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IN THE NATIONAL COMPANY LAW TRIBUNAL BENGALURU BENCH

C.P. (IB) No.172/BB/2019
U/s 7 of IBC, 2016
R/w Rule 4 of I&B (AAA) Rules, 2016

In the matter of:

M/s. VSL Securities Private Limited
Regd. Off: No.66, Nav Niketan,
Ground Floor, KR Road,
Basavangudi,
Bangalore – 560 004.

- Petitioner/Financial Creditor

Versus

M/s. Unishire Housing LLP
Regd. Off: No.42,
Castle Street, Ashok Nagar,
Bangalore – 560 025.

- Respondent/Corporate Debtor

Date of Order: 31st 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 : Ms. Manasa H.S.

For the Respondent : Shri G.S. Venkat Subbarao with
Ms. Suma A.L.

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P. (IB) No.172/BB/2019 is filed by M/s. VSL Securities Private Limited (hereinafter referred to as 'Petitioner/Financial Creditor') under Section 7 of the Insolvency and Bankruptcy Code, 2016 read



with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process in respect of M/s. Unishire Housing LLP (hereinafter referred to as 'Respondent/Corporate Debtor') on the ground that it has committed default for a total outstanding amount of Rs.21,58,04,027.39/- (Rupees Twenty One Crores Fifty Eight Lakhs Four Thousand and Twenty Seven and Thirty Nine Paise Only), which includes Rs.12,94,00,000/- (Rupees Twelve Crores Ninety Four Lakhs Only) being Principal amount and Rs.8,64,04,027.39/- being interest at the rate of 15% per annum from 03.09.2014 to 15.03.2019.

2. Brief facts of the case, as mentioned in the Company Petition, are as follows:

(1) M/s. VSL Securities Private Limited (hereinafter referred to as 'Petitioner/Financial Creditor') is a Private Limited Company incorporated on 21.05.2001. It is classified as Non-government Company and is registered at Registrar of Companies, Bangalore. The Authorised Share Capital is Rs.110,000,000/- and Paid-up Capital is Rs.85,985,000/-. It is involved in activities auxiliary to financial intermediation, except insurance and pension funding. This Group includes activities involved in or closely related to financial inter-mediation other than insurance and pension funding but not themselves involving financial inter-mediation.

(2) M/s. Unishire Housing LLP (hereinafter referred to as 'Respondent/Corporate Debtor') is a Limited Liability Partnership firm incorporated on 01.02.2012. It is registered at



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Registrar of Companies, Bangalore. Its total obligation of contribution is Rs.5,00,000/-.

- (3) It is stated that the Financial Creditor had entered into a Memorandum of Understanding dated 03.09.2014 (MOU) with the Corporate Debtor. Under the said MOU, the Corporate Debtor were required to identify lands for proposed development, arrange for inspection of such lands and upon approval by our client, finalize the terms of the said transaction, negotiate and obtain all legal clearances for marketable title, ensure that all the documents of title, revenue records, survey records etc. are secured. The Corporate Debtor was also required to pay the advance amount to such prospective owners. The Corporate Debtor would be entitled for appropriate compensation after the proposed development would come in place.
- (4) It is stated that a sum of Rs.13,50,00,000/- was transferred to the Corporate Debtor under the said MOU, out of which a sum of Rs.56,00,000/- has already been paid by the Corporate Debtor.
- (5) As the Corporate Debtor has not been able to identify any lands even as on date, the Financial Creditor was constrained to terminate the aforementioned MOU. The Financial Creditor have further learnt from the market that the Corporate Debtor Company is not doing well financially and has become incapable of paying its debts. The Corporate Debtor was aware that in terms of the Clause 5 of the MOU, they were liable to pay 15% p.a. interest on the transferred amount transferred in the event of failure to identify lands for the Financial Creditor.



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- (6) As per the terms of the Clause, the Financial Creditor has made several requests to the Corporate Debtor to repay the amount, however, the Corporate Debtor has failed to make the repayment of the outstanding liability.
- (7) It is stated that the Corporate Debtor had willfully induced the Financial Creditor that the Corporate Debtor will follow the terms of the MOU and in the event the land is not identified and allotted Corporate Debtor promised to return the money, however, having no credibility and a financial status to repay and having no intention to repay the amount and thereby causing wrongful and grave loss to that Financial Loss to the Financial Creditor.
- (8) Thereafter, on 06.12.2018, the Financial Creditor sent a legal notice through his lawyer to the Corporate Debtor terminating the MOU and calling upon the pay the outstanding amount due of Rs.12,94,00,000/- (Rupees Twelve Crores Ninety Four Lakhs Only) along with interest at 15% per annum which comes up to Rs.21,58,04,027.39/- However, the Financial Creditor has not received any reply to the notice from the Corporate Debtor.
- (9) It is stated that the total outstanding amount due is Rs.12,94,00,000/- (Rupees Twelve Crores Ninety Four Lakhs Only) along with 15% interest from 03.09.2014 to 15.03.2019 (Rs.12,94,00,000/- + Rs.8,64,04,027.39 = Rs.21,58,04,027.39) Total amount is Rs.21,58,04,027.39/-.
- (10) It is further stated that the Corporate Debtor has not disputed the outstanding amount at any occasion. Hence, this application.



V. S. D.

3. Heard Ms. Manasa H.S., learned Counsel for the Petitioner and Shri G.S. Venkat Subbarao, learned Counsel for the Respondent. We have carefully perused the pleadings of the parties and extant provisions of the Code.
4. Ms. Manasa H.S., learned Counsel for the Petitioner, while reiterating the averments made in the main Company Petition, has further submitted that the instant Company Petition is filed in accordance with law and the debt and default in question was also admitted by the Respondent Company vide its Affidavit dated 04.06.2019, and the Respondent has not filed any statement of objections to the Petition and a qualified Resolution Professional is suggested for appointment as the Interim Resolution Professional in respect of the Corporate Debtor, who has also given his written consent in Form-2 dated 25.03.2019.
5. Shri G.S. Venkat Subbarao, learned Counsel for the Respondent submits that as the Company is also facing several other cases before this Adjudicating Authority in C.P. (IB) No.173/BB/2019, C.P. (IB) No.187/BB/2019 and C.P. (IB) No.95/BB/2018, they have no objection to initiate the CIRP.
6. As stated supra, there is no dispute with regard to the debt and default in question and a qualified insolvency professional namely Shri Gonugunta Murali having Registration No.IBBI/IPA-001/IP-P00654/2017-2018/11139 is suggested to appoint as IRP, who also has filed his written consent in Form-2 dated 25.03.2019 by inter alia affirming that he is eligible to be appointed as a Resolution Professional in respect of the Corporate Debtor and that there are no disciplinary proceedings pending against him with the Board or Indian



Institute of Insolvency Professionals of ICAI. Therefore, we are of the prima facie view that he is provisionally qualified to be appointed as Interim Resolution Professional and the application is filed in accordance with provisions of Code and thus it is a fit case to admit by initiating CIRP against the Corporate Debtor, appointing IRP, Moratorium etc., as per the Code.

7. In view of the above facts and circumstances of the case and by exercising powers conferred on this Adjudicating Authority under Section 7(5)(a) and other extant provisions of the Code, C.P. (IB) No.172/BB/2019 is hereby admitted with the following consequential directions:

(1) We hereby appointed **Shri Gonugunta Murali having Regn. No.IBBI/IPA-001/IP-P00654/2017-2018/11139**, as the Interim Resolution Professional (IRP) to conduct the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor namely **M/s. Unishire Housing LLP** and to carry out the functions as mentioned under the I&B Code, 2016 and the Rules framed by the 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;



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- 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 Securitisation 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 or 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 transaction as may be notified by the Central Government in consultation with any financial 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 the Rules including fees rules as framed by the IBBI from time to time.
- (4) The Board of Directors and all the staff of the Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by the IBBI.
- (5) The IRP is directed to file his progress reports to the Tribunal from time to time about the steps taken in pursuant to the

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CIRP. The IRP is further directed to take expeditious steps so as to complete the process of CIRP within the stipulated time.

(6) Post the case for report of the IRP on **27th August, 2019.**



(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

Krishna




(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

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Deputy/Off. Registrar **14/8/19**
National Company Law Tribunal
Bengaluru Bench
