



NATIONAL COMPANY LAW TRIBUNAL  
COURT-V, MUMBAI BENCH

110. IA/645/2025 C.P. (IB)/601(MB)2024

**IN THE MATTER OF**

Rajendra Raja Bali Singh

... Petitioner

Vs

Rohan Developers Private Limited

... Respondent

U/s 7 of the Insolvency and Bankruptcy Code, 2016

**Order Delivered on 06.02.2025**

CORAM:

MS. REETA KOHLI,  
MEMBER (J)

MS. MADHU SINHA,  
MEMBER (T)

**Appearance through VC/Physical/Hybrid Mode:**

For the Applicant: Adv. Ayush Rajani a/w Khushboo Shah (PH)

For the Respondent: Adv. Shyam Kapadia a/w Adv. Jash Shah (PH)

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**ORDER**

**IA/645/2025:-**

1. The prayer in the present case is for rectification of the order dated 24.01.2025 with respect to the name of the Resolution Professional proposed by the Petitioner and also for rectification in the 'order' with respect to Insolvency of the 'Project' instead of the Corporate Debtor M/s. Rohan Developers Private Limited.
2. During the course of arguments in the CP, this precisely was the issue on which tacit consent by the Respondent/Corporate Debtor was extended. Inadvertently in the 'order', it has been wrongly mentioned as 'Rohan



Developers Private Limited' instead of '7 Hughes' of Rohan Developers Private Limited. The name of the proposed RP was also already given and was part of the Petition. The Ld. Counsel has also drawn our attention to the e-mail dated 24.01.2025 forwarded wherein the name of **Mr. Neehal Pathan** having Registration No. **IBBI/IPA-001/IP-P-01561/2018-2019/12406** has been proposed instead of the earlier proposed RP, Mr. Naresh Vasantlal Shah, as Mr. Shah had already attained the age of 70 years, which is the maximum age limit to serve as a Resolution Professional on the date of hearing. Hence the rectification is allowed as prayed for. It is made clear that the moratorium would commence from the date of this present order. With these observations, IA is **disposed of**.

Sd/-  
MADHU SINHA  
Member(Technical)

Sd/-  
REETA KOHLI  
Member(Judicial)

//Ziyaul//



The corrected Order in CP No. 601 of 2024 is as follows-

I. This Company Petition is filed by Rajendra Raja Bali Singh & Ors.(hereinafter referred as "Petitioner/Financial Creditor") on 02.98.2024 seeking to initiate Corporate Insolvency Resolution Process (hereinafter referred as "CIRP") against Rohan Developers Private Limited (hereinafter referred as "Respondent/Corporate Debtor") by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "Code") read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for a Financial Debt of Rs. 82,23,15,906/-, and the date of default being 30.12.2023.

**II. Facts of the Petitioners**

1. The Petitioners in the present case are Home Buyers of a project namely "7 HUGHES". As submitted by the Petitioners, the Corporate Debtor was responsible for the development of the said project, "7 HUGHES", situated on a parcel of land measuring 1662 square yards (equivalent to 1389.50 square meters), located at Cadastral Survey No. 410 of Malabar Hill Divisions, also identified as Plot No. 90 of the Gamdevi Estate, and assessed under D Word No. 2796 by the Municipality. Furthermore, as submitted, the Corporate Debtor is also developing another Project in the adjoining Plot CS No. 409.
2. As stated, the Petitioners entered into agreements with the Corporate Debtor for the purchase of residential units in the project. The details pertaining to the same are as under-
  - a. Mr. Rajendra Raja Bali Singh (Petitioner No. 1) entered into an agreement dated 31.07.2018 with Rohan Developers (Corporate Debtor & Promoter No. 1) and Indo Global Soft Solution and Technologies Pvt. Ltd. (Promoters No. 2), whereby Petitioner No. 1 agreed to acquire a single apartment bearing No. 2601 on 26<sup>th</sup> and 27<sup>th</sup> floor.



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- b. Mr. Bhavesh Tarachand Parmani (Petitioner No. 2) entered into an Agreement dated 29.11.2018 between Rohan Developers (Corporate Debtor & Promoter No. 1) and Indo Global Soft Solution and Technologies Pvt. Ltd. (Promoters No. 2) and Anvesh Real Estates Pvt. Ltd. (Assignor), whereby under a redevelopment scheme, the Assignor transferred the right, title, and interest in respect of Flat 1901 (Self-contained 4 BHK premises) to the Petitioner No. 2 (Assignee).
  - c. Mr. Bilav Dilip Parmani (Petitioner No. 3) entered into an Agreement dated 17.11.2018 with Rohan Developers (Corporate Debtor & Promoter No. 1) and Indo Global Soft Solution and Technologies Pvt. Ltd. (Promoters No. 2), whereby Petitioner No. 3 along with a few others agreed to acquire a flat bearing No. 2001 on 20<sup>th</sup> floor.
  - d. Mr. Prasad Mahadeo Naik (Petitioner No. 4) entered into an Agreement dated 04.02.2019 between Rohan Developers (Corporate Debtor & Promoter No. 1) and Indo Global Soft Solution and Technologies Pvt. Ltd. (Promoters No. 2) and Melinda Real Estates Pvt. Ltd. (Assignor), whereby under a redevelopment scheme, the Assignor transferred the right, title, and interest in respect of Flat 902 (Self-contained 2 BHK premises) to the Petitioner No. 2 (Assignee).
3. Further, as submitted by the Petitioners, despite receiving substantial payments, with a total disbursement of Rs. 55.63 Crores as principal amount and accrued interest of Rs. 26.59 Crores, at 8%, aggregating to a total outstanding amount of Rs. 82.23 Crores, the Corporate Debtor has failed to deliver the promised flats to the Petitioners.
  4. As contended by the Petitioners, the said project has been duly registered with RERA and as per the RERA official website, the same was initially scheduled for completion by 31.03.2020. Subsequently, the completion date was revised to 30.12.2023. However, as stated, there has been no substantial progress in the construction of the project. Furthermore, as contended, as per the RERA filing, out of the total 41 units in the project, 38 have been sold. The current petition



involves 4 Petitioners who collectively hold 7 allotments/units, exceeding the required 10% threshold (3.8 units) necessary for filing under the Insolvency and Bankruptcy Code, 2016.

5. Therefore, in light of the aforementioned circumstances, the Petitioners have approached the Hon'ble Tribunal and preferred the present Application under Section 7 of the Code.

### **III. Facts of the Corporate Debtor**

6. The Corporate Debtor is a private limited company, responsible for the development of the project "7 HUGHES" situated in Malabar Hills Division, Mumbai. The Corporate Debtor has vehemently denied and disputed the contentions raised by the Respondent. As submitted a Joint Development Agreement dated 12.04.2016 (JDA) was executed and registered between the Corporate Debtor, Akira Realities Pvt. Ltd., Indo Global Soft Solutions and Technologies Pvt. Ltd., Showbiz Real Estate Pvt. Ltd., and Delphi Realities Pvt. Ltd.. As contended, the development rights of the aforementioned project bearing CS no. 410 and 409 were granted to Indo Global, which is a part of Radius Group, and the development of the same was the sole liability of Indo Global. However, it was expressly agreed that documents pertaining to the same would be executed in the name of the Corporate Debtor and the allottees were completely aware of the same.
7. Further, as contended, due to the COVID-19 pandemic, MahaRERA granted project extensions and the timeline for the said project was accordingly extended. The construction initially resumed, however, due to the lingering effects of COVID-19 and the ongoing pending litigations against the Radius Group (Indo Global is a part of Radius Group), the Corporate Debtor was compelled to terminate the JDA with Indo Global vide a Deed of Cancellation (DOC) dated 23.02.2022. Subsequently, Indo Global was admitted to CIRP vide an Order dated 12.04.2022, passed by this Hon'ble Tribunal. Further, the Indo Group filed an Application under Section 66 & 67 of the Code challenging the aforementioned DOC before this Hon'ble Tribunal. This Application was



filed in light of the fact that Indo Global had taken a Loan from ICICI Bank and, as contended, in terms of the JDA had provided the said Loan same as refundable Security Deposit to the Corporate Debtor. Through the said DOC, the Corporate Debtor assumed Indo Global's obligations to ICICI Bank. After initial resistance and proceedings under Sections 66 & 67 of IBC (IA No. 4073 of 2023), ICICI Bank ultimately accepted the DOC and withdrew from Indo Global's COC, as substantiated by the Tribunal's order dated December 13, 2023. The Corporate Debtor is currently in negotiations with ICICI Bank to settle this loan.

8. As submitted, the Corporate Debtor, presently, is executing 3 real estate projects across Mumbai and the Petitioners in the present case have failed to meet the eligibility threshold prescribed under Section 7 of the code. The Corporate Debtor further contended that Petitioner Nos. 2 and 4 do not qualify as "allottees" under the Real Estate (Regulation and Development) Act, 2016, as they are merely assignees of original tenants, whose rights fall under the Maharashtra Rent Control Act, 1999. Furthermore, the claims of Petitioner Nos. 1 and 3 are currently under adjudication before the Maharashtra Real Estate Appellate Tribunal (MahaREAT) and MahaRERA respectively. The Corporate Debtor has complied with the MahaRERA order dated February 12, 2024, by depositing 100% of the ordered amount.
9. Furthermore, the Corporate Debtor submitted that the Corporate Debtor has not defaulted on any financial debt under the Code. As stated, there exists no default on part of the Corporate Debtor as the project completion date has been validly extended to December 29, 2024 by the MahaRERA. Furthermore, the Agreement for Sale dated 31.07.2018 and 17.11.2018 specifically provide for automatic extensions due to various circumstances including force majeure events, governmental actions, and other unforeseen conditions.
10. Further, the Corporate Debtor also contended that the claims of Petitioner Nos. 1 & 3 are grossly inflated. The Corporate Debtor also challenges the authenticity of the Information Utility report (NeS Certificate) submitted by the



Petitioners, claiming that it was unilaterally submitted without legal foundation. Therefore, in light of the aforementioned facts, the Corporate Debtor submitted that the present Company Petition filed by the Petitioners is neither maintainable nor supported by facts and, therefore, ought to be rejected at the threshold.

**IV. FINDINGS-**

11. We have heard the Ld. Counsels for the parties and perused the documents placed on record.
12. The present petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("the Code") by home buyers who qualify as Financial Creditors under provisions of the Code. The primary contention of the Petitioners is with respect to the Corporate Debtor's failure to deliver the promised residential units despite receiving substantial payments aggregating to Rs. 82.23 Crores (inclusive of interest). On the other hand, the Corporate Debtor has raised several objections regarding the maintainability of the petition, primarily challenging the status of Petitioner Nos. 2 and 4 as "allottees" and contending that the claims of Petitioner Nos. 1 and 3 are pending before other forums. The aforementioned contentions of the Corporate Debtor require careful consideration.
13. The 1<sup>st</sup> contention of the Corporate debtor is that Petitioner Nos. 2 and 4 do not qualify as "allottees" under the Real Estate (Regulation and Development) Act, 2016, as they are merely assignees of original tenants. Upon examination of the documents placed on record, we find this contention unsustainable. The definition of "Financial Creditor" under Section 5(8) of the Code is inclusive and not restrictive. The assignments in favor of Petitioner Nos. 2 and 4 were executed through valid agreements, transferring all rights, title, and interest in the respective units. These assignments create a financial debt within the meaning of Section 5(8), and consequently, the assignees step into the shoes of the original allottees for all purposes under the Code.



14. The 2<sup>nd</sup> contention of the Corporate Debtor is with respect to the fact that the claims of Petitioner Nos. 1 and 3 are currently under adjudication before MahaREAT and MahaRERA. However, in this regard, we deem it appropriate to place reliance on the judgment of the Hon'ble NCLAT in the matter of ***Karan Goel Vs M/s Pashupati Jewellers & Anr. [Company Appeal (AT) (Insolvency) No. 1021 of 2019]***, wherein it has been held as under-

*“7. From the aforesaid finding of the Hon'ble Supreme Court, it is clear that once the Adjudicating Authority is satisfied on the basis of records that the debt is payable and there is default, the Adjudicating Authority is required to admit the application. The Respondent – M/s Pashupati Jewellers having enclosed the copy of the ‘Corporate Guarantee and Undertaking’ Agreement dated 7th April, 2017 instituted on e-Stamp, issued by Government of National Capital Territory of Delhi, it was not open to the Adjudicating Authority to deliberate on the issue whether e-Stamp is a forged document or not. Merely because a suit has been filed by the Appellant and pending, cannot be a ground to reject the application under Section 7 of the I&B Code. Pre-existing dispute cannot be a subject matter of Section 7, though it may be relevant under Section 9 of the I&B Code.”*

15. Thus, in light of the aforementioned judgment, this Bench is of the opinion that the present contention of the Corporate Debtor does not hold merit as the



pendency of proceedings before MahaREAT and MahaRERA does not bar the initiation of CIRP under the Code. Moreover, the deposit of amount as per MahaRERA order does not ipso facto cure the default that had already occurred on part of the Corporate Debtor.

- 16.** The Corporate Debtor's contention regarding the extension of project completion date to December 29, 2024, cannot be accepted as a defense against default. The existence of a financial debt and default thereof is to be determined as on the date of filing of the application. The substantial delay in project completion, coupled with the admitted complications arising from the termination of the JDA with Indo Global, clearly establishes the existence of default on part of the Corporate Debtor. The extension of completion date, while relevant for RERA purposes, cannot retrospectively cure a default under the Code.
- 17.** Otherwise also, the Ld. Counsel for the Respondent, after vehemently arguing on 24.01.2025, submitted that in the eventuality of the Court considering the Corporate Debtor for admission into CIRP they shall be ready and willing to cooperate with the appointed RP so as to assist in completing the entire CIRP process at the earliest. The Ld. Counsel for the Respondent reemphasised the fact that two other projects of the Corporate Debtor are nearing completion and they are in the process of handing over possession to the homebuyers within a short period of time. The Ld. counsel for the Respondent on instructions further submitted that project wise balance sheet for the 7 Hughes projects shall be submitted to the appointed RP.
- 18.** While we appreciate the Corporate Debtor's cooperative stance and their commitment to other ongoing projects, these factors, while relevant for the CIRP process, do not negate the existence of default under the Code. The threshold requirements under Section 7 of the Code stand satisfied as the Petitioners collectively represent more than 10% of the total allottees of the project, a financial debt exists as evidenced by the agreements and payment records, and default has occurred in respect of the financial debt



19. Therefore, we find that the present petition merits admission under Section 7 of the Code. Hence, **CP No. 601 of 2024 is hereby admitted** by passing the following Order-

**ORDER**

- a. The above Company Petition No. 601/IBC/MB/2024 is hereby **admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against “**7 HUGHES**” Project of Rohan Developers Private Limited.
- b. The Petitioners have proposed the name of **Mr. Neehal Mahamulal Pathan**, bearing Registration No. IBBI/IPA-001/IP-P01561/2018-2019/12406, with the address as ‘*Plot No.27, RS No. 825, SahjeevanParisar, Near TPM Church, Behind Circuit House, Kolhapur, 416003, Maharashtra*’, as Interim Resolution Professional. The IRP proposed by the Petitioners, is hereby appointed as Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Petitioner shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.
- d. That this Bench hereby declare moratorium in terms of Section 14 of Insolvency and Bankruptcy Code, 2016 prohibiting the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created



by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- e. That the order of moratorium shall have effect from the date of uploading of this present order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- f. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- g. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The board of directors of the Corporate Debtor shall stand suspended. The members of the suspended board of directors and the employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, C.P. No. 601/IBC/MB/2024 is **admitted**.
- l. The Registry is hereby directed to communicate this order to both the parties



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and to IRP immediately.

**Sd/-**  
**MADHU SINHA**  
**Member (Technical)**  
/Jhanvi/

**Sd/-**  
**REETA KOHLI**  
**Member (Judicial)**