

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, NEW DELHI
COURT-III

Item 110
CP (IB)-717(ND)/2019

IN THE MATTER OF:

PUNJAB NATIONAL BANK (Oriental Bank of Commerce)

.... Financial creditor

Versus

M/s. Sidhartha Buildhome Private Limited

.... Corporate debtor

SECTION

U/S. 7 IBC Code, 2016

Order delivered on 04.03.2021

CORAM:

CH. MOHD. SHARIEF TARIQ, MEMBER (JUDICIAL)

SHRI NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)

PRESENT:

For the Applicant/FC : S.K.Sharma, advocate

For the Respondent/CD : Prateek Gupta, Advocate

ORDER

(Through Video Conference)

1. The Ld. Counsel for the Financial Creditor is present. The Ld. Counsel for the Corporate Debtor is present.

2. Under Consideration is CP (IB)-717(ND)/2019 filed by Oriental Bank of Commerce (Now known as Punjab National Bank) under Section 7 of the IBC, 2016 with the prayer to initiate CIR Process against the Corporate Debtor viz, *M/s. Sidhartha Buildhome Private Limited*, declare the Moratorium and appoint the Interim Resolution Professional, on the ground that the Corporate Debtor failed to pay the term loan with interest and the amount in default is Rs. 81, 08, 53,131.87 as on 31.01.2019.

3. It is also submitted by the Ld. Counsel for the Financial Creditor that on the request of Corporate Debtor a term loan of Rs. 75, 00, 00,000/- was sanctioned on 25.09.2014. The sanction letter dated 25.09.2014 is placed on record. Particulars of security and Certificate of Registration of Charge issued by the Registrar of Companies have also placed on record. The title deed was deposited by the Corporate Debtor with the Financial Creditor, the Certificate of Registration of Charge issued by the RoC is place on record.

4. The Recall notice was sent under Section 13(2) on 03.08.2018, which is place on record. The copies of entries in Bankers Books in accordance with the Bankers Books Evidence Act, 1891 are placed on record. The complete copies of the Financial Contract reflecting all amendments and waiver are also placed on record the detail of which is noted below: -

- a. *True copy of Board Resolution dated 20.12.2014.*
- b. *True copy of DOC-5- agreement of term loan dated 16.02.2015.*
- c. *True copy of DOC-38- Common Agreement dated 16.02.2015.*
- d. *True copy of DOC-11- Agreement of Guarantee dated 16.02.2015.*
- e. *True copy of DOC-11- Agreement of Guarantee dated 16.02.2015.*
- f. *True copy of DOC-11- Agreement of Guarantee dated 16.02.2015*

5. Reply has been filed by the Corporate Debtor wherein under Para 5, it is stated that the Financial Creditor had sanctioned a term loan of Rs. 75,00,00,000/- in favour of the Corporate Debtor for the purpose of Developing Group Housing Project "Siddhartha Estella" at Sector 103, Gurugram on 25.09.2014. However, Rs. 62,00,00,000/- approximately was advanced and rest of the amount Rs.13,00,00,000/- was not disbursed. It is submitted that the Corporate Debtor complied with all the three disbursement commissions of the Financial Creditor, however, the Financial Creditor failed to perform his part of disbursing the entire amount sanctioned.

6. It is further noted that in Para 11 of the reply that the Corporate Debtor has made a request on restructuring of the loan to the Financial Creditor and the parties were awaiting the completion and compliance of the various banking requirements like TEV study and rating etc. However, it is admitted that the account has become NPA due to the non-compliances in terms of the repayment. In short, the documentary evidence, which is placed on record, is sufficient to ascertain the default on the part of the Corporate Debtor. However, there is no merit in the defence projected by the corporate debtor. Therefore, the same is rejected.

7. The Financial Creditor has proposed the name of Resolution Professional viz, **Mr. Devendra Singh**, registered with IBBI having **Registration No: IBBI/IPA-002/IP-N00001/2016-2017/10001 Address: ATS Greens Paradiso, Flat No. 02054, Tower-2, and Plot No. GH-03, Sector – CHI- 04, Greater Noida, UP -201308 Email: dev_singh2006@yahoo.com and Mobile No: 9810331877, 9810339416**. As per the consent letter, no investigation is pending against the Resolution Professional and he agreed to accept the assignment of being Interim Resolution Professional in the matter. Therefore, all the legal requirements are fulfilled, the application is **admitted**. The CIRP is initiated against the Corporate Debtor viz., *M/s. Sidhartha Buildhome Private Limited*. **Mr. Devendra Singh** is hereby appointed as IRP.

8. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely: -

- (a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

9. The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended, or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

10. We hereby direct the Financial Creditor to pay a sum of Rs. 2, 00,000/- to the IRP upon filing necessary declaration Form, so that the IRP could meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

11. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

12. The Learned Counsel for the Financial Creditor and the Registry are directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016.

13. The Registry is also directed to communicate this Order to the Financial Creditor, the Corporate Debtor, and the concerned RoC.

14. The Order is dictated and pronounced in open court through video conferencing in the presence of Learned Counsel for the Financial Creditor and Learned counsel for the Corporate Debtor.



(NARENDER KUMAR BHOLA)
Member (Technical)



(CH. MOHD. SHARIEF TARIQ)
Member (Judicial)

Shammy
Court-III

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