

NATIONAL COMPANY LAW TRIBUNAL ITEM NO :1  
ALLAHABAD BENCH

CP NO.(IB)30/ALD/2021

ATTENDENCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 20.07.2021 AT 10:30 AM THROUGH VIDEO CONFERENCING.

NAME OF THE COMPANY : INDIABULLS HOUSING FINANCE LTD V/S SHIPRA HOTELS LTD

SECTION : 7 IBC

PRESENT : HON'BLE MR. JUSTICE (RETD.) RAJESH DAYAL KHARE, MEMBER (J)

COUNSEL FOR APPLICANT/ RP : RAGHAV DWIVEDI

COUNSEL FOR RESPONDENT :

The matter was taken up through Video Conferencing.

Heard Sh. Anurag Khanna, Ld. Sr. Counsel assisted by Sh. Raghav Dwivedi, Ld. Counsel for the Petitioner who has filed the present CP No. (IB) 30/ALD/2021 u/s 7 of IBC for default of the loan amount which was extended to the Corporate Debtor.

It is contended that the Financial Creditor is a housing finance company regulated by the National Housing Bank and during the period from December, 2017 to March, 2020, the Financial Creditor entered into various loan agreements with the Corporate Debtor's group companies, including the Corporate Debtor, under which it provided finances for <sup>construction</sup> ~~consideration~~ and development of housing/residential projects and preference is drawn to two loan agreement dated 7<sup>th</sup> December, 2017 for an amount of Rs. 323,00,000/- out of which the total amount disbursed to the Corporate Debtor was Rs.287,25,01,242/- and the second loan agreement dated 31<sup>st</sup> March,2021 of Rs.139,00,00,000/- and the amount disbursed against the aforesaid sanctioned loan, was Rs. 138,09,59,223/-.

It is contended that the aggregate loan amount sanctioned to the Corporate Debtor by the Financial Creditor under the aforementioned two loan agreement was Rs.462,00,00,000/- and the amount disbursed against the aforesaid sanctioned loan amount was Rs. 425,34,60,465/-.

It is further argued that the aforesaid loan facility was secured by way of mortgage, pledge of shares and personal guarantees issued by the Corporate Debtor and its group companies.

It is contended that against the entire loan facility, the group companies and the Corporate Debtor had mortgage plots detailed in the present petition situated at Noida, Sector-43, Gautam Budh Nagar, Uttar Pradesh in favour of the Financial Creditor and the mortgage land was a part of the security cover created in favour of the Financial Creditor.



It is further contended that on 4<sup>th</sup> September, 2020 the NOIDA Authority revoked the permission to Verve and Regalia to mortgage the land, thereby impairing the security to the Financial Creditor.

Accordingly, the Financial Creditor issued notice dated 20<sup>th</sup> October, 2020 to the Corporate Debtor to cure the default under the loan documents within a period of 15 days. Since the default was not cured, the Financial Creditor issued loan recall notice dated 5<sup>th</sup> November, 2020 and 15<sup>th</sup> December, 2020 to repay the outstanding amount under the loan Account as detailed, within 7 days of the date of receipt of the said notice.

It is argued that the Corporate Debtor and the co-borrowers failed to make payment of the outstanding amount in terms of the loan agreement and the first financial default was committed by the corporate Debtor. It is further argued that at the time of entering into loan agreement, the Corporate Debtor had issued post-dated cheques in favour of the Financial Creditor and two of the post-dated cheques so issued were for Rs.3,36,76,592/- bearing cheque No. 715356 dated 5<sup>th</sup> April, 2021 and the second cheque for Rs.17,88,93,000/- bearing cheque no. 804274 dated 5<sup>th</sup> April, 2021.

It is argued that when the aforementioned cheques were presented to YES Bank by the Financial Creditor on 5<sup>th</sup> April, 2021, the same was returned back dishonoured on the ground of insufficient funds.

It is further contended that on 7<sup>th</sup> April, 2021, the parent company of the Corporate Debtor namely Shipra Estate Limited issued a letter to the Financial Creditor by which the Corporate Debtor acknowledges the financial default of Shipra Group's Borrowing, including the borrowings of the debt of the Corporate Debtor.

It is argued that in view of the aforesaid default the Corporate Debtor issued a default notice dated 8<sup>th</sup> April, 2021 to the Corporate Debtor and the amount of Financial default was indicated to be Rs.302,99,68,067/- outstanding towards the principal amount and <sup>interest</sup> ~~creditors~~ part was Rs. 23,84,85,568/-. It is contended that the Financial Creditor has very strong reasons to believe that the Corporate Debtor is financially insolvent and is unable to pay its debt, and thus the present petition has been filed.

Let notice be issued to the Respondent by all modes including the process of the Court, returnable at an early date.

Accordingly, put up in the week commencing 18<sup>th</sup> August, 2021 through Video Conferencing/Regular Court.

— Sd —

**Dated : 20.07.2021**

**JUSTICE RAJESH DAYAL KHARE  
(MEMBER JUDICIAL)**

*Typed by :*  
Shubham Kr. Singh  
(PS)