

NATIONAL COMPANY LAW TRIBUNAL, KOCHI BENCH

Date: 09.02.2024

<i>In re</i>	IA(IBC)/325/KOB/2023	Applicant	Mr. N R Krishnan
		Unni, PCS	
		RP	Mr. Dileep K P.
	IA(IBC)/349/KOB/2023	Applicants	Mr. Akhil Suresh, Advocate
		Respondent	Mr. N R Krishnan Unni, PCS
			Mr. Ahaan Mohan, Advocate
		RP	Mr. Dileep K P.
	IA(IBC)/348/KOB/2023	Applicants	Mr. Akhil Suresh, Advocate
		Respondent	Mr. N R Krishnan Unni, PCS
			Mr. Ahaan Mohan, Advocate
		RP	Mr. Dileep K P.
		R A	Mr. Vinod P V
	IA(IBC)/351/KOB/2023	Applicants	Mr. Pradeep Joy, Advocate

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

	Respondent	Mr. Ahaan Mohan, Advocate
	RP	Mr. Dileep K P.
IA(IBC)/363/KOB/2023	Applicants	Mr. Pradeep Joy
	Respondent	Mr. Ahaan Mohan, Advocate
	RP	Mr. Dileep K P.
IA(IBC)/381/KOB/2023	Respondent	Mr. Ahaan Mohan, Advocate
	RP	Mr. Dileep K P.
IA(IBC)/324/KOB/2023	Applicants	Mr. A Kevin Thomas, Advocate
	Respondent	Mr. N R Krishnan Unni, PCS
		Mr. Ahaan Mohan (For RP)
	RP	Mr. Dileep K P.
IA(IBC)/485/KOB/2023	Applicants	Mr. Pradeep Joy, Advocate
	Respondents	Mr. Vinod P V, Advocate
	RP	Mr. Dileep K P

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

IA(IBC)/360/KOB/2023	Applicants	Mr. Akhil Suresh, Advocate
	Respondent	Mr. N R Krishnan Unni, PCS
	RP	Mr. Dileep K P.

The aforementioned counsels/Authorized Representatives
appears in these applications respectively.

**Common Order Pronounced in the above-mentioned
Interlocutory Applications, *Vide* separate sheets.**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA(IBC)/325/KOB/2023

(U/s 30(6), 31 of IBC, 2016)

&

IA(IBC)/381/KOB/2023

*(U/s 60(5) IBC R/w Rules 11 & 15 NCLT Rules,
2016)*

&

IA(IBC)/324/KOB/2023

(U/s 60(5) IBC Code, 2016)

&

IA(IBC)/349/KOB/2023

(U/s 60(5) r/w Rule 11 of IBC Code, 2016)

&

IA(IBC)/348/KOB/2023

(U/s 60(5) r/w Rule 11 of IBC Code, 2016)

&

IA(IBC)/351/KOB/2023

*(U/s 60(5) IBC R/w Rules 11 & 15 NCLT Rules,
2016)*

&

IA(IBC)/363/KOB/2023

(U/s 60(5) IBC R/w Rules 11 NCLT Rules, 2016)

IN

CP(IBC)/1/KOB/2021

&

IA(IBC)/485/KOB/2023

(U/s 60(5) IBC Code, 2016)

IN

IA(IBC)/325/KOB/2023

IN

CP(IBC)/1/KOB/2021

&

IA(IBC)/360/KOB/2023

IN

CP(IBC)/1/KOB/2021

In the matter of:

***M/s Nucleus Premium Properties
Private Limited***

IA(IBC)/325/KOB/2023

Memo of Parties:

1. Mr. Dileep K P
Resolution Professional of M/s Nucleus
Premium Properties Private Limited.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

IBBI/1PA/IP-001/IP01310/2018-
2019/12220, Veluthedath House,
Ponnuruni, Vytilla P O, Kochi, Pin. 682019

...Applicant

IA(IBC)/381/KOB/2023

Memo of Parties:

1. Dr Johnson K Issac
Flat No.207, Kudukkachira House, SRM
Road, National Heritage Apartments
Kaloor, Ernakulam. Pin: 682012
2. Vijayan Pillai S
13/1032 R, Pratheeksha, Parekkattil
Cross Road, Karimakkad, Vazhakkalla,
Ernakulam, Pin: 682021

...Applicants

-Versus-

1. M/s Nucleus Premium Properties Private
Limited,
Registered office at 34/239 Near Mariya
Park, Pipeline Road, Edapally, Ernakulam,
Pin: 682024
2. Mr. Dileep KP,
Resolution Professional, M/s Nucleus
Premium Properties Private Limited,
Veluthedath House, Ponnuruni, Vytilla
PO, Ernakulam- 682019
3. M/s Buildwell,
Represented by its Managing Partner,
Saji Kumar K P, Registered Office at
50/1112-D5-A, 3rd Floor, Muhammed Haji
Building, Edapally, Ernakulam.

... Respondents

IA(IBC)/324/KOB/2023

Memo of Parties:

1. Arjun S V
Villa No. 14, Nucleus Heyday,
Thuthiyoor, Kakkanad,
Ernakulam – 682037
2. Anoop John
Classic-6, Jairaj Summit, Padamugal,
Thrikakkara P O, Ernakulam – 682021
3. Janeesha Chandran
KNRA – 63, Kairali Nagar,
Maradu P O, Ernakulam – 682034
4. G Nagendran
49/812 A3, Gokul Mahal, Mercy Lane,
Elamakkara, Ernakulam – 682026
5. Anish P Joseph
Parackal House, Parappu, Ayyappancoil,
Idukki, Pin: 685507

...Applicants

-Versus-

1. Mr. Dileep KP,
Resolution Professional, M/s Nucleus
Premium Properties Private Limited,
Veluthedath House, Ponnuruni, Vytilla
PO, Ernakulam- 682019
2. M/s Buildwell,
Represented by its Managing Partner,
Saji Kumar K P, Registered Office at
50/1112-D5-A, 3rd Floor, Muhammed Haji
Building, Edapally, Ernakulam.

.... Respondents

IA(IBC)/349/KOB/2023

Memo of Parties:

1. Bennila Balakrishnan
Bani Bhavan, Manacaud, Mavelikkara P O,
Alappuzha, Pin: 690101
Represented by Power of Attorney,
Mr. Benilal Balakrishnan
Beni Bhavan, Manakadu, Mavelikkara P O,
Alappuzha, Pin: 690101
2. Sreejith Kuttan
Keppallil, Elippakulam P O, Alappuzha
Represented by Power of Attorney,
Mr. Benilal Balakrishnan
Beni Bhavan, Manakadu, Mavelikkara P O,
Alappuzha, Pin: 690101

...Applicants

-Versus-

1. Mr. Dileep KP,
Resolution Professional, M/s Nucleus
Premium Properties Private Limited,
Veluthedath House, Ponnuruni, Vytilla
PO, Ernakulam- 682019
2. M/s Buildwell,
Represented by its Managing Partner,
Saji Kumar K P, Registered Office at
50/1112-D5-A, 3rd Floor, Muhammed Haji
Building, Edapally, Ernakulam.

.... Respondents

IA(IBC)/348/KOB/2023

Memo of Parties:

1. Rajini Sunilkumar
Krishna Nivas, Kochuparambil, Behind
Carmal Hospital, Ashokapuram, Aluva,
Ernakulam, Pin: 683101

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

2. Sunil Kumar
Krishna Nivas, Kochuparambil, Behind
Carmal Hospital, Ashokapuram, Aluva,
Ernakulam, Pin: 683101

...Applicants

-Versus-

1. Mr. Dileep KP,
Resolution Professional, M/s Nucleus
Premium Properties Private Limited,
Veluthedath House, Ponnuruni, Vytilla
PO, Ernakulam- 682019
2. M/s Buildwell,
Represented by its Managing Partner,
Saji Kumar K P, Registered Office at
50/1112-D5-A, 3rd Floor, Muhammed Haji
Building, Edapally, Ernakulam.

.... Respondents

IA(IBC)/351/KOB/2023

Memo of Parties:

1. Dr. Jose Paul
S/o Pavunny
7C-Noel Touch Stone, Crash Road,
Vazhakkala, Thrikkakara, Ernakulam, Pin:
682021
2. Liaquat Babu
S/o Mohammed Eliyas
Trinity World, Chittethukara, Venus Block,
Flat 11E, Kakkanad, Ernakulam, Kerala
Pin: 682030
3. Jesna Rahiman
W/o Anwer S.M Saleh

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

Perumthara, Cara 118, Aluva Desom,
Aluva West Village, Thottakkattukara P.O,
Ernakulam, Kerala Pin:683108

4. Jayakumar
S/o Kalath Gopala Menon
A6 Narayana Residency, Kunnath Lane,
Near Thiruvambady Temple, Thrissur,
Pin: 680022
5. Rajeev Pillai
Flat no. 407. Royal Tower, Exotica
Shankarnagar, Raipur, Chhattisgarh, Pin:
492001
6. Jeena Tigin Abraham
W/o Tigin Raj Abraham
Parayathukattil House, Palace Road
Pailakara, Thiruvalla, Pathanamtitta,
Kerala - 689101
7. Dr. Sheeba Sajan alias Sheeba Padiyath
W/o Sajan K H
Padiyath House, Lokamaleshwaram
Village, Kodungallur Taluk, Thrissur,
Kerala -680664
8. Maya Unnikrishnan
PB 270, TPO IPD BAB, Abu Dhabi, UAE
9. Antony Cheriyan
1C, Skyline Marble Arch Apartments,
Judges Avenue, Kaloor, Ernakulam Pin:
682 017
10. Brijesh Kumar
S/o M P Sasikumar

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

39/290 Naikkaraveed, Asary Lane,
Karakkamuri, Ernakulam, Kerala,
Pin:682011

11. Dr. Sujaya Rajashekhar
W/o Rajasekhar
Lakshmi Illam, L2, Jainagar, Medical
College P.O, Trivandrum, Kerala, Pin:
695011

12. Afeesudhien Sujith
S/o Afeesudhein
Apartment. 12A, Chancellor, Near Cardina
School, Puthuvamoola, Chengalamoola
Road, Thrikkakkara P.O, Ernakulam,
Kerala, Pin: 682021

...Applicants

-Versus-

1. Resolution Professional,
M/s Nucleus Premium Properties Private
Limited, Veluthedath House, Ponnuruni,
Vytilla PO, Ernakulam- 682019
2. Committee of Creditors of M/s Nucleus
Premium Properties Private Limited,
Represented by Mr Dileep K P, RP, M/s
Nucleus Premium Properties Private
Limited
34/239C, Near Mariya Park, Pipeline
Road, Padivattom, Edappally, Ernakulam,
Pin: 682024
3. M/s Buildwell,
50/1112-D5-A, 3rd Floor, Muhammed Haji
Building, Edapally, Ernakulam, Kerala,
682024
4. Investigating Authority

Insolvency and Bankruptcy Board of
India, 7th Floor, Mayur Bhawan, Shankar
Market, Connaught Circus, New Delhi-
110001

.... Respondents

IA(IBC)/363/KOB/2023

Memo of Parties:

1. Ajil VA,
Nucleus Riva Villa, Near Mahindra Service
Centre, Thattampady, Edapally North,
Kochi- 682024
2. Paveen Pankajakshan
B 503, Ashok Vihar, Off Military Road,
Marol, Andheri East, Mumbai- 400072
3. Gibin Abraham
Pulikal Peniel, 1/67, Bismi Gardern, II
Avenue, Edappally P.O, Kochi-682024
4. Mathew Francis Alapatt
F13, Express Estate, KK Road, Kaloor P.O,
Ernakulam- 682017
5. Ravi Sreedharan Chulliparambil
Laavanya, Near Sree Krishna HSG
Complex, New Barampur, Vasai Road,
Mumbai 401202
6. Samuel Johnson
Johnson Manalayyathu Bungalow,
Mulavana P.O, Kollam District, Pin-
6910503
7. Beena Varghese
Pediyl Olives, Thittamel, Chengannur,
Kerala, Pin: 689121

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

8. Vibin Vijayakumar
Kizhakkevedu, Erikkavu, Karthikappally
P.O, Alleppey- 690 519
9. Shamnad Hameed Ziyad
Villa No. 15, Nucleus Riva Villas, Edapally
North, Pin: 682024
10. Sudheer Kumar P
Villa No. 8, Nucleus Riva villas, Edapally
North, Pin: 682024

...Applicants

-Versus-

1. Mr. Dileep K P
Resolution Professional
M/s Nucleus Premium Properties Private
Limited, Veluthedath House, Ponnuruni,
Vytilla P O, Ernakulam – 682 019
2. Committee of Creditors of M/s Nucleus
Premium Properties Private Limited,
Represented by Mr Dileep K P, RP, M/s
Nucleus Premium Properties Private
Limited
34/239C, Near Mariya Park, Pipeline
Road, Padivattom, Edappally, Ernakulam,
Pin: 682024
3. M/s Buildwell,
50/1112-D5-A, 3rd Floor, Muhammed Haji
Building, Edapally, Ernakulam, Kerala,
682024
4. Investigating Authority
Insolvency and Bankruptcy Board of
India, 7th Floor, Mayur Bhawan, Shankar
Market, Connaught Circus, New Delhi-
110001

.... Respondents

IA(IBC)/385/KOB/2023

Memo of Parties:

1. Shafeeque Kadambot Ibrahim,
Kadambot, V Bazar, Madavanna PO,
Trichur, Pin 680666

...Applicant

-Versus-

1. Mr Dileep K P
Resolution Professional
M/s Nucleus Premium Properties Private
Limited, Veluthedath House, Ponnuruni,
Vytilla P O, Ernakulam – 682 019
2. Committee of Creditors of M/s Nucleus
Premium Properties Private Limited,
Represented by Mr Dileep K P, RP,
Veluthedath House, Ponnuruni, Vytilla P
O, Ernakulam – 682 019
3. M/s Buildwell,
50/1112-D5-A, 3rd Floor, Muhammed Haji
Building, Edapally, Ernakulam, Kerala,
682024

.... Respondents

IA(IBC)/360/KOB/2023

Memo of Parties:

1. Insight Media City India Private Limited
XI-234B, near Gandhi Square, Maneed
Piravom, Ernakulam, Pin. 686664

... Applicant

-Versus-

1. Dileep K P
Resolution Professional of M/s Nucleus
Premium Properties Private Limited.

For the Applicant : Mr. Akhil Suresh., Adv.
For the Respondents : Mr. Ahaan Mohan, Adv.,
Mr. Dileep K P, RP
Mr. N R Krishnan Unni, CS
Mr. Vinod P V, Adv (R2)

**IA(IBC)/351/KOB/2023 & IA(IBC)/363/KOB/2023 &
IA(IBC)/485/KOB/2023:**

For the Applicant : Mr. Pradeep Joy, Adv.
For the Respondents : Mr. Ahaan Mohan, Adv.,
Mr. N R Krishnan Unni, CS
Mr. Vinod P V, Adv (R3)

IA(IBC)/360/KOB/2023:

For the Applicant : Mr. Akhil Suresh., Adv.
For the Respondents : Mr. Dileep K P, RP,

ORDER

Per: Coram

1. M/s Nucleus Premium Properties Private Limited (hereinafter referred to as 'Corporate Debtor' or 'CD') was admitted for Corporate Insolvency Resolution Process ((hereinafter referred to as 'CIRP') by this Tribunal on 18.11.2021 in CP(IBC)/1/KOB/2021.
1. IA(IBC)/325/KOB/2023 is filed under section 30(60) and section 31 of the Code for the approval of the Resolution Plan. All the

remaining Interlocutory Applications are filed by the homebuyers/allotees of the Corporate Debtor for the relief either to reject the resolution plan or to send back the Resolution Plan to the Committee of Creditors (hereinafter referred as 'CoC') for reconsideration or reject the Resolution Plan for non-compliance of Section 30(2) of the Code or to declare the voting of the Resolution Plan submitted by the Resolution Applicant as null and void and to intervene in the application filed by Respondent as IA (IBC)/325/KOB/2023. ***Since common issues and questions of laws are raised in all these above applications, they have been taken up together and a common order is passed.***

IA(IBC)/325/KOB/2023

2. This application is filed under section 30(60) and section 31 of the Code for the approval of a resolution Plan in respect of M/s Nucleus Premium Properties Private Limited, the Corporate Debtor. The Resolution Professional filed the present application on 01.08.2023 for approval of the Resolution Plan, which was approved by the CoC with a 100 per cent in its 12th CoC held on 28/07/2023.
3. The facts as narrated in the application are summarised hereunder:
4. The underlying Company Petition CP(IBC)/01/KOB/2021, filed by Mr Anoop John & 3 others against the Corporate Debtor under

Section 7 of the Code, was admitted by this Tribunal and Corporate Insolvency Resolution Process initiated against the Corporate Debtor on 18.11.2021. Mr Dileep K P, IBBI/1PA/IP-001/IP01310/2018-2019/12220 was appointed as the Interim Resolution Professional (hereinafter referred to as 'IRP'). The CoC in its first meeting held on 30.12.2021 decided to appoint the IRP as the Resolution Professional ('RP').

5. The Corporate Debtor has been undertaking Real Estate Projects which were delayed and under various stages of construction. The RP admitted 238 claims till 90 days which is the maximum period allowed for submission of claims as follows:

Sl. No.	Creditors	No. of Claims admitted	Amount of Claims admitted Rs in crore
1	Secured financial creditors (other than financial creditors belonging to any class of creditors)	1	1.41
2.	Unsecured Financial Creditors belonging to any class of creditors	199	111.89
3.	Operational Creditors (Employees)	7	0.35
3.	Operational Creditors (Government)	3	14.61

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

4.	Operational Creditors (other than Workmen and Employees and Government Dues)	27	10.36
	Total	237	138.62

6. The constitution of CoC consists of 199 homebuyers with a 98.75% voting share and one financial creditor, State Bank of India with a 1.25% voting share. Homebuyers are represented by the Authorised Representative, Mr Mohan TS, an Insolvency Professional approved by this NCLT on 17.02.2022.
7. The CIRP began on 18.11.2021, with an extension of 330 days due to an influx of homebuyer claims and the impact of the Covid third wave. During this period, two bids were received, one from the Ex-promoter/suspended director, but no Resolution Plan was submitted. After issuing a second Expression of Interest (EOI), a draft Resolution Plan by Mr. Sumit Khanna was rejected in the 6th CoC meeting with 100% voting rights. Subsequently, project-wise resolution proposals were sought and approved by the Tribunal on 04.11.2022.
8. In the 8th CoC on 14.11.2022, decided that the Resolution Professional to publish one more Form G inviting EOI. Two EOIs were received from M/s Buildwell and M/s BR Nirman. Despite satisfying eligibility criteria under Section 29A of the Code, the

project-wise Resolution Plan submitted by Raymound Project, Riva Apartments, and Eleganza Projects initially did not comply with mandatory provisions. After modifications and resubmission, both Resolution Plans were subject to homebuyer negotiations from 18.01.2023 to 22.01.2023, followed by e-voting from 28.01.2023 to 29.01.2023.

9. In the voting results, Plan A (Buildwell) received 41.99% in favor, while Plan B (BR Nirman) had 0.87% approval. Due to the failure of Plan A in a re-voting attempt, the Tribunal ordered liquidation on 17.03.2023 vide IA(IBC)/74/KOB/2023. While the liquidation process was going on, Raymound and Riva Project Allottees Association along with a group of home allottees have preferred an appeal in Hon'ble NCLAT Chennai against the order of liquidation, in which the Hon'ble NCLAT ordered to keep the order of liquidation in abeyance, and the CoC was directed to reconsider the modified Resolution Plan by M/s Buildwell.
10. The modified Resolution Plan by M/s Buildwell underwent voting on 26.07.2023 to 27.07.2023, with 78.19% of home allottees voting in favor. The 12th CoC on 28.07.2023 voted in favour of the Resolution Plan with 100% voting.
11. As per the order of Hon'ble NCLAT, the order of Liquidation remains suspended till 02.08.2023. This application was filed by the Resolution Professional for the approval of the Resolution Plan on 01.08.2023.

12. The Successful Resolution Applicant had duly accepted the 'Letter of Intent' which was issued by the Resolution Professional as per the provisions of RFRP on 28.07.2023.
13. The Successful Resolution Applicant has provided a cash security deposit of Rs 26,16,035/- (Rupees twenty-six lakhs sixteen thousand and thirty-five only) in the designated Resolution Account, copy of bank statement evidencing the same attested by SBI, Edapally Branch has been produced as Annexure E.
14. The Applicant has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations which a Resolution Plan is required to adhere to, as follows:

Section of the Code/Reg.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?		Yes

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

29A	Whether the Resolution Applicant is eligible to submit a resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority	Notarised affidavit in pages no.38 to 43	Yes
30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Notarised affidavit in pages no.38 to 43	Yes

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

30(2)	<p>Whether the Resolution Plan-</p> <p>a) Provides for the payment of insolvency resolution process costs?</p> <p>b) Provides for the payment to the operational creditors?</p> <p>c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?</p> <p>d) provides for the management of the affairs of the corporate debtor?</p> <p>e) provides for the implementation and supervision of the Resolution Plan</p> <p>f) contravenes any of the provisions of the law for the time being in force?</p>	<p>4.3.1</p> <p>4.3.2</p> <p>NA</p> <p>7.2</p> <p>7.2.2</p> <p>4.1.9</p>	<p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Section 30(4)	<p>Whether the Resolution Plan</p> <p>(a) is feasible and viable, according to the CoC?</p> <p>(b) has been approved by the CoC with 66% voting share?</p>	<p>4.1.10</p> <p>NA</p>	<p>Yes</p> <p>Yes</p>

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	7.2.2	Yes
Regulation 35A	Where the resolution professional made a determination if the CD been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	6.2.(iii) 6.2.(iv) 6.2.(v)	Yes
Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	4.3.2	Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	4.3, 6.1	Yes

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

	(a) it addresses the cause of default?	3.1.2	Yes
	(b) it is feasible and viable?	4.1.10	Yes
	© it has provisions for its effective implementation?	7.2, 7.2.2	Yes
	(d) it has provisions for approvals required and the timeline for the same?	7.2.4	Yes
	(e) the resolution applicant has the capability to implement the resolution plan?	4.1.5	Yes
Regulation 39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	6.2	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	7.5	Yes

15. As required by Section 30(1) read with Regulation 39(1)(a) of the CIRP Regulations, the Applicant submits that the Resolution Applicant has submitted a certificate of eligibility under Section 29A of the Code vide notarized affidavit dated 29.11.2022. In

terms of Regulation 39(1)(c) of the CIRP Regulations, an undertaking has been submitted by the successful Resolution Applicant, disclosed on page 99 of the application.

16. The applicant has filed a Compliance Certificate in prescribed form i.e., Form "H" in compliance with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) regulations 2016, along with copy of Bank statement of receipt of performance security as required under regulation 36B(4A) is produced as Annexure E.

DETAILS OF RESOLUTION PLAN/PAYMENT SCHEDULE

17. The Successful Resolution Applicant will bring in Rs 2,61,60,347/- (Rs. Two crores Sixty-One lakhs Sixty Thousand and three hundred and forty-seven only) towards the total Resolution amount which will be paid as follows.

Description	Amount	Proposed payments
Insolvency Resolution Cost	Rs.93,61,000/-	Within 3 months of approval date (Date of order of NCLT)
Amount payable to secured financial creditor (State Bank of India)	Rs.1,41,58,032/-	Within 6 months of approval date (Date of order of NCLT)
Amount payable to operational creditors - Employees	Rs. 4,54,815/-	Within 6 months of approval date (Date of order of NCLT)

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

Amount payable as settlement of claims of Verdant allottees	Rs.21,86,500/-	Within 18 months of approval date (Date of order of NCLT)
Total	Rs.2,61,60,347/-	

18. Resolution Professional further hereby confirm as follows with regard to the mandatory contents of the resolution Plan in terms of sub section 2 of section 30 of IBC, 2016.

- The resolution plans submitted by the resolution applicants were found to comply with IBC and various regulations thereunder.
- The Plan provided for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of the other debts of the corporate debtor
- It provided for the payment of debts of operational creditors in such manner as specified by the Board which shall not be less than-

(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53;

(ii) the amount that would have been paid to such creditors. If the amount to be distributed in accordance with sub-section (1) of section 33 in the event of a liquidation of the corporate debtor be distributed under the resolution plan had been distributed in

accordance with the order of priority in sub-section (I) of section 53 whichever is higher.

- It provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (I) of section 53 in the event of the liquidation of the corporate debtor.
- It provides for the management of the affairs of the corporate debtor after approval of the resolution plan.
- It provides for the implementation and supervision of the resolution plan.
- The plan did not contravene any of the provisions of the law for the time being in force.
- The plan conforms to such other requirements as specified by the Board.

19. Upon the Effective Date the Resolution Applicant shall hold the properties and assets of the Corporate Debtor in trust for the Financial Creditors of the company. The Resolution Applicant shall supervise the implementation of the plan and do all such acts, deeds, matters and things as may be necessary, desirable, or expedient in order to implement or give effect to this plan in accordance with its terms. The Resolution Applicant shall act under the supervision of the respective Project Monitoring

Committee in case of the construction & handing over of the under-constructed Apartments & Villas.

20. On and from the Effective Date the Resolution Applicant shall take over the management of the Nucleus Premium Properties Private Limited and shall acquire the management control inter alia by taking the following measures:

- a) All existing Directors of the company shall be deemed to have resigned and vacated their office. The Board of Directors of the company shall be restored and reconstituted by the Resolution Applicant. The reconstituted board shall be entitled to exercise all powers of the Board of Directors of the company under the applicable laws.
- b) All existing employees of the company shall be deemed to have resigned and new employees shall be appointed by the Resolution Applicant.
- c) All relevant forms and all necessary actions in relation to the resignation or existing directors and appointment of new directors and key managerial persons shall be upon completion of the action contemplated in the Resolution Plan, the Resolution Applicant together with the persons assigned by the Resolution Applicant shall hold 100% share capital of the company effectuated.
- d) The Auditors of the company shall be deemed to have vacated office and new person/firm nominated by the Resolution

Applicant shall be designated and appointed as the Auditor of the company.

- e) All powers of attorneys and/or other corporate authorizations or mandates issued by the company to any persons to enable such person to carry out various functions of the company, shall stand revoked with immediate effect as on the Effective Date. The reconstituted Board of Directors of the company shall be entitled to authorise such person as it deemed fit to carry out such functions of the company, Sign and execute various documents and represent the company and to operate the bank accounts of the Company.

21. The Resolution Professional further submitted that the contents of the Resolution Plan submitted by the Resolution Applicants were found to comply with the provisions of the Code and various regulations thereunder

Brief facts of the Connected Cases:

IA(IBC)/381/KOB/2023

22. The applicants are the allottees of the Nucleus Raymond Villa Project of the Corporate Debtor. There are 14 villas on this project, seven villas are nearing completion, land of five among them is registered in the name of allottees. The applicants are the allottees and registered holders of land in their name. The main contention of the applicants is that to canvass the voting share of the majority

stakeholders, the resolution applicant came up with the present new plan allowing a 27.84 percent discount to allottees of the Apartment and 12.47 percent discount to the allottees of villas on the receivables, reduction of this account resulted in unfair and unequal distribution of assets of the Corporate Debtor to a class of purchasers who have same footing with others is against the statutory rights of dissatisfied purchasers granted under the Transfer of Property Act, 1882.

23. Also stated that the Resolution Professional failed to take care of the properties of the CD and the obligation of the CD viz-a-viz the Resolution Professional as a trustee of its properties agreed to be sold in the capacity as a seller of immovable properties which are imposed upon them u/s 55(1)(e) of the Transfer of Property Act, 1882 r/w section 15 of the Trust Act and the same got discharged without due process of law. And stated that the overall scheme of the resolution plan violates the statutory rights of the Purchasers guaranteed under the Code, Indian Contract Act, 1872, Trust Act and Transfer of Property Act, 1882.

24. Respondent no 2 filed counter stating that the Applicants herein voted for the Resolution Plan and stated that a it is clear from the Resolution Plan that a uniform 5 percent escalation has been applied to the agreed construction cost and the cost of completion shall be divided only amongst the 38 apartment allottees on a pro-rata basis i.e., Rs1,245/- per square foot and further stated that receivables due

from the apartment allottees have been deducted from the total construction cost and only the balance amount has been distributed on a pro-rata basis to prevent any undue advantage to any allottees. Cost of competition of common amenities has been spilt between Apartment and Villas allottees using objective metric. The receivables to be paid by the allottees as per the Resolution Plan are in line with the findings of the Special Receivables Audit and no discount on the same has been offered on the same to any of the allottees.

IA(IBC)/324/KOB/2023

25. The applicants are the allottees/homebuyers of Nucleus Heyday Villa Project which was constructed by the Corporate Debtor. The grievance of the applicants is that construction of their villas/houses are almost complete and is registered in their name, they are required to pay additional amounts for balance construction work and if they fail to comply, the Resolution Applicant will automatically have the right to seize and sell their properties. The Clause 5.5.2.5.1 in the resolution plan allowing the resolution applicant to automatically cancel registration is absolutely illegal and untenable and that becomes a direct violation right to property under Article 300A of the Constitution of India, hence the Resolution Plan is in contravention of Section 30(2)(e) of the Code.
26. Respondent no 1 filed counter stating that the application is bad for the non-joinder of proper and necessary parties. Further

stated that the contention raised by the applicants is a gross misrepresentation of the Resolution Plan and stated that the sale would be contingent on the repeated non-payment of the amounts due by the applicants and there is no “automatic” cancellation of their allotments, all steps proposed to be taken will be as per the applicable laws.

27. Respondent no 2 in his counter stated that the applicant does not have locus standi to challenge the Resolution Plan. The statutory right to challenge the Resolution Plan arises u/s 61(3) of the Code, only when the adjudicating authority approves the Resolution Plan. Even if the Applicants are aggrieved by the approval of the Resolution Plan, remedy lies before the Hon’ble NCLAT.

IA(IBC)/349/KOB/2023 and IA(IBC)/348/KOB/2023:

28. As both the Interlocutory Applications (herein after referred as IA) are having similar facts, pleadings are considered together. The Applicants in both the IA are homebuyers/allottees of Nucleus Riva Apartments which was being constructed by the Corporate Debtor. The Applicants in IA(IBC)/349/KOB/2023 had jointly entered into an agreement for sale and construction with the Corporate Debtor for the purchase of Apartment No. ‘2C’ and the Applicants in IA(IBC)/348/KOB/2023 had jointly entered into an agreement for sale and construction with the Corporate Debtor for the purchase of Apartment No. ‘1C’ and stated that the applicants in both the IA’s had duly filed their claim in liquidation much before the 2nd respondent

had filed their resolution plan on 20.07.2023 circulated to the CoC on 22.07.2023. Hence, the 2nd Respondent had erred in not considering the claim filed by them. Also, the Resolution Applicant proposes the following resolution of their claims against the under-construction Apartments: -

f. The Resolution plan provides for special treatment for allottees who have not submitted their claim as part of the CIRP process. The allottees of apartments 1C, 2C and 73 have not submitted their claim as on the date of RFRP (Request for Resolution Plan) and hence the allotment by the Corporate Debtor for the aforementioned apartments stands cancelled and these 3 units shall be part of the saleable inventory of the Resolution Applicant. The resolution applicant proposes to refund 50% of the amount the allottees have paid the Corporate Debtor as part of the allotment of apartment to them. The proposed 50% of the amount paid will be refunded only after the subsequent sale of such apartments by the resolution applicant.

g. To claim the 50% amount paid by them to the Corporate Debtor the Allottee shall submit to the Chairman of the Project Monitoring Committee of the Nucleus Riva Apartment Project the Proof of their Allotment and Proof of Bank Payments done by them to the Bank Account of the Corporate Debtor along with other proof of payment if any. The decision of the Project Monitoring Committee shall be final on the submitted proofs.

29. The Applicant in both the applications further submitted that there is a deemed admission of the claim of the Applicants for the fact that the 2nd Respondent proposes to pay 50% of the amount paid by the Applicants and stated that the Applicants herein cannot offer a different treatment to allottees who have not submitted their claim from allottees who have filed their claim, this differential treatment for the Applicants herein have directly contravened Regulation 36 of the IBBI.
30. The construction of the Applicants apartments is almost complete, they are required to pay additional amounts under the guise of payments for balance construction work and if they fail to comply, the Resolution Applicant will automatically have the right to seize their properties and sell it to any other person. Apart from this, the Resolution Plan is also unlawful due to failure to address payments of statutory dues including dues of the GST department, among others. In this regard, the applicant submits that the present Resolution Plan contravenes the provisions of law for the time being in force and is therefore in direct contravention of S. 30(2) of the I&B Code and challenges the overall viability of the Resolution Plan.
31. In IA(IBC)/349/KOB/2023 Respondent No.1 in his reply stated that verifying affidavit filed in support of the Application has been signed by one Mr Benilal Balakrishnan s/o Balakrishnan Nanu, i.e. neither of the Applicants. Furthermore. the only Power of Attorney filed with this is dated 06.10.2017 and does not authorise Mr Benilal

Balakrishnan to file the instant Application or, for that matter, represent the principals therein in any judicial proceedings hence the Application for non-joinder of proper and necessary parties.

32. And stated that the Applicants submitted their claim in Form D with the respondent in his capacity as the Liquidator, thereafter the Respondent No.1 has not received any claims from the Applicants herein. The only communication received in connection with the Applicants was vide email dated 21.08.2023, which was sent by the Counsel for the Applicants and not by the Applicants themselves almost a month after the approval of CoC and 650 days after the CIRP order and no explanation is provided by the Applicants herein for their failure to file their claims during the Resolution process.
33. Respondent No.1 further stated that Resolution Plan provides for a partial refund to such allottees despite the fact that they have not submitted any claim and no special treatment for such individuals. Also, the Resolution Professional has the power under the code to receive accept and/or reject claims filed by potential creditors. There is no statutory provision allowing for the "deemed admission" of any claims.
34. In IA(IBC)/348/KOB/2023 Respondent No.1 in his counter stated that in the records of the Corporate the current allottees of Apartment No, '1C' stands allotted to Mr. Rajesh Raman Thottupura and Mrs Rajani Raman. The names of the Applicants herein Mrs

Rajani SunilKumar and Mr Sunil Kumar cannot be found in the records of Corporate Debtor.

35. Respondent No. 1 further stated that no claim has been filed by the Applicants in IA(IBC)/348/KOB/2023, be it for resolution or liquidation. The only communication received in connection with the Applicants was vide email dated 21.08.2023, which was sent by the Counsel for the Applicants and not by the Applicants themselves almost a month after the approval of CoC and 650 days after the CIRP order.

36. Respondent No. 2 filed counter in both the IA's stating that the intention of the applicants is to put the Corporate Debtor into Liquidation, the Applicant has not stated any reason for not filing the claim during CIRP, also stated that the Applicants are not having locus standi to seek a relief to reject a plan which is approved by the CoC and raise a contention of non-compliance u/s 30(2) when they are not a claimant in the CIRP and to challenge a Resolution Plan which is yet to be approved by the Adjudicating Authority.

**IA(IBC)/351/KOB/2023 & IA(IBC)/363/KOB/2023 &
IA(IBC)/485/KOB/2023**

37. As the contentions and grievances in these three IA's are almost same, pleadings are considered together. The Applicants in IA(IBC)/351/KOB/2023 and IA(IBC)/363/KOB/2023 are homebuyers of Aura Villa Project of the Corporate Debtor. The

Applicant in IA(IBC)/485/KOB/2023 is one of the homebuyers of Riva Villa Project.

38. As per the agreement for sale and construction agreements, the date of completion of the construction was in 2016. But the Corporate Debtor failed to complete the construction of the project within the prescribed time period even after collecting 95% of the payment from them. In light of the completion of the construction by Applicants themselves, even before the initiation of CIRP, the obligation of the Applicants with respect to the balance 5% payment is discharged. There is no payment obligation that can be legitimately claimed from the Applicants herein.
39. The Applicants stated that the Resolution Professional failed to disclose actual state of the project in the Information memorandum as the construction of the Aura villa project of the applicants were mostly complete prior to the commencement of the CIRP Resolution Professional was fully aware of the actual status of the project. However, the Resolution Professional failed to capture the same in the Information Memorandum due to the mala fide or negligent act of the Resolution Professional. Apart from that the Resolution Plan approved by the CoC, intends to take away the ownership of the applicants to their villas, if they have not made the payment of first tranche. The Code does not grant any authority to the Resolution Professional or to the successful Resolution Applicant to take away the ownership of the applicant.

40. To those Allottees who do not wish to join the Resolution Process, the Resolution Applicant proposes to refund 50% of the Amount the Allottee had paid to the Corporate Debtor as part of the Allotment of the Villa to them. The proposed 50% of the amount paid will be refunded only after cancellation of allotment and registration and the subsequent sale of such Villa by the Resolution Applicant. To claim the 50% amount paid by them, the Allottee shall submit Proof of their Allotment and Proof of Bank Payments done by them to the Bank Account of the Corporate Debtor, along with other proof of payment if any to the Chairman of the Project 32 Monitoring Committee and the decision shall be final on the submitted proofs. And in the case of allottees whose Villa land is registered fails to pay the receivable amount to the Corporate Debtor, steps will be taken for cancellation of the allotment and if required cancellation of the registration itself as per law will be initiated. After cancellation, the Resolution Applicant proposes to refund 50% of the Amount the Allottee had paid to the Corporate Debtor which will be refunded only after the subsequent sale of such Villa by the Resolution Applicant.

41. And further stated that the Applicants are the absolute owners of their respective villas and the construction of the villas was almost complete before the initiation of the CIRP thus the applicants have the legitimate legal right to their property. Therefore, the Resolution Plan which calls for the cancellation of Allotment, upon the non-

compliance of terms set by the Plan is in contravention of Article 300 A of the Constitution of India.

42. The Applicants further contented that the Committee of Creditors has not deliberated upon the feasibility and viability of the Resolution Plan as the Regulation 39(3)(b) Insolvency and Bankruptcy board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the CoC is supposed to record its deliberations on the feasibility and viability of each resolution plan.

43. Moreover, the Resolution Applicant has not even mentioned its GSTIN in its Resolution Plan. Also, the address mentioned in the Resolution Plan is not the existing office address of the Resolution Applicant. The Resolution Applicant doesn't even have a website hence the Resolution Applicant has not placed on record anything to prove its capacity to revive multiple projects of the Corporate Debtor at the same time.

44. Respondents No. 1 and 3 filed replies stating that the IA's are defective as IA(IBC)/351/KOB/2023 has been filed by 12 Applicants but the affidavit accompanying the application is signed only by the Applicant No. 1, Dr Jose Paul. There is no accompanying Power of Attorney or Authorisation Letters in favour of Applicant No.1 thus the Application becomes defective, similarly in IA(IBC)/363/KOB/2023 also, the Application is filed by 10 Applicants and the affidavit is signed by the Applicant No.1, Mr Ajil V

A and no authorization on behalf of other Applicants hence application becomes defective.

45. And stated that at the time of initiation of CIRP, Resolution Professional conducted an inspection of the Projects and issued necessary directions to the Villa allottees. Subsequently a stop memo was issued to the Applicants herein which was challenged by the Applicants No 1 to 7 in IA(IBC)/351/KOB/2023 vide IA(IBC)/131/KOB/2023 and IA(IBC)/132/KOB/2023 which was dismissed by this Tribunal. The admission that the villas under this project was completed by them is an admission of contempt on their part and stated that the costs due from the Applicants pertain to both the construction rights vested with the Corporate Debtor, the corresponding receivables, and, further, the receivables due from them for the common areas of the project.

46. The Applicants failed to show what information pertaining to the actual state of the project was not disclosed in the Information Memorandum also stated that the Applicants wish to avoid having to pay the receivables that are owed by them.

47. Also stated that the Resolution Plan approved by the CoC does not automatically take away ownership of the applicants without due process of law, any cancellation of allotment and registration will be initiated as per law thus it cannot be said to be against Article 300A of the Constitution of India and relevant provisions of the Code, Rules and Regulations. And stated that the Applicants are not the absolute

owners of their respective villas. The ownership of their respective villas is very much contingent on their payments of the receivables and common construction cost, hence cannot be said absolute.

48. And further stated that the deliberations of the CoC on the feasibility and viability can be found by perusing paragraphs 3. D, E, F, G and H of the application. Even though there is lack of reference to the specific words, there is no requirement that there be an explicit reference to the word's 'feasibility' and 'viability'. And stated that the averment with respect to the address mentioned by the Resolution Applicant not being its existing office address is unsubstantiated by any document placed on record by the Applicants, also stated that the lack of a website on the part of the Resolution Applicant is not a material factor under the Code, Rules and Regulations.

IA(IBC)/360/KOB/2023

49. The applicant engaged M/s Insight Media City India Private Limited for "LOGO BRANDING" on the 24 News channel, broadcasting advertisements from January 2019 to May 2019 and subsequently from July 2019 to January 2020. The agreed fees were Rs 45,00,000 plus tax and Rs 48,00,000 plus tax, respectively. Although the applicant fulfilled the contract conditions, an outstanding balance of Rs 61,72,000/- remains after a partial payment of Rs 31,28,000/-.

50. Following this, the respondent became the appointed liquidator. The applicant filed their claim in Form C of Rs.

75,87,694/- (Principal- Rs.61,72,000 + Rs. 14,15,694) on 04.07.2023, consisting of the principal amount and additional charges. The respondent, via email on 04.07.2023 and 19.07.2023, contended that the claim, filed 106 days from the liquidation commencement date, is inadmissible.

51. The applicant asserts its rightful entitlement as a creditor and emphasizes the necessity for the claimed amount to be reflected in the Corporate Debtor's accounts, attributing the claim's delay to unintentional reasons.
52. The respondent filed the reply stating that the supporting affidavit is defective on grounds of material suppression of facts and misrepresentation of dates. Also, in the absence of any contractual or statutory obligation, the Respondent is not bound to make any payment.
53. The respondent further stated that this application was filed on or after 19th July 2023 on knowledge of the proceedings of liquidation being stayed by the Hon'ble NCLAT on 13th July 2023 and the Applicant has not cited any reason sufficient or otherwise for the delay in filing the claim on 106th day from the date of liquidation commencement date.
54. Also stated that the CD is currently in CIRP and the relief sought is directing the Respondent to accept a liquidation claim in Form C is infructuous.

55. We have heard the submissions made by the counsel for all the parties and perused the materials available on record. During the course of hearing, this Tribunal directed the CoC to consider the aspects *1. The CoC is directed to reconsider the question of feasibility and viability of Plan 2. The CoC will relook into the matter concerning the compliance of the resolution plan with Section 30(2) of the Code, particularly with regard to the annulment of the registration of the land deeds of the homebuyers. 3. The CoC shall reconsider the question as to whether the Resolution Applicant is capable of implementing the Plan to the extent of his net worth, and to file a report on the same.* In compliance of the above direction the Resolution Professional filed the following report on 11/01/2024 vide IA(IBC)/19/KOB/2024.

1. The CoC is directed to reconsider the question of feasibility and viability of the Plan

The CoC meeting held on 4/1/2024 reconsidered the question of feasibility and viability of the Plan and reconfirm the following.

A. Feasibility

- a) The Resolution plan explains the procedure for implementation of each unfinished project. The remaining project cost for completion of apartments, common area and other common facilities is assessed by the Resolution applicant based on detailed costing exercise done by experienced civil engineers. In the case of villas, the remaining cost for completion of each villa is separately estimated and given in the Resolution Plan. The additional cost for completion of construction is to be shared by the allottees on a pro rata basis after considering the remaining amount payable by them as per the originally executed sale and construction agreement. The additional cost is to be shared by the allottees in a phased manner depending on the progress of completion of construction. All remaining payment will be done by the allottees in the RERA designated escrow account. The implementation and supervision of the project and cash flows in the project will be monitored by the Project Monitoring Committee separately envisaged for each project.
- b) Project Escrow A/c – The Corporate Debtor has been maintaining RERA designated project escrow account with State Bank of India separately for each project. This account will be reactivated and operated for capturing cash inflow and outflow of each project. Each project has got 3 RERA designated project escrow account. Account A, Account B and Account C. Account A is designated for capturing all cash inflows from allottees at prescribed intervals. The required amount intended for the construction of the project to the extent of maximum 70% will be transferred from Account A to Account B in phased manner depending on the progress of the project and based on a stage completion certificate issued by the GM projects, Chartered Accountant and Architect (if any) as envisaged in the Real Estate (Regulation & Development) Act. Project related payments will then be transferred to account C depending on requirement.

Balance 30% intended for all overhead expenditure will be transferred directly from Account A to Account C.

Account C is the operative account from where overheads payments of the Corporate Debtor will be met during the implementation period. All payments from Account C will also be disbursed with prior authorisation from the Chairman of the Monitoring Committee.

c) Project Monitoring Committee – (PMC)

The Resolution Plan envisages constitution of Project Monitoring Committee separately for each project where balance construction is to be undertaken. The PMC will comprise of 2 nominees from home allottee side, 3 nominees from Resolution Applicant side and headed by the Resolution Professional. The PMC will closely oversee the implementation of the project, monitor the Cash flows in the RERA designated escrow accounts, follow up payments from project allottees and take all decisions that are necessary for timely and successful implementation of the project.

d) Option for joining the Resolution plan by registered villa allottees who failed to submit their claim under the CIRP process.

There are certain villa allottees (where land was registered in their name) who failed to submit the claim under the CIRP. Since their land was registered, an exit option would be difficult. Therefore, the Resolution Plan provide for window for these allottees to join the resolution plan once the Resolution Plan is approved by the Hon' NCLT. These allottees are envisaged to submit all required proof of allotment and payments done prior to the CIRP period, to the monitoring committee, for their admission into the Resolution Plan.

e) Exit option for allottees

The Resolution Plan provides for an exit option to the allottees who do not wish to make further payments and want to exit due to various reasons. They will have to tender their exit option with in a month on receiving a notice to this effect from the PMC. They will be refunded 50% of the amount paid by them, after the construction is completed by the Resolution Applicant and the sale of the respective unit.

f) Resolution Applicant not to undertake any major project

Additionally, the CoC has now stipulated that the Resolution Applicant not to undertake any major projects at least for next 2 years until when most of the projects could be completed and handed over to the allottees. This will be ensured by the Project Monitoring Committee. An affidavit to this effect will be obtained from the Resolution Applicant.

B) Viability

The major activity of the Resolution Applicant is completion of construction of all unfinished projects and handing over/registration of the units in favour of the allottees. Therefore, the CoC has considered the viability of the Plan on this aspect.

- i. The cost for completion of unfinished projects is drawn based on the detailed cost estimates prepared by experienced engineers for the remaining cost of completion of Apartments, Common area and other facilities. The completion of construction of villas is separately estimated, villa wise, in order to have a realistic cost estimate.
- ii. The entire cost for the completion of construction of each project and the balance amount payable to respective landowners will be borne by the allottees by funding in the RERA designated escrow accounts of their specific project. Only in the case of Ray mount project, the landowners will be paid by allotting equivalent unsold units.
- iii. The Cash inflow and outflow of each project will be closely monitored by the Project Monitoring Committee (PMC) in order to ensure strict control on the implementation. All cash outflow will be with the prior of the chairman of the Project Monitoring Committee. Strict control on all material purchases and other expenditure will also be ensured by the PMC in order to ensure viability.
- iv. Cash inflow from unsold inventory of each project will get added to the cash flow of the respective project and that will be retained in project escrow account. This cash surplus will act as buffer in case there is an unforeseen eventuality of cash flow mismatch in the project. If needed, this cash surplus will be utilized for completion of other projects in the Resolution Plan.

In view of the foregoing factors and proposed measures, the CoC reconfirms the feasibility and viability of the Resolution Plan.

2. The CoC will relook into the matter concerning the Compliance of the Resolution Plan with Section 30(2) of the code particularly with regard to the annulment of the registration of the land deeds of the home buyers.

2A

- a) Most of the Projects where construction is, to be completed consists of villas and apartments.
- b) In the case of villas, the land was initially registered in majority of the cases and based on the sale and construction agreement entered by the Corporate Debtor with the villa allottees, the construction process was going on, when the CD was admitted to the CIRP process on 18/11/2021. Construction of some villas are in the final stages, while in majority of the cases the construction was partly completed.
- c) In the case of Apartment allottees, the construction is incomplete in majority of the cases and undivided share is not registered.
- d) Construction of common area and other facilities are yet to commence in almost all ongoing projects.
- e) In the above backdrop, the Resolution Plan provides for completion of each project consisting of Villas, Apartments and Common Area facilities. The plan envisages registration of unregistered units and handing over of the completed projects with common area amenities. The project wise costing in the plan was based on the estimation of the remaining cost of construction of respective Apartment complex or respective Villas and the remaining cost of construction of common area facilities which has to be shared by the respective project allottees on a pro rata basis.
- f) In the case of villas, whose land is initially registered, the Resolution plan stipulates that, these allottees to pay the balance cost of completion of their villas and the pro-rata share of common area and other facilities or the balance amount payable by them to the CD as per the initial sale and construction agreement, whichever is higher.
- g) This stipulation is imperative for successful completion of each project comprising of villas, common area and other facilities and Apartments.
- h) The villa allottees are required to pay the amount payable as mentioned in para f above in 4-5 tranches depending on progress of completion which will be evaluated by the project monitoring committee of each project. Sufficient time is provided for payment of each milestone payment.
- i) If such villa allottees fail to pay the required amount despite repeated notices, the Resolution Applicant reserves the right to initiate steps for recovery of the amount receivable by the CD.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

		value is Zero as per the waterfall mechanism prescribed under sec 53 of IBC 2016. Therefore, the provisions of Sec 30(2) (b) of IBC 2016 is complied.
3.	The Plan to provide for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor. Sec 30(2) (b) (ii) of IBC 2016	There are no dissenting financial creditors. The class of home allottees will not come under the provisions of dissenting creditors. As such the provisions of Sec 30(2) (b) (ii) of IBC 2016 is complied.
4.	The plan to provide for the management of the affairs of the corporate debtor after approval of the resolution plan Sec 30(2) (e) of IBC 2016	Step by step process for management of the affairs of the Corporate Debtor is given in Para 7.3 of the Resolution Plan, after its approval.
5.	The plan to Provide for the implementation and supervision of the resolution plan. Sec 30(2) (d) of IBC 2016	Step by step process for implementation and supervision of the resolution plan after its approval is given in Para 7.2 of the Resolution Plan RERA designated escrow account is already maintained by the CD for capturing the cash flows of each project. This account will be activated once the implementation commences. Project monitoring committee is proposed for each project who will strictly monitor cash flows. Each and every payment will be monitored by the Project monitoring committee to ensure the end use of funds and timely implementation. Detailed modalities for operation of escrow account are given in this report regarding the feasibility.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

12

- j) After exhausting all remedies for recovery of the amount due and as a last resort, the Resolution Applicant reserves the right to approach the Hon'ble NCLT or any other Competent Court of law for cancellation of allotment and registration. The RA shall complete the construction of such villas and 50% of the amount paid by them will be refunded after sale of that unit.
- k) The above stipulations are absolutely essential for completion of the all projects for the benefit of all allottees and successful implementation of the Resolution Plan.
- l) It may be seen that the Resolution Applicant is never vested with any absolute or automatic right for cancellation of registration as per the Resolution Plan and it will be as per due process of law after getting orders from a competent court of law.
- m) In the above circumstances, the CoC categorically confirms that the Resolution Plan does not contravene any of the provisions of the law for the time being in force and strictly comply with provisions of Sec 30(2) (e) of IBC 2016.

2.B

The CoC examined the other compliances regarding section 30(2) of the IBC 2016 and confirm the same as follows.

Sl no	Eligibility/Mandatory contents	Compliance/Confirmation
1.	The Plan to provide for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor. Sec 30(2) (a) of IBC 2016	This is complied. The CIRP cost will be recovered first on payment of Resolution amount.
2.	The plan to provide for the payment of debts of operational creditors in such manner as specified by the Board which shall not be less than the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53 of IBC. Sec 30(2) (b) of IBC 2016	The liquidation value of Corporate Debtor is ₹18.80 cr. This comprises of project land owned by the CD like Riva Apartment Project, Verdant Project and unsold inventory in projects like Heyday, Eleganza Etc. Once the projects are completed and handed over/registered in favour of the allottees, there is zero liquidation value. Therefore, after satisfying the claim of secured financial creditors and home allottees (unsecured financial creditors), the liquidation

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

6. The plans should not contravene any of the provisions of the law for the time being in force. Sec 30(2) (e) of IBC 2016	It is not contravening any of the provisions of the law. The detailed explanation is given in Para 2 A above.
7. The plans conform to such other requirements as specified by the Board. Sec 30(2) (f) of IBC 2016	The CoC reconfirm that the plan complies with all other requirements specified by the Board

3. The CoC shall reconsider the question as to whether the Resolution Applicant (RA) is capable of implementing the plan to the extent of his net worth.

- a) The terms of the Request for Resolution Plan (RFRP), approved by the 8th CoC held on 14/11/2022, has not prescribed any threshold net worth criteria for the Prospective Resolution Applicant. Instead, it has focused on the technical capacity and experience of the RA to execute the unfinished projects and capability to bring in additional funds to meet any deficit in cash flow for the successful resolution. Thus, the net worth of the RA at ₹3.10 cr was considered acceptable as it satisfies the eligibility criteria.
- b) **Technical Capability-** The experience and capacity of the RA to execute such stalled projects has been examined in detail. They had the previous experience of successfully completing a stalled project of Apple a Day Properties, which was awarded by the Administrator appointed by the High Court of Kerala. Besides, the RA has the experience of successfully completing about 5.50 lakh sq ft of residential villas, 1.24 lakh sq ft of apartments, and 45,000 sq ft of commercial buildings.
- c) **Financial Capability** – As per the Resolution Plan, the RA is required to bring in ₹ 2,61,60,347/- as Resolution Amount from the date of approval of the Resolution Plan as follows: -
- ₹ 93,61,000/- towards CIRP cost within 3 months of the approval of the plan;
 - ₹ 1,41,58,032/- payable to SBI, the secured financial creditor within 6 months of the approval of the plan;
 - ₹ 4,54,815/- payable to the employees of the CD within 6 months

₹21,86,500/- payable to the 5 allottees of the scrapped verdant project within 18 months of the approval of the plan.

The RA has already brought in ₹ 26,16,035/- which is the Performance Guarantee of 10% of the Resolution Amount. Further the RA has been advised to bring in some funds to prove his capability. Accordingly, he has brought in another ₹ 35 lakhs in the Resolution Account now. He also confirmed that the balance amount will be brought in tranches after the approval of the Resolution Plan by the Hon'ble NCLT well ahead of the due dates. This will ensure that he is bringing in the Resolution amount ahead of the scheduled dates prescribed under the Resolution Plan.

- d) The RA is currently enjoying an Overdraft limit of ₹20 lakhs with South Indian Bank. They have now produced an in-principle sanction letter from South Indian Bank agreeing that the Bank will consider additional facilities required for implementation of the Resolution Plan once the Resolution Plan is approved for undertaking the projects.

The entire cost for completion of the unfinished projects is borne by the home allottees with payment in tranches depending on the progress in construction. However, in case of any cash flow mismatches, the RA will be able to utilize the additional credit facilities for which in principle sanction has been given by the South Indian Bank.

- e) RA also proposes to raise additional funds from his friends and relatives which has been examined in detail with independent enquiries and the CoC is satisfied of the same.
- f) Some of the projects like Riva Apartments can be completed within 6-8 months. The cash surplus from this project including the cash surplus from unsold inventory will be retained and it will be utilized for other projects in case of an unforeseen eventuality of Cash flow mismatches. This will be strictly monitored by the Project Monitoring Committee.

76
4. Other submissions

The CoC recorded the following facts with regard to this Resolution Process for the kind attention of the Hon' NCLT.

- a) The CD was admitted to the CIRP on 18/11/2021. In response to the first EOI one resolution plan was received and the same was voted against by the CoC as the cost estimates were on the higher side and not acceptable to the home allottees.
- b) In response to the second EOI, two resolution plans were received. The resolution plan of BR Nirman was completely rejected as the cost estimates were again not accepted by the home allottees. The Resolution Plan of M/s. Buildwell (Present successful Resolution Applicant) was rejected with a thin margin as the cost estimates of Raymount Project were not acceptable to the allottees of that project.
- c) Since the CIRP process breached the timelines and since the resolution plans were rejected, liquidation of the CD was ordered on 17/3/23, even though the affected home allottees pleaded for one more chance of voting based on subsequent negotiations held with M/s, Buildwell.
- d) Against the order of liquidation, a group of project allottees from Raymount and Riva Apartment project approached the Hon'ble NCLAT Chennai, pleading for keeping the liquidation process in abeyance and allowing one more voting on the Resolution Plan submitted by Buildwell.
- e) The Hon' NCLAT, after hearing all parties ordered as follows on 13/7/2023.

The Resolution Professional and CoC is directed to reconsider the modified Resolution Plan submitted by M/s. Buildwell as the objective of IBC is resolution of the CD and maximisation of value of assets and liquidation will not render any justice to Home Allotees. It was directed that the liquidation may be kept in abeyance for a period up to 31/7/2023. During this period, the modified Resolution plan submitted by the PRA, M/s. Buildwell may be considered by the CoC and placed for voting once again. If the Resolution Plan is approved by majority of home allottees as per the provisions of IBC 2016 and regulations thereunder, the Resolution process may be completed as per law. In case the Resolution plan is voted against, the liquidation process will be restored and continued.



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

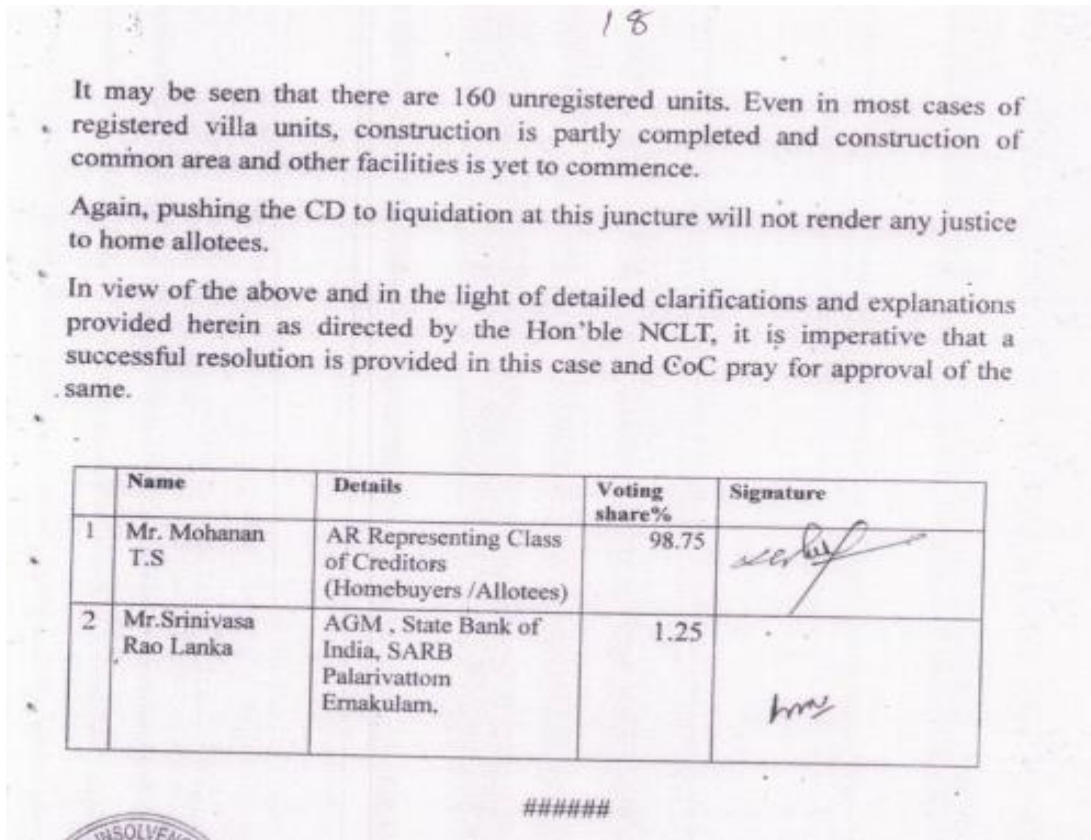
IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

- f) Accordingly, the modified resolution plan submitted by M/s. Buildwell was circulated on 22/7/2023. Voting on the Resolution plan by home allottees took place on 26/7/2023. Home allottees with 67.48 % voting rights voted in favour of the resolution. Home allottees with 18.82% voting rights voted against the resolution plan. Home allottees with 12.45% voting rights abstained from voting. Therefore, in effect, 78.19% of the home allottees by voting share, who participated in the e-voting, voted in favour of the resolution plan. Accordingly, the AR with 98.75 % voting share of home allottees voted in favour of the Resolution in terms of Sec 25 (3A) of IBC 2016. SBI, the sole financial creditor with 1.25% voting share also voted in favour of the Resolution Plan and as such the plan was approved with 100% voting in the CoC meeting held on 28/07/2023.
- g) The Resolution Plan approved by the CoC was submitted by the Resolution Professional to the Hon' NCLT on 31/7/2023 for approval.
- h) A handful of registered villa allottees, whose construction was already completed, challenged the resolution plan possibly with a view to derail the resolution plan and escape further payments due to the CD. This has further dragged the process by almost 5 months now. These minority home allottees are those who will be unaffected in case the CD goes in to liquidation & the majority home allottees, who voted in favour of the plan are those who will be affected in case of liquidation.
- i) A position of registered and unregistered units of various projects under the CD is depicted below.

Sl. No	NAME OF THE PROJECT	UNIT DETAILS - VILLAS			UNIT DETAILS - APARTMENTS			TOTAL		
		Regd	Unregd	Total	Regd	Unregd	Total	Reg	Unregistered	
1	Raymount	5	9	14	0	38	38			
2	Riva	29	0	29	1	39	40			
3	Spells	17	2	19	0	16	16			
4	Aura	14	0	14	0	22	22			
5	Heyday	19	0	19	12	4	16			
6	Bayvue	29	2	31	0	0	0			
7	Eleganza	0	0	0	10	9	19			
8	Saffron	0	0	0	27	17	44			
9	Verdant	Commercial unregistered								
10	Breeze & Zephyr	0	0		45	2	47			
	TOTAL	113	13	126	95	147	242	208	160	

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.



56. The Hon'ble Supreme Court in **K. Sashidhar v. Indian Overseas Bank & Others** in Civil Appeal No. 10673/2018 held that *the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements.*

57. In the case of **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta**, in Civil Appeal Nos. 8766-8767 of 2019 it was held that.

46. *This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal.*

58. It is emphasized that upon approval of a resolution plan by the CoC the Adjudicating Authority's obligation under Section 31 of the Code is to confirm that the plan fulfils the requirements outlined in subsections (2) and (4) of Section 30. Additionally, the Adjudicating Authority is barred from interfering with the commercial wisdom of

the CoC. The Hon'ble Apex Court has consistently upheld that the CoC's commercial wisdom should be given paramount importance, without any judicial interference, to ensure the timely completion of the prescribed processes under the IBC.

59. Hence, when evaluated with the aforementioned facts and legal precedents, we believe that the CoC has duly considered the feasibility and viability of the Plan, and other compliance under Section 30(2) of the Code. Consequently, the Resolution Plan meets the stipulated requirements of the Code and relevant regulations. Moreover, the Resolution Plan is in conformity with the law and does not violate any provisions of Section 29A of the Code.

60. We are further relying on **Ghanshyam Mishra and Sons Private Limited v/s Edelweiss Asset Reconstruction Company Limited**, where the Hon'ble Supreme Court held that *on the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.*

61. Additionally, the Hon'ble NCLAT Principal Bench, in *Sunil Chauhan v Rabindra Kumar Mintri*, upheld the order of NCLT Delhi, in rejecting the claim with an 800-day delay by the Resolution Professional.

62. Moreover, we are particularly emphasizing on judicial precedents where the Apex Court had already taken a view that no claims can be entertained after the approval of the resolution plan by the CoC. The postponement of claim filings and the adjudicating process for granting condonation of delays significantly impede the Code's ability to achieve its objectives of ensuring a timely process. Hence this Tribunal is not entertaining any claims put forward by the respective Applicants herein for rejection of the Resolution Plan at this stage and also all the claims filed beyond the stipulated time period and deemed claims we do not find any justifiable reasons to be admitted.

63. In *Jaypee Kensington Boulevard Apartments Welfare Association & Ors v NBCC (India) Ltd & Ors*, where Supreme Court held that:

164.4. Having regard to the scheme of IBC and the law declared by this Court, it is more than clear that once a decision is taken, either to reject or to approve a particular plan, by a vote of more than 50% of the voting share of the financial creditors within a class, the minority of those who vote, as also all others within that class, are bound by that decision. There is absolutely no scope for any particular person standing within that class to suggest any dissention as regards the vote over the resolution plan. It is obvious that if this finality and binding force is not provided to the vote cast by the authorised representative over the resolution plan in accordance with the majority decision of the class he is authorised to represent, a plan of resolution involving large number

of parties (like an excessively large number of homebuyers herein) may never fructify and the only result would be liquidation, which is not the prime target of the Code. In the larger benefit and for common good, the democratic principles of the determinative role of the opinion of majority have been duly incorporated in the scheme of the Code, particularly in the provisions relating to voting on the resolution plan and binding nature of the vote of authorised representative on the entire class of the financial creditor/s he represents.

64. Based on the series of judgments from the Hon'ble Apex Court clarifying the scope of the Approval of Resolution Plan, it's evident that the Adjudicating Authority's judicial review is limited under the provisions of the Code and this Adjudicating Authority cannot venture into the commercial aspects of the decision taken by the CoC.
65. This Tribunal notes that the Resolution Plan submitted the Resolution Applicant in accordance with Sections 30 and 31 of the Code and also complies with Regulations 38 and 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. No circumstances exist that militate against grant of approval for the Resolution Plan. Thus, the Application filed by the Resolution Professional is hereby **approved**.
66. The Resolution Applicant prays for the following reliefs and concessions to be granted to the Corporate Debtor and/or the Resolution Applicant, ***the orders thereon are indicated against each.***

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

Sl. no	Relief/Concessions/Waiver sought	Orders thereon
1.	All debts and dues, liability or obligations which are included in the Resolution plan shall be deemed to have been irrevocably waived, and permanently extinguished and written off in Full, with effect from the effective date.	Granted
2.	On the effective date, any claims by any person whether submitted to Resolution Professional or not, admitted by Resolution Professional or not, due or contingent, asserted or un-asserted, crystallised or uncrystallised, known or unknown, secured or unsecured. disputed or undisputed or pending adjudication in any forum, present or future against the Corporate Debtor accrued as on the insolvency commencement date against the Corporate Debtor, whether arising under the subsisting lease/sub-lease, consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or any contractual arrangements entered into by the Corporate Debtor, shall notwithstanding any provision to the contrary in their terms, stand extinguished without any recourse	Granted

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

3.	With respect to all the dues including taxes/ cess/ interest 1' penalty and other liabilities outstanding towards GST, VAT. Service Tax. Sales Tax. Income Tax. RoC or any other statutory authority its presumed that the respective Statutory Authorities have submitted their claim to the Resolution Professional as part of the CIRP process and all such existing liabilities shall be dealt with as provided in this Resolution Plan. No new such liability shall arise on the Resolution Applicant for the period prior to tire Effective Date.	Granted
4.	To seek the benefit of all Exemptions under Income Tax. GST. VAT, Service Tax etc from the appropriate authorities as available to Companies that have undergone Corporate Insolvency Resolution Process and a Resolution Plan has been approved by the Hon'ble NCLT.	Granted subject to the provisions of law
5.	Any legal action of any kind or nature pending the occurrence of the Effective Date, no creditor or stakeholder shall be entitled to institute or continue any suits or proceedings including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or authority against the Corporate Debtor or take any action to foreclose, recover or enforce any security interest created by the Corporate Debtor with respect to the Claims in respect of its property or otherwise including but not limited to the Litigation cases as mentioned in the	Granted

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

	Information Memorandum.	
6.	The Allottees shall withdraw all existing claims filed in any court of law and all orders/decrees passed by any court of law shall stand nullified and all Allottees shall be dealt with in accordance with this Resolution Plan.	Granted
7.	The Corporate Debtor should not be subject to any claims of subrogation or have any of its assets attached or frozen or garnished or any of them being subject to restraint or restriction of any manner, in each case including whether provisionally or otherwise.	Granted
8.	The Allottees to accept the new time period for completion of the construction of the projects of the Corporate Debtor. as contemplated under the Resolution Plan.	Granted
9.	To absolve the Resolution Applicant from any liability arising due to the outcome of any legal proceeding on any legal cases pending against the Corporate Debtor as on the Effective Date.	Granted
10.	Extinguish all liabilities in relation of corporate guarantees, indemnities etc provided by the Corporate Debtor as on the Effective Date.	Granted

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

11.	The Resolution Applicant shall neither be liable to honor unevolved bank guarantee/letters of credit, nor shall it be obliged to renew the bank guarantee/letters of credit or provide any assistance to the respective creditors to contest or defend any claims that are raised by the beneficiary. The satisfaction or payment by the respective creditors upon receipt of any claims in connection with the unevolved bank guarantees/letters of credit shall not be construed as a default on part of the Corporate Debtor and any modifications required in the bank guarantee/letter of credit documents to reflect such arrangement shall be made by the respective creditors.	Granted
12.	The Resolution Applicant and Corporate Debtor shall not be liable for any payments against any contingent liability whether mentioned in the Information Memorandum or not included in the Information Memorandum but not limited to liabilities on account of bank guarantees given to customers or any other entity, other than as proposed in this Resolution Plan	Granted
13.	Any claims made under any guarantees issued by the Corporate Debtor on behalf of any third party shall also stand extinguished as a part of this Resolution Plan and the beneficiaries of such guarantees shall be expected to recover the monies with respect to un-invoked	Granted

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

	guarantees from the principal borrower and for any shortfall, they shall not have any recourse against the Corporate Debtor and for the Resolution Applicant.	
14.	All claims and rights against the Corporate Debtor by any Related Party to the Corporate Debtor, which are not expressly provided for in this Resolution Plan, shall stand irrevocably and unconditionally extinguished.	Granted
15.	All claims and rights of the erstwhile Shareholders or Directors against the Corporate Debtor shall stand irrevocably and unconditionally extinguished.	Granted
16.	All existing encumbrances. charges. security interest etc. with respect to the Claims in respect of the assets of the Company and or otherwise shall stand cancelled and discharged.	Granted subject to the provisions of law
17.	Revocation of all power of attorneys provided by the Corporate Debtor to any person as on the effective date.	Granted
18.	All outstanding negotiable instruments issued by the Corporate Debtor including demand promissory notes. post-dated cheques, bills of exchange, letters of credit etc. shall stand terminated and the Liability of the Corporate Debtor under such instruments shall stand extinguished other than those issued by Resolution Professional during the CIRP process and disclosed to Resolution Applicant.	Granted

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

19.	The Corporate Debtor, Resolution Applicant, and their Board of Directors (appointed after Effective Date) shall not be liable for any action taken pursuant to bouncing of cheques issued by the earlier management/promoter of the Corporate Debtor and accordingly all such payments shall be deemed to be settled in terms of this Resolution Plan by virtue of settlement of dues of the Operational Creditors or creditors in class as the case may be.	Granted
20.	All actions with regard to the assets/claims/rights etc as mentioned in the Balance Sheet of the Corporate Debtor. as well as off balance sheet items. as on the Effective Date shall be the assets/claims/rights of the Resolution Applicant and shall be dealt with at its sole discretion.	Granted as per the terms of the plan
21.	Subject to applicable regulations and bye laws, the Resolution Applicant shall be allowed to undertake redesigning of the project sites, based on its own viability assessments.	Granted
22.	Subject to applicable regulations and bye laws, any additional FAR on any basis/Ground coverage relating to the project sites permitted under the master plan shall vest with the Corporate Debtor and no further payments shall be payable to authority for such additional FAR/ Ground coverage or height coverage.	Granted as per the applicable law of the concerned authority

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

23.	Any event of default having occurred on part of the Corporate Debtor under any of the financing documents entered into by the Corporate Debtor on its own behalf or on behalf of subsidiaries (if any), joint ventures or associates to secure or guarantee any of their liabilities, prior to the Effective Date, shall be waived in entirety and all rights under the existing finance documents in relation thereto shall stand extinguished.	Granted
24.	No consequence of liability arising out of any criminal not done by the Corporate Debtor and/or its management shall fall upon the Resolution Applicant or any employees, directors, representatives of Resolution Applicant and the Corporate Debtor	Granted
25.	Neither shall the Resolution Applicant nor the Corporate Debtor nor their respective directors, officers, consultants, and employees to be appointed after the Approval Date be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the Corporate Debtor not having in place the requisite licenses and approvals required to undertake its business as per Applicable Laws and the Resolution Applicant seeks a time period of 12 months from the Effective Date, to ensure renewal of such consents/licenses and approvals.	Granted

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

26.	Kerala Real Estate Regulatory Authority [K-RERA Authority) shall extend the registration of the projects in in respect of which the K-RERA registration has lapsed. Till the time the registration of the project is extended by K—RERA. construction work shall be allowed to continue, including advertisement etc. without any hindrance or obstruction.	Resolution applicant may approach to the K-RERA Authority and the K-RERA Authorities may render necessary cooperation
27.	Exemption from compliance of extinguishment of the shares of the current shareholders of M/s Nucleus Premium Properties Private Limited.	Granted
28.	Allow Fresh allotment of shares in the name of Resolution Applicant and persons nominated by the Resolution Applicant.	Granted
29.	ROC may be directed to approve the appointment of new Directors of the Company, who are proposed by the Resolution Applicant alter the Approval of this Resolution Plan by the Adjudicating Authority and the mandatory compliance for the change of Directors may be waived off.	Resolution applicant may approach to the ROC and the ROC may render necessary cooperation
30.	To permit amendment of the Constitutional documents of the Corporate Debtor.	Granted

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

31.	That all the liability of the Corporate Debtor for any offence committed prior to the commencement of the Corporate Insolvency Resolution process shall cease and the Corporate Debtor shall not be prosecuted for any such offence from the date the Resolution Plan has been approved by the Adjudicating Authority and No action shall be taken against any property of the Corporate Debtor in relation to any offence committed prior to the commencement of the Corporate Insolvency Resolution Process of the Corporate Debtor.	Granted
-----	--	---------

67. Therefore, subject to the observations made, this Resolution Plan shall form part of this Order.

68. The Resolution Plan attached with this order shall become effective from the date of this order and shall form part of this order. The Resolution Plan as approved is binding on the Corporate Debtor, Creditors and others involved so that the revival of the Corporate Debtor can come into force with immediate effect.

69. The Moratorium imposed under section 14 shall cease to have effect from the date of this order.

70. In case of non-compliance of this order or withdrawal of the Resolution Plan, the CoC shall forfeit the Performance Guarantee amount already paid by the Resolution Applicant.

71. The RP shall stand discharged from his duties with effect from the date of this Order. He shall, however, perform his duties in terms of the Resolution Plan as approved by this Adjudicating Authority.
72. The Resolution Applicant shall have access to all the Corporate Debtor's records, documents, assets and premises with effect from the date of this Order, to finalize the further line of action required for starting the business operations of the Corporate Debtor.
73. The Resolution Applicant shall file a copy of this Order with the Registrar of Companies, Kochi, inter alia for updating the status of the Corporate Debtor.
74. The Application being IA (IBC)/325/KOB/2023 is allowed, and all the connected interlocutory applications bearing IA(IBC)/349/KOB/2023, IA(IBC)/348/KOB/2023, IA(IBC)/351/KOB/2023, IA(IBC)/363/KOB/2023, IA(IBC)/381/KOB/2023, IA(IBC)/324/KOB/2023, IA(IBC)/485/KOB/2023, IA(IBC)/360/KOB/2023 filed in Company Petition CP(IBC)/01/KOB/2021 are dismissed and disposed of accordingly.
75. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

IA(IBC)/325/KOB/2023 in CP(IBC)/01/KOB/2021 & Connected Cases
In re: M/s. Nucleus Premium Properties Private Limited.

76. Additionally, the Registry shall send a copy of this order to the Registrar of Companies, Ernakulam, Kerala.
77. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities

SHYAM BABU GAUTAM Digitally signed by SHYAM BABU GAUTAM
Date: 2024.02.14 12:31:34 +05'30'

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

T.KRISHNAVALLI Digitally signed by T.KRISHNAVALLI
Date: 2024.02.14 12:30:34 +05'30'

TMT. JUSTICE T KRISHNA VALLI
(MEMBER JUDICIAL)

Dated this the 9th day of February, 2024.

Krishna