IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

APPELLATE JURISDICTION

COMPANY APPEAL (AT) (INS) NO. 1243 OF 2022

IN THE MATTER OF:

Ashok Gupta, Suspended Director of Ajnara India Limited....Appellant

Versus

Manish Kumar Gupta & Anr. .... Respondents

WRITTEN NOTE ON BEHALF OF THE INTERVENING APPLICANTS/HOMEBUYERS OF TOWERS F & H, PROJECT "AJNARA AMBROSIA", PURSUANT TO THE ORDER DATED 12.05.2026 PASSED BY THIS HON'BLE TRIBUNAL

1. The present Written Note is being filed on behalf of the Intervening Applicants, being **homebuyers/allottees of Towers F & H of Project "Ajnara Ambrosia"**, Sector-118, Noida, in furtherance of the **pending Application bearing I.A. No. 3789 of 2025** filed before this Hon'ble Tribunal in the captioned Appeal. The said application has been preferred under Regulation 4E of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**") **seeking possession of their respective units on an "as is where is" basis.**

2. The present note is confined to the issue framed by this Hon'ble Tribunal, i.e., whether the CIRP in the present matter ought to proceed on a project-wise basis or in respect of the Corporate Debtor as a whole.

3. The present intervening applicants, being homebuyers/allottees of Towers F & H of RERA Phase-II, Project "Ajnara Ambrosia", respectfully submit that their **primary concern is securing possession of their respective residential units, which are already near completion and substantially occupied.**

4. While the **applicants support a project-wise approach to CIRP in the facts of the present case, such submission is limited to the extent necessary to ensure that possession of near-complete residential units.** If the CIRP is conducted project-wise, the interests of homebuyers of substantially completed Towers F & H can be protected without being delayed by issues relating to other projects of the Corporate Debtor. The applicants are principally concerned with timely handover of their homes and protection of their possession rights.

5. The applicants had accordingly preferred I.A. No. 3789 of 2025 seeking possession of their respective units on an "as is where is" basis subject to residual compliances. It is respectfully submitted that postponement of possession despite the advanced stage of completion would cause grave prejudice to genuine homebuyers who continue to bear financial liabilities despite having invested substantial lifetime savings in the project.

6. It is pertinent to note that the insolvency proceedings in the present case arise from alleged defaults pertaining only to a specific project, namely Project Ambrosia. The present applicants are bona fide homebuyers of Towers F & H of RERA Phase-II, whose limited and primary concern is securing possession of their residential units, which are already substantially complete and ready for occupation in all material respects.

7. The settled jurisprudence governing real estate insolvency proceedings consistently recognizes that the rights of homebuyers and timely delivery of possession must remain paramount during CIRP. Insolvency proceedings cannot be permitted to indefinitely withhold possession of substantially completed residential units from innocent homebuyers who have invested their life savings and whose right to shelter stands directly affected.

8. The Hon'ble Supreme Court in Mansi Brar Fernandes v. Shubha Sharma & Anr. recognised the **need to uphold the promise of the right to shelter under Article 21** of the Indian Constitution to bonafide homebuyers and to promote stability in the sector, and to safeguard genuine homebuyers' interests, **IBBI was directed to devise a mechanism that enables handover of possession to willing allottees where substantial units are complete.**

9. Further, in Flat Buyers Association v. Umang Realtech Pvt. Ltd., this Hon'ble Appellate Tribunal evolved the concept of "Reverse CIRP" with the specific objective of ensuring

completion of projects and delivery of possession to homebuyers rather than subjecting allottees to prolonged insolvency consequences.

10. In the present case, Towers F & H of RERA Phase-II are at an extremely advanced stage of completion and are virtually complete in all material respects. **Only limited residual works, including fire safety compliances and obtaining Fire NOC, remain.** As per information provided by the ex-management and IRP, the towers **comprise approximately 280 residential units, out of which nearly 276 units have already been sold.**

11. Most significantly, **possession has already been handed over in approximately 66% of the units prior to initiation of CIRP, and a substantial number of families are presently residing in the said towers**. The towers are therefore not abandoned or incomplete projects but are functional residential towers where homebuyers are already residing and enjoying peaceful possession.

12. The **applicants herein have already paid substantial amounts towards their respective units over several years**, with several applicants having paid the entire sale consideration and others having paid nearly the entirety of their dues under their respective Builder Buyer Agreements. Despite such payments, the remaining **homebuyers continue to suffer delay in possession while simultaneously bearing the burden of EMIs, rentals and associated financial liabilities.**

13. **The applicants are not seeking any relief that would obstruct or complicate the insolvency process.** Their limited prayer is that possession of the remaining 99% completed residential units may not be unnecessarily withheld on account of prolonged CIRP proceedings. The applicants have already expressed their willingness before this Hon'ble Tribunal and before the Interim Resolution Professional to accept possession of their units on an "as is where is" basis, subject to completion of residual compliances and formalities.

14. It is respectfully submitted that **permitting completion of residual formalities and facilitating possession to the remaining homebuyers would best serve the interests of all stakeholders and would also align with the settled principles governing real estate insolvency.** Subjecting these near-complete and already inhabited towers to prolonged insolvency proceedings would neither maximize value nor advance the objectives of the

Code. On the contrary, it would cause grave and irreversible prejudice to genuine homebuyers whose homes are substantially complete and ready for occupation.

15. The present submissions are being made bona fide and in the larger interest of innocent homebuyers whose right to shelter, possession and peaceful enjoyment of their homes is directly affected.

Filed By

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