

Learning Curve-1033

April 02, 2024

IBC does not provide any leeway/scope to dissatisfied individual Homebuyers in a minority to override the commercial wisdom of the CoC.

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| CASE TITLE | Mr. Girish Nalavade Vs. Bhrugesh Amin & Ors. |
| CASE CITATION | Company Appeal (AT) (Insolvency) No. 1542 of 2023 |
| DATE OF ORDER | March 19, 2024 |
| COURT/ TRIBUNAL | NCLAT, New Delhi |

BRIEF FACTS:

The Appellant representing 77 homebuyers as a class of creditor filed an application before the AA seeking rejection of the CoC approved Resolution Plan. The AA by an impugned order dismissed the application. Aggrieved with the impugned order, Appellant preferred an appeal.

DECISION:

The Hon'ble NCLAT, New Delhi held that,

“It is settled law that once the CoC has approved the resolution plan by requisite majority and the same is in consonance with applicable provisions of law and nothing has come to light to show that the RP had committed any material irregularities in the conduct of the CIRP proceedings, the same cannot be a subject matter of judicial review and modification...”

The intent, objective and purpose of IBC being time bound resolution of insolvency of the Corporate Debtor, it clearly does not provide any leeway or scope to dissatisfied individual Homebuyers in a minority like the present Appellant to override the commercial wisdom of the majority in the CoC. We not find any merit in the contention of the Appellant to reject the CoC approved resolution plan which has since been approved by the Adjudicating Authority. Any indulgence shown would tantamount to derailing the resolution process and setting the clock back which we cannot countenance.

For the foregoing reasons, we are of the considered view that there are no sufficient and plausible grounds made which warrant any interference with the impugned order. There is no merit in the appeal. The appeal is dismissed. No costs.”