

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 788 of 2026**

**IN THE MATTER OF:**

**Bhavarpal Kasyap**

**...Appellant**

**Versus**

**Annu Anand and Ors.**

**...Respondents**

**Present:**

**For Appellant : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Aditya Wadhwa, Ms. Bahuli Sharma, Mr. Abhyankar Panth, Ms. Ridhi Arora, Ms. Heena Kochar, Mr. Shantanu Thakur, Advocates.**

**For Respondents : Mr. Rudreshwar Singh, Sr. Advocate with Mr. Abindra Maheshwari, Advocate for R-1 to 145.**

**Mr. Saurabh Jain, Mr. Prayag Jain, Advocates with Mr. Abhimanyu Mittal, IRP in Person for R-146/**

**Mr. Gaurav Mitra, Advocate for Intervener.**

**ORDER**  
**(Hybrid Mode)**

**12.05.2026:** Learned counsel for the Appellant submitted that the Section 7 application has been filed by 145 individuals who were allotted space under the Builder Buyer Agreement in the commercial project. He submits that the Respondents were allottees of space and out of 102 allottees 94 have unlockable units and under Clause 11.1 (Sample Agreement which is filed as Annexure A-4), the allottee/ unitholder will not get the physical possession of the units. It is submitted that the allottees of space are only speculative allottees who have invested money to earn profit out of allotted space and the applicants are clearly covered by the exposition of law laid down

by Hon'ble Supreme Court in ***Mansi Brar Fernandes vs Shubha Sharma and Anr., 2025 SCC OnLine SC 1972***. It is further submitted that the RERA Act, 2016 defines allottee under Section 2 Sub-section (d) and the Respondents do not fit within the definition under Section 2(d). When the Respondents do not fit in definition of allottee under RERA Act, 2016, they cannot initiate proceeding for insolvency against the Corporate Debtor.

2. Learned counsel for the Respondents submits that even if the allotment to the Respondents is of unlockable units, they are allottees in a building and they fulfil definition under Section 2(d) of RERA Act. It is further submitted by learned counsel for the Respondent that present is a case where the Adjudicating Authority has directed for reverse insolvency of only one project and opportunity has been given to the Appellant to complete the project within a period of six months.

3. Learned counsel for the Appellant further submitted that there is attachment under PMLA by the Enforcement Directorate of the commercial project and Writ Petition is pending in the High Court.

4. From the submissions which have been made by the parties question arises as to whether those applicants (Respondent herein) who have been allotted space with unlockable space are covered by the definition of allottees under RERA and the provision for initiation of proceeding under section 7 can be invoked by such Applicants who shall not get physical possession of the units as per their agreement and are only entitled for pecuniary benefits by the agreement. Submissions raised by the parties need consideration.

5. Issue notice. Notice is accepted by learned counsel for Respondents No. 1 to 145. Learned counsel for IRP is also present, who also accepts notice. All respondents being represented; no notice needs to be issued. Shri Gaurav Mitra, learned counsel has appeared for the intervener.
6. Let Reply be filed within two weeks. Rejoinder be filed within one weeks thereafter.
7. List this Appeal on **08.07.2026**.
8. In the meantime, impugned order shall remain stayed.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

*Archana/md*