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FROM UNSECURED TO FINANCIAL CREDITOR: REFORMING HOMEBUYER PROTECTION UNDER IBC

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INTRODUCTION

The Indian real estate sector plays a pivotal role in the nation's economy and is projected to attain a market size of **US \$1 trillion by 2030**. However, the sector is currently grappling with a severe crisis, reflected in a surge of insolvency cases reported by the **Insolvency and Bankruptcy Board of India (IBBI)**. Among the distressed industries, manufacturing leads with 40%, followed by real estate at 21%, construction at 11%, and trading at 10%. Worryingly, if current trends persist, real estate may soon overtake manufacturing as the most distressed sector in India.

A major reason behind this vulnerability is the **chronic delays in construction and delivery of projects by developers**, often compounded by financial mismanagement and fraudulent practices. These setbacks have cascading effects, with **homebuyers emerging as the most affected stakeholders**, facing stalled projects, indefinite waiting periods for possession of flats, and in many cases, outright project abandonment. Such developments not only erode consumer confidence but also risk destabilizing a sector that is central to India's urban growth and economic aspirations.

Initially, under the framework of the **Insolvency and Bankruptcy Code, 2016 (IBC)**, homebuyers lacked **locus standi**, as they were not included within the statutory definition of *financial creditors*. This legal lacuna left them without adequate remedies in cases of insolvency initiated against real estate developers. However, the judiciary, particularly the **Supreme Court of India**, repeatedly acknowledged the precarious position of homebuyers, who often invest their life savings into housing projects only to be left vulnerable by delays, defaults, and fraudulent conduct of developers. Judicial interventions were subsequently codified by the legislature through the **2018 Amendment to the IBC**¹, which conferred **statutory recognition to homebuyers as financial creditors**, thereby enabling them to

¹ Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (Act 26 of 2018), (6th June, 2018)

participate in the **Committee of Creditors (CoC)** and safeguarding their rights during the resolution process.²

As **Justice R.F. Nariman** aptly remarked, *“the defaulter’s paradise is lost. In its place, the economy’s rightful position has been regained.”* This statement encapsulates the transformation of India’s insolvency framework into a **creditor-centric regime**, where homebuyers, once marginalized, now enjoy statutory protection and a legitimate voice in the resolution process.³

Against this backdrop, the present research seeks to analyze the evolving legal position of homebuyers under the IBC, with particular emphasis on the role of judicial pronouncements and legislative interventions in shaping their status as financial creditors.

PROBLEM STATEMENT

Although the recognition of homebuyers as financial creditors represents a significant advancement in insolvency jurisprudence, the effectiveness of this reform remains contested. In practice, homebuyers continue to face challenges such as delays in resolution, limited recovery of their investments, and difficulties in achieving possession of their flats — the very relief they primarily seek. Their fragmented representation in the Committee of Creditors, combined with the commercial dominance of institutional lenders, often dilutes the bargaining power of individual homebuyers. Moreover, the increasing number of insolvency petitions against real estate developers has raised concerns of misuse, further complicating the resolution process. Thus, the central problem lies in determining whether the existing framework under the IBC adequately balances the rights of homebuyers with the need for efficient insolvency resolution in the real estate sector.

PRE-2018 POSITION OF HOMEBUYERS UNDER THE IBC

Before the **2018 Amendment to the Insolvency and Bankruptcy Code, 2016 (IBC)**, the remedies available to homebuyers were largely confined to approaching **Consumer Forums** under the Consumer Protection Act or the **Real Estate (Regulation and Development) Act**,

² Ghayur Alam, Abhinav Pradhan and Sayed Aqa Raza, ‘The Insolvency and Bankruptcy Code, 2016 Interpreted-Constructed by the Supreme Court of India’, [2019] 1 NLIU Journal of Business Laws 19

³ Surabhi Sharma and Pushkar Deo, Insolvency and bankruptcy code: impact on homebuyers, ipleaders, available at <<https://blog.ipleaders.in/insolvency-bankruptcy-code-impact-homebuyers/#>> (last seen on 23 August, 2025)

2016 (RERA) in cases of project delays or fraud. However, the situation became increasingly complicated when several high-profile insolvency proceedings were initiated in 2017 against defaulting real estate and housing development companies.

A significant hurdle for homebuyers arose under **Section 14⁴ of the Code**, which imposes a *moratorium* period once an insolvency resolution process is initiated. During this period, no suits or proceedings can be instituted or continued against the company. This meant that homebuyers, despite being aggrieved, could not seek relief before consumer forums or RERA once a developer entered insolvency proceedings. To make matters worse, as the Code did not initially recognize them as creditors, homebuyers had no **locus standi** in the Corporate Insolvency Resolution Process (CIRP). In liquidation, they stood at the bottom of the priority list under **Section 53⁵ of the Code**, with recoveries limited to the residual value, which was often negligible.

This legal vacuum gave rise to a contentious question: **Do homebuyers have locus standi to initiate insolvency proceedings against defaulting real estate developers?** Chapter II of the IBC specifies that a CIRP may be triggered by **financial creditors** under Section 7⁶, **operational creditors** under Section 9⁷, or the **corporate debtor** itself under Section 10⁸. However, the position of homebuyers, who invest their life savings in under-construction projects, was left ambiguous.

Indian courts initially experimented with categorizing homebuyers under existing definitions. In *Nikhil Mehta & Sons (HUF) v. AMR Infrastructures Ltd. (2017)*⁹, the NCLT treated homebuyers with a committed return plan as *investors*. Their advances were held to be akin to loans, qualifying as *financial debt* under Section 5(8)(f)¹⁰. This gave them the status of financial creditors. However, such cases were rare, as most homebuyers did not invest under “assured return” schemes.

⁴ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 14

⁵ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 53

⁶ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 7

⁷ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 9

⁸ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 10

⁹ 2024 SCC OnLine NCLT 3237

¹⁰ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 5(8)(f)

When homebuyers attempted to approach courts as *operational creditors* under Section 9¹¹, their efforts failed to bring clarity. In *Mukesh Kumar v. AMR Infrastructures Ltd*¹². and *Rubina Chadha v. AMR Infrastructures Ltd. (2017)*¹³, the NCLAT left the issue unresolved, creating uncertainty over their status and leaving countless families without remedies.

The definitional ambiguity in distinguishing between financial and operational creditors resulted in tribunals often rejecting applications filed by homebuyers. This systemic exclusion came into sharp focus in large-scale corporate collapses. In *Chitra Sharma v. Union of India*¹⁴, the Supreme Court dealt with the plight of homebuyers affected by the insolvency of **Jaypee Infratech Ltd.**, and in *Bikram Chatterji v. Union of India*¹⁵, the collapse of the **Amrapali Group** highlighted the devastating impact of excluding homebuyers from the insolvency framework. Both cases underscored the urgent need to recognize homebuyers as creditors.

In *Anil Mahindro v. Earth Iconic Infrastructure (P) Ltd*¹⁶., reliance was placed on *Nikhil Mehta*¹⁷ to extend financial creditor status to allottees under assured return schemes. However, the sum of these decisions was that an allottee was neither an operational creditor nor a financial creditor unless such an assured return existed. This caused immense confusion, leaving the majority of homebuyers without recourse under the Code. In such situations, they could only file claims under the residual category of “other creditors.” To mitigate this gap, the IBBI amended its regulations in 2017 to introduce a special claim form (Form CA) specifically for homebuyers, but this was still an incomplete remedy.¹⁸

Recognizing the structural problem, the Insolvency Law Committee (ILC)¹⁹, chaired by **Mr. Injeti Srinivas**, in its March 2018 report emphasized that advances by homebuyers had the “commercial effect of borrowing.” Disbursements made against the delivery of a future asset—namely, a residential unit—when refunded on project failure, clearly reflected the time value

¹¹ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 9

¹² 2017 SCC OnLine NCLT 515

¹³ 2017 SCC OnLine NCLAT 42

¹⁴ 2018 SCC OnLine SC 983

¹⁵ 2019 SCC OnLine SC 901

¹⁶ 2023 SCC OnLine NCLT 18926

¹⁷ *Supra* note 9

¹⁸ As per Regulation 8A of Insolvency and Bankruptcy Code, 2016; Home Buyers are “Class of Creditors as Financial Creditors. Any person claiming to be a creditor in a class is to submit claim with proof to the interim resolution professional under FORM CA

¹⁹ Government of India, Report of the Insolvency Law Committee, (March 2018), https://ibbi.gov.in/ILRReport2603_03042018.pdf

of money. The Committee thus recommended that homebuyers be explicitly classified as financial creditors under the IBC.²⁰

HOMEBUYERS AS FINANCIAL CREDITORS – 2018 AMENDMENT

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, promulgated on 6 June 2018, marked a watershed moment in protecting the interests of homebuyers. This Ordinance, later enacted as the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, was based on the recommendations of the Insolvency Law Committee Report²¹. It granted homebuyers the long-denied recognition as financial creditors. This was achieved through an amendment to Section 5(8)(f)²² of the Code, which defines “financial debt.” The newly inserted Explanation clarified that any amount raised from an allottee under a real estate project shall be deemed to have the commercial effect of a borrowing. Consequently, advances paid by homebuyers were categorised as financial debt, bringing them within the protective ambit of the Code. Importantly, the definitions of “allottee” and “real estate project” were borrowed from the Real Estate (Regulation and Development) Act, 2016 (RERA), thereby aligning the two regulatory frameworks.

As financial creditors, homebuyers were granted several crucial rights:

- **Inclusion in the Committee of Creditors (CoC):** For the first time, homebuyers could participate in the CoC, the key decision-making body during the Corporate Insolvency Resolution Process (CIRP). Their inclusion allowed them to influence the formulation of resolution plans and safeguard their investments.
- **Right to Initiate CIRP under Section 7²³:** Homebuyers were empowered to file insolvency applications against defaulting developers, thereby holding them accountable for project delays or fund diversion.
- **Representation as a Class of Creditors:** To streamline their participation, the CIRP Regulations (effective 4 July 2018) created a separate category for homebuyers as “creditors in a class.” They were required to submit claims in Form FA, and their

²⁰ Ms. Mehreen Garg and Prof. Arjya B. Majumdar, The Homebuyers Conundrum in Real Estate Insolvency, Insolvency Law Academy, available at <<https://insolvencylawacademy.com/the-homebuyers-conundrum-in-real-estate-insolvency/>> (last seen on 25 August, 2025)

²¹ *Supra* note 19

²² Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 5(8)(f)

²³ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 7

interests in CoC meetings were represented collectively through an authorized Insolvency Resolution Professional.

Judicial pronouncements played a key role in reinforcing the amendment. In *Chitra Sharma v. Union of India*²⁴, the Supreme Court safeguarded the interests of homebuyers in Jaypee Infratech projects and directed the CoC to be reconstituted in accordance with the amended law. Later, the constitutional validity of the inclusion of allottees as financial creditors was discussed and challenged in *Pioneer Urban Land and Infrastructure Ltd. v. Union of India*²⁵ on the grounds of it being violative of Article 14 and Article 19(1)(g) read with Article 19(6) of the Constitution of India, the Court upheld the constitutionality of the 2018 Amendment, affirming that homebuyers' inclusion as financial creditors was neither arbitrary nor unconstitutional. The Court clarified that homebuyers had always fallen within the ambit of Section 5(8)(f)²⁶, and the 2018 Amendment only provided an explicit clarification.

This was also upheld in the recent judgment of *Yadubir Singh Sajwan v. Ms. Som Resorts*²⁷ where the NCLT was of the view that homebuyers are those who are genuinely interested in taking possession of the housing units, and the principal amount paid by them to the real estate developer is a financial debt. Hence, the NCLT concluded that homebuyers are indeed, financial creditors.

In *Bikram Chaterji v. Union of India*²⁸, the Supreme Court noted that “if the real estate business has to survive in India, it has to be answerable to the public and has necessarily to uphold the trust reposed in builders/promoters”

The recognition of homebuyers as financial creditors fundamentally reshaped the insolvency landscape. It brought retail investors — who contribute significantly to the real estate sector — on par with institutional lenders. This development empowered them to actively participate in resolution plans, pursue timely possession of their homes, and ensure that developers remained accountable to those whose life savings sustained the industry.

²⁴ *Supra* note 14

²⁵ 2019 SCC OnLine SC 1005

²⁶ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 5(8)(f)

²⁷ 2022 SCC OnLine NCLT 11532

²⁸ *Supra* note 14

2020 AMENDMENT - THRESHOLD RESTRICTIONS

While the 2018 Amendment empowered homebuyers as financial creditors, their newfound rights to initiate insolvency proceedings against developers soon led to a flood of applications before the NCLT. Many of these petitions were filed by individual homebuyers based on personal grievances, which raised concerns about misuse of the insolvency framework and its impact on genuine resolution of distressed real estate projects.

To address these concerns, the Insolvency and Bankruptcy Code (Amendment) Act, 2020²⁹ introduced significant restrictions on the filing of applications by homebuyers. The amendment inserted a threshold requirement for initiating Corporate Insolvency Resolution Process (CIRP) under Section 7³⁰ of the Code. Now, an insolvency application against a real estate company can only be filed if it is jointly made by either:

- At least **100 homebuyers**, or
- **10% of the total homebuyers** in the same real estate project, whichever is lower.

This change was intended to curb frivolous or vexatious filings while ensuring that only a collective group of genuinely aggrieved allottees could trigger insolvency.

The constitutionality of this amendment was challenged in *Manish Kumar v. Union of India*³¹, where petitioners argued that the threshold diluted the individual rights of homebuyers and was arbitrary. However, the Supreme Court upheld the amendment, holding that the requirement was a reasonable restriction designed to maintain the balance between protecting homebuyers and safeguarding the survival of real estate companies.

The Court also upheld the **third proviso** to Section 7³², which required pending individual applications filed before the amendment (but not yet admitted) to be updated within 30 days to meet the new collective threshold, failing which they would stand dismissed.

Alongside these changes, the Central Government, by notification dated 24 March 2020, exercised its powers under Section 4³³ of the IBC to raise the **minimum default threshold**

²⁹ Insolvency and Bankruptcy Code (Amendment) Act, 2020 (Act 1 of 2020)

³⁰ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 7

³¹ 2021 SCC OnLine SC 30

³² Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 7

³³ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 4

from ₹1,00,000 to **₹1,00,00,000**. This was intended to restrict the IBC to cases of significant financial distress and reduce the burden of minor claims on the insolvency machinery.

The 2020 Amendment fundamentally altered the position of homebuyers under the IBC. While they retained their status as financial creditors and their voting rights in the Committee of Creditors, their ability to independently initiate CIRP was significantly curtailed. The amendment compelled homebuyers to act collectively, ensuring that insolvency proceedings against developers were reserved for serious cases of financial distress rather than individual disputes.

The Supreme Court in *Manish Kumar* (2021)³⁴ upheld this framework as a necessary filter against vexatious litigation, aligning the rights of homebuyers with the IBC's core objective of balancing creditor interests with corporate survival.

ROLE OF RERA VS IBC

The Real Estate (Regulation and Development) Act, 2016 ("RERA") was enacted as a consumer-oriented legislation to safeguard the interests of homebuyers and ensure transparency in the real estate sector. On the other hand, the Insolvency and Bankruptcy Code, 2016 ("IBC") primarily seeks to protect the rights of creditors and maximize the value of assets during corporate insolvency. While both statutes operate in distinct spheres, their objectives often collide, creating a fundamental tension: RERA prioritizes consumers, whereas the IBC prioritizes creditors.

This conflict has been the subject of judicial interpretation in several rulings. In *Vishal Chelani & Ors. v. Debashis Nanda*³⁵, the Supreme Court clarified that homebuyers cannot be treated differently from other financial creditors merely because they have obtained relief under RERA. Similarly, in *Tarun Ahuja & Ors. v. Puri Construction Pvt. Ltd.*³⁶, the NCLT Delhi held that the status of homebuyers as financial creditors under Section 5(8)(f)³⁷ of the IBC remains unaffected even if they have previously pursued remedies before RERA or the

³⁴ *Supra* note 12

³⁵ 2023 SCC OnLine SC 1324

³⁶ 2024 SCC OnLine NCLT 512

³⁷ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 5(8)(f)

NCDRC. These rulings strengthen the position of homebuyers by reaffirming their locus standi under the IBC, notwithstanding their parallel remedies under RERA.

Under Section 18³⁸ of RERA, allottees are entitled to either withdraw from delayed projects and receive a refund with interest, or continue and claim compensation for delayed possession. They may also seek compensation for structural defects, defective title, or other non-compliances by promoters. These statutory rights give rise to financial obligations on the part of the promoter, creating “debts” under the IBC. Thus, non-payment of such dues amounts to “default,” enabling allottees to approach the NCLT as financial creditors, particularly after the 2018 amendment to the IBC.

A key area of friction arises during the moratorium imposed under Section 14³⁹ of the Code, which suspends all proceedings against the corporate debtor. The question is whether regulatory actions under RERA, such as cancellation of project registration, can continue during the moratorium. Precedents like *State Bank of India v. Electrosteel Steels Ltd.*⁴⁰ and *SBI v. Orissa Manganese & Minerals Ltd.*⁴¹ establish that regulatory interventions which disrupt the going concern status of the corporate debtor are impermissible during moratorium. Applying this logic, cancellation of a real estate project’s registration by RERA during CIRP may conflict with the IBC’s objective of resolution and value maximization.

The overlap of RERA and IBC creates practical challenges in real estate insolvencies. For instance, if RERA cancels a project’s registration while insolvency proceedings are ongoing, it may derail resolution plans, deter bidders, and create uncertainty over project completion. Similarly, inclusion of diverse homebuyer-allottees in the Committee of Creditors, though empowering, complicates decision-making due to varied interests. Balancing consumer protection under RERA with creditor-centric resolution under the IBC remains a complex task. While RERA emphasizes accountability, transparency, and consumer rights, the IBC ensures creditor primacy and business continuity. Both statutes pursue legitimate but sometimes conflicting goals. However, the real challenge lies in resolving the operational overlaps, particularly during insolvency, where RERA’s regulatory interventions may clash with the IBC’s insolvency framework.

³⁸ Real Estate (Regulation and Development) Act, 2016, (Act 16 of 2016), s 18

³⁹ Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), s 14

⁴⁰ 2017 SCC OnLine NCLT 7238

⁴¹ 2019 SCC OnLine NCLT 9168

HOMEBUYERS VIS-A-VIS LIQUIDATION

Defaults affecting homebuyers in real estate are not uniform; they can range from delays in possession to situations where properties are completed but not handed over, causing significant distress. An **amendment** was sought to safeguard homebuyers during the liquidation process of real estate companies by excluding properties whose possession had been allotted from the liquidation estate. This measure ensured that homebuyers' investments were protected, even if the corporate debtor (builder/developer) went into liquidation.

Previously, homebuyers who had already taken possession of their units were grouped together with those who had not, and in the event of the builder's insolvency, their only recourse was a refund. To address this anomaly, the **IBBI introduced a further amendment in 2024** to the **IBBI (Liquidation Process) (Amendment) Regulations, 2016**⁴². This amendment explicitly excludes flats where possession has been granted but conveyance deeds have not yet been executed or registered from the liquidation estate.

This reform alleviates the substantial hardships faced by homebuyers and provides relief to those adversely affected by the insolvency of builders or developers. By distinguishing between possessed and unpossessed units, the amendment strengthens the protection of homebuyers' interests and ensures a more equitable and efficient resolution process.

2025 AMENDMENT TO IBBI REGULATIONS

The **Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2025**⁴³ marks a significant step toward protecting the rights of homebuyers in real estate insolvency proceedings. The IBC has evolved over the years to increasingly recognize homebuyers as a vulnerable class of financial creditors, and the 2025 Amendment seeks to further strengthen their position.⁴⁴

Key Highlights:

1. Handing Over Possession and Registration:

The amendment mandates that the **Resolution Professional (RP) shall hand over possession** of flats, apartments, or buildings to homebuyers once **66% of the**

⁴² Notification No. IBBI/2023-24/GN/REG112, dated 12th February, 2024 (w.e.f. 12-02-2024),

⁴³ Notification No IBBI/2024-25/GN/REG122, dated 03rd February, 2025 (w.e.f. 03-02-2025)

⁴⁴ K. Sushrutha Reddy & K. Gowtham Satya Krishna Karthikeya, The Evolution of Home Buyers Role in India's Insolvency Framework, (2025) **ibclaw.in 124 Art.**

Committee of Creditors (CoC) approves and the homebuyer has fulfilled their contractual obligations. This provision empowers homebuyers to claim possession even during ongoing CIRP, ensuring smoother and timely handover.

Concerns: The CoC approval requirement and the expectation for homebuyers to fulfill their part of the contract may limit the effectiveness of this provision, especially if the corporate debtor has not completed its obligations.

2. Appointment of Facilitators:

For classes exceeding 1,000 creditors, the RP may appoint facilitators to aid communication between authorized representatives and sub-classes of creditors, improving transparency and participation. However, facilitators act only as intermediaries, leaving homebuyers indirectly represented in the CoC. Direct representation could better empower them and ensure their interests are safeguarded.

3. RERA Oversight:

RERA officials may participate in CoC meetings to ensure real estate projects comply with regulatory norms, even during CIRP. This oversight helps protect homebuyers from deviations and ensures project development aligns with legal requirements.

4. Flexibility in Resolution Plans:

Homebuyers or their associations can seek **relaxed bidder eligibility criteria** and **exemptions from performance security**, facilitating their participation in the resolution process. Resolution Professionals are now accountable for reporting **project status, development approvals, and compliance** within 60 days, enhancing transparency.⁴⁵

REVERSE CIRP

The concept of **Reverse Corporate Insolvency Resolution Process (Reverse CIRP)** was introduced to address the unique challenges faced by **homebuyers and other stakeholders in real estate projects**. Traditional CIRP under the IBC allows financial creditors, operational creditors, or homebuyers to initiate insolvency against a corporate debtor. However, in the real estate sector, developers often have multiple projects running simultaneously, and initiating

⁴⁵ Siddharth Praveen Acharya and Poorva Vyas, IBC Amendments 2025: Revolutionizing the rights of Homebuyers and a new dawn for the Real Estate CIRP, (2025) ibclaw.in 05 Art.

CIRP against the corporate debtor can **impact all projects**, even those unrelated to the defaulting unit. This created undue hardship for homebuyers who were not part of the default.⁴⁶

The NCLAT, in the case of *Flat Buyers Association Winter Hills – 77, Gurgaon v. Umang Real tech Pvt. Ltd.*⁴⁷, addressed this issue by conceptualizing **Reverse CIRP**. Under this framework:

- If CIRP is initiated by homebuyers, financial institutions, or operational creditors **specific to a project**, the process should **be limited to that project only**.
- Other projects of the same real estate company, having **distinct stakeholders and homebuyers**, remain unaffected, thereby protecting their interests and preventing unnecessary disruption.
- The developer (corporate debtor) is allowed to **continue ongoing construction activities** in the unaffected projects, ensuring employment and progress, while the CIRP addresses the project-specific defaults.

Reverse CIRP balances the interests of all stakeholders i.e. **Homebuyers, Corporate Debtor/Promoter and Resolution Professionals and CoC**. The concept has since influenced other cases, including *Puneet Kaur vs. K.V. Developers Pvt. Ltd.*⁴⁸, where NCLAT emphasized the need to consider **homebuyers' claims individually and fairly**, taking into account geographical distribution and realistic timelines. Reverse CIRP ensures that homebuyers are not unfairly grouped with other creditors whose interests may conflict with theirs, particularly when their primary goal is **possession of the property rather than mere monetary recovery**. In essence, **Reverse CIRP** is a **homebuyer-centric innovation** within the IBC, designed to make insolvency resolution in real estate **more equitable, focused, and practical**, ensuring that stalled projects can be revived without penalizing unrelated homebuyers.

RECOMMENDATIONS

In light of the persistent challenges faced by homebuyers under the Insolvency and Bankruptcy Code (IBC), the following policy recommendations are proposed:

- **Strengthen Buyer Representation:** Establish a dedicated representative body for homebuyers or provide enhanced voting rights within the Committee of Creditors

⁴⁶ Sanjeev Kumar and Anshul Sehgal, 'Reverse CIRP: An Alien Concept to the IBC Regime', Bar and Bench, available at <<https://www.barandbench.com/columns/reverse-cirp-an-alien-concept-to-the-ibc-regime>> (last seen 24 August, 2025)

⁴⁷ 2024 SCC OnLine NCLAT 145

⁴⁸ 2022 SCC OnLine NCLAT 218

(CoC) to ensure their interests are not overshadowed by institutional lenders.

- **Expedited Timelines:** Introduce special fast-track procedures for insolvency cases involving real estate projects to prevent prolonged uncertainty and financial hardship for homebuyers.
- **Relief from EMI Burdens:** Develop mechanisms to suspend or defer EMI payments for homebuyers once insolvency proceedings are initiated, until the project's status is conclusively determined.
- **Project-Specific Resolution Framework:** Amend the IBC to provide for alternate developers or project-wise segregation, ensuring that viable projects are completed rather than pushed into liquidation.
- **Preventive Regulation of Developers:** Enforce stricter financial and compliance regulations for real estate developers to minimize mismanagement and reduce the risk of insolvency.
- **Harmonization of IBC and RERA:** Introduce legislative reforms to clarify the jurisdictional hierarchy between IBC and RERA, ensuring consistency in adjudication. RERA's consumer protection mandate must be harmonized with IBC's insolvency objectives.
- **Priority for Allottees:** Amend the Code to prioritize homebuyers' claims in insolvency proceedings, placing them at par with financial creditors and above unsecured creditors in the distribution waterfall.
- **Special Real Estate Insolvency Framework:** Create a sector-specific insolvency mechanism that safeguards ongoing projects, preserves housing land use, and ensures homebuyers' investments remain secure during liquidation or resolution.

CONCLUSION

The journey of homebuyers under the Insolvency and Bankruptcy Code (IBC) has been marked by both significant progress and ongoing challenges. Legislative amendments, particularly the 2018 and 2020 amendments, have recognized homebuyers as financial creditors, granting them greater rights and a more active role in the insolvency resolution process. The procedural enhancements introduced through the 2025 IBBI regulations further strengthen their participation, ensuring that homebuyers are represented in the Committee of Creditors and can meaningfully contribute to decision-making. These reforms reflect a growing awareness of the unique vulnerabilities of homebuyers and a commitment to their equitable treatment within the insolvency framework.

Despite these advancements, the IBC's primary objective remains the resolution of corporate debt, with remedies for homebuyers being an important but secondary outcome. The effectiveness of these measures relies on continued cooperation and transparency among all stakeholders, including homebuyers, developers, resolution professionals, and regulatory authorities.

Ultimately, by proactively addressing existing challenges and fostering an inclusive, transparent, and participatory environment, the IBC has the potential to serve as a robust mechanism for resolving disputes in the real estate sector. These reforms not only instill confidence among homebuyers but also facilitate the timely completion of projects, promoting stability and sustainable growth in the sector. Through informed decision-making, collective action, and strengthened regulatory oversight, homebuyers should further be increasingly empowered to secure their investments and achieve the homes they have long anticipated.

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