

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. 2379 ND 2026
IN
C.P. IB 284 (PB) OF 2021

IN THE MATTER OF:
MR. PANKAJ GUPTA

...Applicant No.1

MS. PRACHI JAIN

...Applicant No.2

Versus

MR. NARENDRA KUMAR SHARMA
RESOLUTION PROFESSIONAL
SPACE TOWERS PVT. LTD.

...Respondent No. 1

AND IN THE MATTER OF:

VIVEK KHANNA & ORS

...Financial Creditors

Versus

SPACE TOWERS PVT. LTD.

...Corporate Debtor

Order Pronounced on: 05.10.2026

CORAM:

SHRI MAHENDRA KHANDELWAL
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Vivek Kumar, Ms. Raveena Paniker, Advs.

For the RP : Mr. Karan Gandhi, Mr. Sikhar Tiwari, Mr. Pratham

Bansal, Ms. Riya Jain, Ms. Vidhika Kapoor, Advs.

For the AR : Mr. Vishal, Adv.

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Application has been filed by the Applicants under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016 ("NCLT Rules, 2016") seeking the following reliefs:

"a. Direct the Respondent/Resolution Professional, Mr. Narender Kumar Sharma, to formally admit and recognize the claim of the Applicants as Financial Creditors/Homebuyers under Section 5(8)(f) of the Insolvency and Bankruptcy Code, 2016, in respect of their adjudicated and crystallized claim of Rs. 41,80,000/-arising from the order dated 15.03.2022 of HRERA and Recovery Certificate No. RC/41.8L/2024 dated 28.08.2024, and update the list of Financial Creditors accordingly;

b. Direct the Respondent/Resolution Professional to forthwith place on record before this Hon'ble Tribunal and furnish to the Applicants a complete and true copy of the approved Resolution Plan, including all relevant schedules, annexures and provisions pertaining to the treatment, payment and distribution mechanism applicable to Financial

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Creditors/Homebuyers of the class to which the Applicants belong, as specifically represented by the RP's counsel before this Hon'ble Tribunal on 29.01.2026;

c. Restrain the Respondent/Resolution Professional and/or the Successful Resolution Applicant from acting upon, giving effect to, or implementing any provision or clause of the Resolution Plan that seeks to extinguish, exclude, or provide treatment inferior to other similarly placed homebuyers in respect of the Applicants' adjudicated claim, without prior orders of this Hon'ble Tribunal;

d. Direct the Respondent/Resolution Professional to place on record a revised and updated list of Financial Creditors reflecting the formal admission of the Applicants' claim in accordance with the IBC and the CIRP Regulations, and to furnish the same to all stakeholders;

e. Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

SUBMISSIONS OF THE APPLICANT:

- 2.** The Applicants are homebuyers and Financial Creditors of the Corporate Debtor in respect of Unit No. 54, Tower B-3, in the project “Spaze Privy AT-4”, Sector 84, Gurugram. Possession of the Unit was due in 2015; however, on account of delay, the Applicants approached HRERA, Gurugram, which vide

Order dated 15.03.2022 awarded interest at 9.3% per annum on the amounts paid along with compensation for the increased super area. Subsequently, HRERA issued Recovery Certificate dated 28.08.2024 for an amount of Rs. 41,80,000/-, representing the adjudicated and crystallised liability of the Corporate Debtor.

3. Upon commencement of CIRP against the Corporate Debtor on 21.10.2024, the Applicants filed their claim in Form CA on 04.11.2024 along with the HRERA Order, Recovery Certificate and proof of payment. The IRP acknowledged the claim and included the Applicants in the List of Financial Creditors dated 22.12.2024, albeit marking the same as “under review”. However, after his appointment, the RP, vide email dated 06.09.2025, denied the Applicants' status as Financial Creditors solely on the ground that a conveyance deed had been executed and directed them to file their claim in Form B as Operational Creditors. The Applicants contend that despite repeated correspondence, no formal communication regarding rejection of their claim, along with reasons, was issued as required under Regulation 13(2) of the CIRP Regulations.
4. It is submitted that in May 2025, the RP made execution of the conveyance deed a precondition for handing over possession of the Unit. Consequently, the Applicants executed the conveyance deed on 29.05.2025 under protest

and while expressly reserving their rights to pursue their claims under the IBC and RERA. Possession was thereafter handed over on 02.06.2025. According to the Applicants, execution of the conveyance deed merely transferred title in the Unit and could not extinguish their independent and crystallised claim arising from delay in possession, particularly when the deed was executed under protest.

5. Aggrieved by the refusal of the RP to admit their claim as a Financial Creditor, the Applicants filed IA No. 5568/ND/2025. During the hearing on 29.01.2026, counsel appearing for the RP submitted that the Resolution Plan contained treatment for the Applicants' claim as Financial Creditors, that the RP was willing to accept the claim, and that the same would be treated in accordance with law. Relying upon the said submission, the Applicants withdrew IA No. 5568/ND/2025. It is contended that the withdrawal was induced by the categorical representation made on behalf of the RP and, therefore, the RP is bound by the same.
6. However, despite subsequent emails dated 24.02.2026 and 03.03.2026, the RP did not formally admit the Applicants' claim. Thereafter, vide email dated 01.05.2026, the RP took the position that execution of the conveyance deed and handing over of possession constituted full and final settlement of the Applicants' claims, that no revised list of Financial Creditors would be issued,

and that the Resolution Plan governed the treatment of all claims. The Applicants contend that this position is contrary to the undertaking recorded before this Adjudicating Authority and that the conveyance deed cannot extinguish an independent, adjudicated claim towards delay compensation. It is further submitted that the Applicants were not provided access to the relevant provisions of the Resolution Plan concerning their claim.

7. The Applicants thereafter filed Contempt Petition No. 15/ND/2026, which was dismissed on 04.05.2026 on the ground that, after withdrawal of IA No. 5568/ND/2025, no subsisting order existed capable of being contravened. However, liberty was granted to the Applicants to avail appropriate remedies in accordance with law. The Applicants submit that the dismissal of the contempt petition did not amount to a finding that the RP's conduct or subsequent position was lawful.
8. The HRERA Recovery Certificate represents a crystallised financial liability and constitutes a Financial Debt under Section 5(8) of the IBC. It is contended that, by virtue of Explanation (i) to Section 5(8)(f), amounts raised from allottees under a real estate project have the commercial effect of borrowing, and the Applicants continue to be Financial Creditors notwithstanding execution of the conveyance deed. Reliance is placed upon Pioneer Urban Land and Infrastructure Ltd. v. Union of India and Amit Katyal v. Meera

Agarwal. The Applicants also contend that the RP's failure to communicate reasons for non-admission of their claim violates Regulation 13(2) of the CIRP Regulations and principles of natural justice.

9. Similarly situated homebuyers who have not executed conveyance deeds are being treated as Financial Creditors under the Resolution Plan. According to the Applicants, execution of the conveyance deed is the only distinguishing factor, which cannot constitute a valid ground for exclusion from the Financial Creditor class or for differential treatment. Such exclusion, according to the Applicants, would be contrary to Section 30(2)(b) of the IBC.
10. The Applicants contend that the doctrine of estoppel by conduct applies, as they withdrew their earlier application relying upon the categorical representation made by counsel for the RP before this Adjudicating Authority. The RP, according to the Applicants, cannot subsequently adopt a position contrary to the representation upon which the Applicants acted to their detriment.
11. Lastly, it is submitted that the present dispute concerning recognition and treatment of the Applicants' claim as Financial Creditors arises directly out of and in relation to the CIRP and is, therefore, within the jurisdiction of this Adjudicating Authority under Section 60(5) of the IBC. Since the Resolution Plan is pending approval under Section 31 of the IBC, the Applicants contend

that this Adjudicating Authority may examine whether the Plan provides treatment to them at par with similarly situated Financial Creditors and satisfies the requirements of Section 30(2)(b) of the IBC.

SUBMISSIONS OF THE RESOLUTION PROFESSIONAL:

- 12.** The present Application is frivolous and is an attempt by the Applicant to obtain benefits over and above his entitlement under the CIRP and the Resolution Plan. It is not disputed that the Applicant had booked Unit No. 54, B-3 Tower, in the project “Privy AT-4” and that the Corporate Debtor had failed to hand over possession within the stipulated period of 36 months plus the grace period of six months. Aggrieved by the delay, the Applicant approached HRERA, Gurugram in Complaint No. 2298 of 2021, which was allowed vide Order dated 15.03.2022, directing payment of interest at the prescribed rate of 9.30% per annum for the period of delay.
- 13.** The Corporate Debtor was admitted into CIRP by this Adjudicating Authority vide Order dated 21.10.2024 in C.P. (IB) No. 284(PB)/2021. The commencement of CIRP was challenged before the Hon'ble NCLAT and thereafter before the Hon'ble Supreme Court. The challenge seeking confinement of the CIRP to a single project, namely “Spaze Arrow”, was rejected by the Hon'ble NCLAT, which held that confining the CIRP to one project would result in exclusion of claims arising from other projects. The

said view was subsequently affirmed by the Hon'ble Supreme Court. Thereafter, the appeal against the CIRP commencement order was withdrawn on 22.08.2025.

14. Meanwhile, the Applicant obtained Recovery Certificate No. RC/41.8L/2024 from HRERA for an amount of Rs. 41.80 lakhs pursuant to the Order dated 15.03.2022. The Applicant filed his claim before the IRP on 04.11.2024, which was kept under review. Upon his appointment as RP, the Respondent, in terms of Regulation 4E of the CIRP Regulations, took steps to offer possession and facilitate execution of conveyance deeds in favour of eligible allottees.

15. The Applicant executed the conveyance deed on 29.05.2025 and possession of the Unit was offered on 02.06.2025. The RP submits that these facts are not disputed, except for the Applicant's contention that the conveyance deed was executed under protest.

16. During CIRP, after approval of the CoC, the RP invited expressions of interest in three categories, namely: (i) 13 projects along with the Corporate Debtor; (ii) 12 projects excluding "Spaze Arrow" along with the Corporate Debtor; and (iii) only the "Spaze Arrow" project. The Applicant's project, "Privy AT-4", formed part of the category comprising 12 projects along with the Corporate Debtor. Pursuant to the process, two Resolution Plans were received and placed before the CoC in its 12th meeting held on 15.10.2025. The Resolution

Plan submitted by the Consortium of Mr. Harpal Singh Chawla, Mr. Vipin Sharma, Mr. Bharat Bhushan Kumar and Mr. Deepak Kumar was approved with 96.42% voting share, and the Plan Approval Application is presently pending before this Adjudicating Authority.

17. The Applicant had earlier filed IA No. 5568/ND/2025 seeking similar reliefs, which was withdrawn on 29.01.2026. During the hearing, counsel for the RP submitted that the Resolution Plan contained treatment for the Applicant's claim and that the claim would be accepted and treated in accordance with law. The Applicant thereafter sought to rely upon the said submission as an undertaking and filed Contempt Petition No. 15/ND/2026, which was dismissed by this Adjudicating Authority vide Order dated 04.05.2026.

18. The RP subsequently clarified the Applicant's position vide email dated 01.05.2026. The RP informed the Applicant that his claim stood subsumed within the framework of the Resolution Plan and would be treated in accordance with its terms. The relevant provisions of the Resolution Plan provide that once a conveyance deed has been registered in favour of an allottee, the same shall constitute full and final settlement of all claims against the Corporate Debtor, and no further monetary or other claims shall survive. The Plan also provides that registration of conveyance deeds and

grant of possession are subject to payment and reconciliation of the balance sale consideration, wherever applicable.

- 19.** According to the RP, the Applicant was informed of his treatment under the Resolution Plan, and therefore, the prayers sought in the present Application do not survive. The Applicant cannot seek to stand outside the Resolution Plan and independently claim the benefit of the HRERA Order dated 15.03.2022 and the Recovery Certificate dated 28.08.2024 after having executed the conveyance deed and obtained possession of the Unit.
- 20.** The Applicant, though initially a Financial Creditor in a class, ceased to have a subsisting claim in that capacity after execution of the conveyance deed and receipt of possession, in terms of the treatment provided under the Resolution Plan. The Order dated 29.01.2026, according to the RP, made it clear that the Applicant's claim would receive treatment in accordance with the Resolution Plan, which position was accepted by the Applicant at the relevant time.
- 21.** An individual homebuyer cannot override the commercial wisdom of the CoC or challenge the manner of treatment provided under a Resolution Plan approved with the requisite majority. Reliance is placed upon ***Jaypee Kensington Boulevard Apartments Welfare Association & Ors. v. NBCC (India) Ltd. & Ors., Arun Kumar Jagatramka v. Jindal Steel and Power Ltd., IMR Metallurgical Resources AG v. Ferro Alloys Corporation Ltd.***

and Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, to contend that the commercial wisdom of the CoC, including matters concerning feasibility, viability and distribution, is not open to judicial review except to the limited extent permissible under Section 30(2) of the IBC. Accordingly, it is submitted that the Applicant cannot seek any additional or independent recovery outside the framework of the Resolution Plan.

ANALYSIS AND FINDINGS:

- 22.** We have heard the learned Counsel on behalf of the parties and have perused the pleadings and documents placed on record.
- 23.** The principal issue arising for consideration is whether, after execution of the registered conveyance deed in respect of Unit No. 54, Tower B-3, “Spaze Privy AT-4”, and after receipt of possession of the said Unit, the Applicants can seek a direction to the Resolution Professional to separately admit and recognise the amount of Rs. 41,80,000/- arising from the Order dated 15.03.2022 passed by HRERA and the Recovery Certificate dated 28.08.2024, dehors the treatment contemplated under the Resolution Plan.
- 24.** At the outset, there is no dispute regarding the factual chronology relevant to the present Application. The Applicants had booked the aforesaid Unit in the project of the Corporate Debtor and possession was not delivered within the stipulated period. The Applicants consequently approached HRERA,

Gurugram, which passed an Order dated 15.03.2022 awarding interest on the amounts paid by the Applicants, together with compensation towards the increased super area. A Recovery Certificate dated 28.08.2024 was thereafter issued for an amount of Rs. 41,80,000/-. The Applicants also lodged their claim before the IRP on 04.11.2024, after commencement of CIRP on 21.10.2024. The claim was initially reflected in the list maintained by the IRP as being under review.

25. It is equally undisputed that during the CIRP, the Applicants executed the conveyance deed on 29.05.2025 and possession of the Unit was handed over on 02.06.2025. The Applicants contend that the conveyance deed was executed under protest and that they had expressly reserved their rights in respect of the HRERA claim. However, the fact remains that the conveyance deed was executed and possession was thereafter accepted by the Applicants. The execution of the conveyance deed and handing over of possession are material events which have to be considered while determining the subsistence and treatment of any claim in the CIRP.

26. The Applicants principally rely upon the HRERA Order and Recovery Certificate to contend that their claim stands crystallised and constitutes a financial debt. The Applicants have also placed reliance upon the fact that they were initially reflected as Financial Creditors and upon the submission

made on behalf of the Resolution Professional on 29.01.2026 in the earlier I.A. No. 5568/ND/2025. It is submitted that, acting upon such representation, the Applicants withdrew the earlier Application and that the Resolution Professional is consequently estopped from taking a contrary position.

27.In this regard, it is pertinent to note that I.A. No. 5568/ND/2025 was withdrawn and the Contempt Petition No. 15/ND/2026 filed thereafter was also dismissed vide order dated 04.05.2026, with liberty to the Applicants to avail appropriate remedies in accordance with law. Thus, no operative or subsisting direction survives from the earlier proceedings directing the Resolution Professional to admit the Applicants' claim in a particular manner. The submission made during the hearing that the claim would be treated in accordance with law and the Resolution Plan cannot be construed as an adjudication by this Adjudicating Authority declaring the Applicants entitled to an independent payment of Rs. 41,80,000/-.

28.The Applicants further contend that execution of the conveyance deed merely transferred title and could not extinguish their independently adjudicated claim for delay compensation.

29.The Resolution Professional has specifically placed reliance upon the relevant provisions of the Resolution Plan under which registration of the conveyance

deed in favour of an allottee constitutes full and final settlement of claims against the Corporate Debtor, with no further monetary or other claims surviving thereafter. The Plan also contemplates registration of conveyance deeds and handing over of possession subject to reconciliation and payment of balance sale consideration, wherever applicable.

30. While it is true that the said order may confer upon them the status of decree-holders as per Section 3(10) of the IBC, the debt arising therefrom is not a financial debt within the meaning of Section 5(8)(f). Consequently, the present claim cannot be classified as that of 'creditors in class' under the Code.

31. The Applicants' contention that similarly situated allottees who have not executed conveyance deeds continue to be treated as Financial Creditors also does not, by itself, establish a case for the relief sought. The Applicants' factual position is materially different because, admittedly, the Applicants have executed the conveyance deed and have obtained possession. Mere comparison with allottees who are in a different factual position cannot confer upon the Applicants an entitlement to disregard the consequences of the transaction voluntarily completed by them.

32. Further, in the present case, the effect of registration of the conveyance deed is specifically provided under the Resolution Plan. Clause 5.1.6.11.4 provides that once the conveyance deed has been registered in favour of the concerned

Allottee, the same shall be considered as full and final settlement of any and all claims against the Corporate Debtor and no further claims, whether monetary or otherwise, shall remain against the Corporate Debtor. In the present case, the Applicants admittedly executed the conveyance deed on 29.05.2025 and obtained possession of the Unit on 02.06.2025. Consequently, the effect stipulated under Clause 5.1.6.11.4 operates against the Applicants. Thus, even assuming that the HRERA Order and Recovery Certificate had conferred upon the Applicants the status of decree-holders, the claim arising therefrom does not survive against the Corporate Debtor in view of the express terms of the Resolution Plan upon registration of the conveyance deed. The decree-holder status, therefore, cannot be relied upon to sustain any further claim against the Corporate Debtor.

33. Further it is to be noted that the Applicants, being individual homebuyers, cannot seek to challenge or alter the treatment accorded to their claim under the Resolution Plan. In *Jaypee Kensington Boulevard Apartments Welfare Association & Ors. v. NBCC (India) Ltd. & Ors.*, the Hon'ble Supreme Court has held that an individual homebuyer cannot assail the Resolution Plan contrary to the collective decision of the class.

34. Accordingly, the Applicants cannot be recognised as Financial Creditors/Homebuyers in respect of the claim in question. Further, in view of

Clause 5.1.6.11.4 of the Resolution Plan, even the claim founded upon the HRERA Order and Recovery Certificate does not survive against the Corporate Debtor after registration of the conveyance deed. The Applicants, therefore, cannot seek any treatment or payment in respect of the said claim under the CIRP as a Financial Creditor or otherwise.

35. Accordingly, the present **I.A. No. 2379/ND/2026** is hereby **dismissed**.

No order as to costs.

-SD/-

ATUL CHATURVEDI
MEMBER (TECHNICAL)

-SD/-

MAHENDRA KHANDELWAL
MEMBER (JUDICIAL)