

Supreme Court upheld the validity of Insolvency and Bankruptcy Code (Amendment) Act, 2020 (Amendment Act) which introduced threshold limit for homebuyers' application

CASE TITLE	Manish Kumar Vs. Union of India and Another ¹
CASE CITATION	WRIT PETITION(C) NO.26 OF 2020
DATE OF ORDER	19.01.2020
COURT/TRIBUNAL	Supreme Court
CASES REFERRED	<ul style="list-style-type: none">• <i>Pioneer Urban Land and Infrastructure Ltd. and another v. Union of India and others</i>• <i>Chitra Sharma and others v. Union of India and others</i>• <i>Nagpur Investment Trust and others v. Vithal Rao and others</i>
SECTION/REGULATION REFERRED	Sections 3 and 10 of the <i>Insolvency and Bankruptcy Code (Amendment) Act, 2020</i>

Brief of the case:

The Insolvency and Bankruptcy Code (Amendment) Act of 2020 had introduced a threshold that required a minimum of 100 allottees or 10 per cent of the total allottees of a project, whichever was less, to jointly apply for corporate insolvency resolution in the Tribunal. The primary issue raised in the petition was that earlier even a single allottee permitted to file application as financial creditor in its individual capacity. But now, this statutory right has been unreasonably burdened by requiring them to figure out the total pool of people and get responses from 10% of that number and that it is violative of Article 14 of the Constitution.

Decision:

In its 474 page judgement, Hon'ble Supreme Court dismissed the contention of violation of Article 14 and, stated, "There can be hundreds or even thousands of allottees in a project. If a single allottee, as a financial creditor, is allowed to move an application, the interests of all the other allottees may be put in peril... Other allottees may have a different take of the whole scenario. Some of them may approach the Authority under the Real Estate (Regulation and Development) Act of 2016. Others may, instead, resort to the Consumer Protection Act. The remedy of a civil suit is, no doubt, not ruled out"



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¹<https://ibbi.gov.in/uploads/order/e501b1edf529aa6e4148b63d28e19078.pdf>