

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

IBA/889/2019

Under Section 7 r/w Rule 4 of the IBC, 2016

In the matter of Sheltrex Developers Private Limited

S. Balasubramanian & Another

---Financial Creditor

V/s

Sheltrex Developers Private Limited

---Corporate Debtor

Order delivered on: 10.12.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor : *Shri.Kaushik N.Sharma, Advocate*
Shri.J. Jeyasabare Eswaran, Advocate
Shri. Prakash Venkatramani, Advocate
For KNS Law Chamber

For the Corporate Debtor : **None-Present** on the date of hearing

ORDER

Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Order Pronounced on: 10.12.2019

It is an Insolvency and Bankruptcy Application filed u/s 7 of the Insolvency and Bankruptcy Code, 2016 ("**the Code**") by **S. Balasubramanian & Another** (hereinafter referred as "**Financial**

Creditor") for initiation of Corporate Insolvency Resolution Process (in short "CIRP") against M/s. Sheltrex Developers Private Limited (hereinafter referred as "**Corporate Debtor**") on the ground that the Corporate Debtor defaulted in making repayment of ₹16,33,901 as on the date of filing this application.

2. The counsel appearing on behalf of the Financial Creditor submitted that the Financial Creditor herein is a home buyer whose debt falls under the definition of Financial Debt as defined in Section 5(8)(f) of the Insolvency and Bankruptcy Code, 2016. On 15.07.2015, the Financial Creditor (Purchaser) and the Corporate Debtor (Developer) entered into a Construction Agreement registered as Document No.8464 of 2015 in the office of Sub-Registrar, Joint Registrar-II, Chengalpet. As per the terms and conditions of agreement, the project was to be completed within 36 months with a grace period of 6 months from the date of signing the agreement. It is further submitted that on 28.06.2019, the Corporate Debtor convened a meeting with customers and explained that the project was held up due to lack of funds and requested the

customers to pay the amount outstanding (based on work already done) for speedy construction and delivery.

3. It is stated that the Financial Creditor (Home-buyer) having waited for a considerable period of time and having granted several opportunities to the Corporate Debtor to repay the legitimate dues, approached this adjudicating authority.

4. On perusal of material placed before this Bench, it is seen that the Applicant relies upon the following documents to establish acknowledgement of debt and default:

<i>Sl.No.</i>	<i>Documents relied upon</i>
1.	<i>Registered Construction Agreement dated 15.07.2015</i>
2.	<i>Acknowledgement for payments by Financial Creditor (Payment Receipts)</i>
3.	<i>Memorandum of Association and Articles of Association of Corporate Debtor</i>
4.	<i>Statement of accounts from 01.04.2013 to 31.03.2017 disclosing transactions involved in the aforesaid loan accounts</i>

6. On looking at the facts available, we are of the view that this Financial Creditor has proved existence of debt and default. Moreover, the Corporate Debtor (Developer) admitted and acknowledged an advance payment of ₹6,65,184 received from the Financial Creditor (Purchaser) vide para 2(i) of the construction

agreement. But, the Corporate Debtor (Developer) had not adhered to the terms and conditions as per construction agreement and failed to handover the constructed apartment at Appur Village within the prescribed time. When this matter came up for hearing on 20.09.2019, 09.10.2019, 11.10.2019 and 05.11.2019, the Corporate Debtor chose to remain absent. This type of indifference on the part of Corporate Debtor conveys that he is not ready to repay the outstanding dues. Therefore, this Bench is inclined to admit this IBA/889/2019 by appointing Mr. N. Kumar, as Interim Resolution Professional (IRP) looking at the consent given by the Financial Creditor stating that this Financial Creditor would pay remuneration to the IRP and the expenditure thereto until constitution of CoC.

7. In view of the aforesaid reasons, this IBA/889/2019 is hereby dismissed/ admitted with the following directions:

I. That Moratorium is hereby declared prohibiting all of the following actions, namely,

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- a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- II. That Supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of IBC shall not apply to such transactions as may be notified by the

Central Government in consultation with any financial sector regulator.

- IV. That the order of moratorium shall have effect from the date of issue of 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 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of IBC.
- VI. That this Bench hereby appoints **Mr. N. Kumar, Regn.No. [IBBI/IPA-001/IP-P00724/2017-2018/11254], Old No.8 New No.3, 3rd Street, Race View Colony, Guindy, Chennai, Mobile 9952418350, E-Mail: naraykumar71@rediffmail.com** as Interim Resolution Professional (IRP), with his consent to carry out the functions as mentioned under IBC. Fee payable to

8)

IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

38. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email.

-Sd-

(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-

(B. S.V. PRAKASH KUMAR)
Member (Judicial)

KNP/TJS