Respondent

Order Pronounced on: 04.06.2024

Coram:

Hon'ble Member (Judicial) : Justice V.G. Bisht (Retd.)

Hon'ble Member (Technical) : Mr. Prabhat Kumar

Appearances:

For the Petitioner : Mr. Ankit Rajput, Advocate

For Respondent : None Present

ORDER

Per: Prabhat Kumar, Member (Technical)

1. The Petitioner/Financial Creditor has filed the present Company Petition seeking to initiate Corporate Resolution Insolvency Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("**the Code**") against the Corporate Debtor/Respondent **Sonata Realty Private Limited.**



2. The Petitioner submits that the Corporate Debtor is a Private limited company involved in the business of construction and redevelopment of building.
3. In the year 2008, the Petitioner came across a scheme floated by the Respondent thereby offering interest @ 9% p.a. As the Petitioner had surplus funds, it deposited an amount of Rs.19,00,00,000/- (Rupees Nineteen Crores) with the Respondent. The Petitioner submits that amounts were disbursed in installments to the Respondent.
4. Further, the Petitioner submits that the Respondent repaid major component of the outstanding amount. However, failed to repay an amount of Rs. 2,50,00,000/- and interest on the entire principal amount.
5. Despite several follow ups, the Respondent failed to repay the balance amounts together with interest. However, the Respondent has acknowledged the debt for the period 01.04.2019 to 31.03.2020, 01.04.2020 to 31.03.2021 and 01.04.2021 to 31.03.2022 vide confirmation of accounts letters dated 01.04.2020, 01.04.2021 and 01.04.2022 respectively.
6. As the balance amounts were not being repaid, the Petitioner issued a notice to the Respondent, however neither the amounts were received from the Respondent nor any reply to the demand notice. The aforesaid notice was dispatched on 08.08.2022. The Notice was also e-mailed to the Respondent on 16th August, 2022.
7. The Petitioner submits that the Respondent has failed to pay the outstanding amount of Rs.6,39,66,301/- (Rupees Six Crore Thirty-Nine Lakh Sixty-Six Lakh Three Hundred and One only) The date of default stated in Part-IV of the Petition is 01.04.2022.
8. The Respondent/Corporate Debtor has failed to appear before us despite of service of court notice and service on the directors of the Corporate Debtor.



9. We have perused the records and heard the learned counsel for the Petitioner.
10. The Petitioner submits that they had advanced an amount of Rupees Nineteen Crore to the Respondent under an alleged scheme wherein the Petitioner was offered 9% interest p.a. The Petitioner has not placed on record any agreement evidencing the nature of the transaction, However, the Petitioner has placed on record confirmation accounts evidencing outstanding of Rs.2,50,00,000/- as on 01.04.2020 which has been brought forward from the previous accounting year as can be seen from the said confirmation of account. It is clear that an amount of Rs.19,00,00,000/- was disbursed in the year 2008 and a balance of Rs.2,50,00,000/- remained unpaid which is corroborated from the confirmation of account placed on record and said confirmation of account clearly states that the said balance is reflecting in the books of accounts of the Corporate Debtor.
11. It is trite law that existence of agreement is not sine qua non for existence of financial debt which can otherwise be proved by other documentary evidences. The Respondent/Corporate Debtor has failed to file any reply to controvert this position.
12. Accordingly, for the aforesaid reasons Company Petition No. 48 of 2024 stands admitted.
13. The Financial Creditor has proposed the name of Mr. Jignesh Shah, having registration number IDBI/IPA-001 /IP-P02054 /2020- 2021/13182 as the Interim Resolution Professional of the Corporate Debtor. He has filed his written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
14. It is, accordingly, hereby ordered as follows: -
 - a) The Petition bearing **CP (IB) 48/MB/2024** filed Nitco Realities Private Limited the Financial Creditor, under section 7 of the



IBC read with rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Sonata Realty Private Limited**, the Corporate Debtor, is **admitted**.

- b) There shall be a moratorium under section 14 of the IBC, regarding the following:
- i. 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;
 - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii. 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- c) Notwithstanding the above, during the period of moratorium:-
- i. The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - ii. The provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be



notified by the Central Government in consultation with any sectoral regulator;

- d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IB Code.
- e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- f) Mr. Jignesh Shah, having registration number IDBI/IPA-001 /IP-P02054 /2020- 2021/13182, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions issued/as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.
- g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- h) The Financial Creditor shall deposit a sum of Rs.5,00,000/- with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).



- i) Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- j) IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

Sd/-

PRABHAT KUMAR

Member (Technical)

04.06.2024

Priyal

Sd/-

JUSTICE V.G. BISHT

Member (Judicial)