

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH COURT III

I.A. 1045 of 2023

In

C.P. No. (IB) 27/MB/C-III/2019

Under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016

**Whispering Tower Flat Owner)
Welfare Association)**

B-704, Runwal Pride CHSL, Behind)
R Mall, LBS Marg, Mulund (West))
Mumbai – 4000080)

... Applicant

Vs.

**Mr. Abhay Narayan Manudhane)
(Resolution Professional of)
Housing Development & Infra-)
Structure Limited))**

Having office at:)
1204, Maker Chamber V, Jamnalal)
Bajaj Road, Nariman Point,)
Mumbai – 400021)

**... Resolution Professional/
Respondent**

IN THE MATTER OF

Bank of India

... Financial Creditor

Vs

Housing Development and Infrastructure Limited

... Corporate Debtor

Order pronounced on: 03.09.2024

Coram:

Hon'ble Ms. Lakshmi Gurung, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati (Technical)

Appearances:

For the Applicant : Ms. Hiral Thakkar a/w Soumya Roop Sanyal

For the Respondent : Mr. Shadab S. Jan a/w Adv. Prerana
Wagh a/w Adv. Prangana Barva, Mr.
Mufaddal Paperwala i/b M/s Crawford
Bayley & Co.



Per: Shri. Charanjeet Singh Gulati, Member (Technical)

ORDER


1. The present I. A. is filed by Whispering Tower Flat Owner Welfare Association (**Applicant**) seeking approval of the Resolution Plan submitted for Vertical II (Whispering Tower) of the Corporate Debtor. The reliefs sought in the application are as follows:
 - a. *Approve the Resolution Plan for the project – wise resolution of ‘Whispering Tower’ filed by the Resolution Professional, and*
 - b. *Direct the Resolution Professional to complete resolution process expediently within a period of two months.*

2. **Brief Facts**
 - i) The Corporate Insolvency Resolution Process (**CIRP**) of HDIL/Corporate Debtor was initiated by this Tribunal vide Order dated 20.08.2019 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**the Code**) and Mr. Abhay Narayan Manudhane (**Applicant**) was appointed as the Interim Resolution Professional (**IRP**) and was subsequently confirmed as the Resolution Professional (**RP**).

 - ii) The RP made public announcement inviting Expression of Interest (EoI) on 16.02.2020, however, no resolution plans were received. After some deliberation, the CoC Members decided to explore project-wise resolution and the same was approved by the CoC in its 18th meeting held on 08.09.2021.

 - iii) Pursuant to the approval of CoC for project-wise resolution of the Corporate Debtor, the RP divided the Corporate Debtor into 10 (ten) Verticals/Projects as follows:

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Vertical I (Majestic Towers), Vertical II (Whispering Towers), Vertical III (Premier Exotica), Vertical IV (Galaxy Apartment), Vertical V (BKC Inspire), Vertical VI (Paradise City), Vertical VII (HDIL Towers (Building)), Vertical VIII (Land parcels at Vasai and Virar), Vertical IX (Land parcel at Kalyan Shahad ("Shahad Land")), Vertical X (Rest of the Corporate Debtor).

- iv) The Resolution Plan for Vertical II – Whispering Tower submitted by consortium of Khyati Realtors Private Limited and Dosti Realtors Private Limited (**Successful Resolution Applicant/SRA**) was approved by the CoC by 66.084% voting at the 25th CoC Meeting held on 19.09.2022 and the RP filed Interlocutory Application No. 3626/2022 seeking this Tribunal's approval of the Resolution Plan for Vertical II.
- v) The Slum Rehabilitation Authority (SRA) and the Municipal Corporation of Greater Mumbai (MCGM) were made parties to IA/3626/2022 and both the authorities have filed their respective replies and raised several objections with respect to the approval of Resolution Plan.
- vi) Under the said circumstances, the Flat Owner Welfare Association of Whispering Tower have filed the present application praying for approval of the Resolution Plan.
3. **Submissions by the Applicant**
- i. The homebuyers of the captioned project have been waiting anguished and deprived by the Corporate Debtor of their rightful homes purchased by them in 2011. The work in the said project stopped in 2015.
- ii. The homebuyers are facing hardships by staying on rent, paying their EMIs and facing delay of more than 12 years of possession.



- iii. The homebuyers have been painstakingly following every aspect of the CoC Meetings through their authorised representative and the resolution plans have been approved by the CoC in its commercial wisdom.
- iv. Thus, keeping in view the larger interest of the homebuyers, it is prayed that the application seeking approval of Resolution Plan for Whispering Tower be allowed by this Tribunal.

Observations & Findings

4. Heard the Ld. Counsel and perused the record.
5. As a matter of fact, Corporate Debtor was admitted to CIRP on 28.08.2019. After some discussions and deliberations, the CoC decided to explore project-wise resolution and the Corporate Debtor was divided into several verticals. Resolution plans were invited from prospective resolution applicants (PRAs) for each vertical as well as for the Corporate Debtor as a whole. Admittedly, the RP did not receive any compliant resolution plan for the Corporate Debtor as a whole whereas project-wise resolutions were also submitted from various PRAs.
6. Six resolution plans pertaining to six verticals of the Corporate Debtor i.e. Verticals I, II, III, V, VII and IX, respectively, were approved by the CoC with the requisite percentage of voting and placed before this Tribunal for sanction. More particularly, IA/3626/2022 was filed on 11.11.2022 seeking this approval of Resolution Plan for Vertical II i.e. Whispering Tower. All the six Resolution Plans were heard at length and were reserved for orders on 03.06.2024 along with other objection applications.
7. As can be seen from the facts, the RP had impleaded the Slum Rehabilitation Authority (SRA) and Municipal Corporation for Greater

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Mumbai (MCGM) as Respondents in IA/3626/2022 who have filed their respective replies objecting to the approval of the Resolution Plan for Vertical II. Amongst the various objections raised by MCGM, one pertains to the pending property tax dues with respect to various properties of the Corporate Debtor including Whispering Towers. The outstanding property tax dues in respect of Whispering Towers is Rs. 103,11,25,523/-.

8. Besides filing reply to IA/3626/2022, MCGM has also filed a separate application bearing no. 296/2024 seeking admission of its claim pertaining to property taxes that includes pre-CIRP as well as post CIRP dues. IA/296/2024 was decided and allowed on 30.08.2024 with directions to the RP to consider and verify the updated claim of MCGM as well as to treat MCGM as a 'secured creditor' in respect of the claims of MCGM including the one already admitted. In view of the same, the Resolution Plans wherein the said objections were raised were put up for clarification on 30.08.2024.
9. Considering the factual matrix, we deem it fit to render the present IA as infructuous since no resolution plan for Vertical II of the Corporate Debtor is presently pending before us for approval. Accordingly, prayer 'a' seeking approval of resolution plan of Vertical II of Corporate Debtor is rendered as **infructuous**.
10. As regards prayer 'b' seeking completion of resolution process in two months, we appreciate the fact that insolvency process under the I&B Code is a time-bound process, however, extensions of timeline are also granted based on facts and circumstances of each case for successful resolutions of companies. Since completion of CIRP of the Corporate Debtor depends on the circumstances surrounding the case, such a prayer seeking completion of the same within two months cannot be granted in this case. Hence, prayer 'b' is **rejected**.

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11. Here, we would like to clarify that the disposal of the present IA shall not affect the decision in respect of the resolution plan for Vertical II (Whispering Tower) of the Corporate Debtor as and when placed before us and the same shall be decided on merits.
12. The present IA is accordingly **disposed of**.

Sd/-

Charanjeet Singh Gulati
Member (Technical)

Uma, LRA

Sd/-

Lakshmi Gurung
Member (Judicial)