

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**I.A. Nos. 4033 & 4303 of 2019**

**IN**

**Company Appeal (AT) (Insolvency) No. 1056 of 2019**

**IN THE MATTER OF:**

**Rajesh Goyal**

**...Appellant**

**Vs.**

**Babita Gupta & Ors.**

**...Respondents**

**Present: For Appellant: - Mr. Sunil Kumar, Senior Advocate with Mr. Shekhar Yadav, Mr. Sandeep Bhuraria, Mr. Vivek Kohli and Mr. Aman Anand, Advocates.**

**For Respondents: - Mr. Sudeep Shrolriya and Mr. Pratha, Advocates.**

**Mr. Sumesh Dhawan, Advocate.**

**Mr. Amandeep Singh and Mr. Rayasha Kumar, Advocates.**

**Mr. Rajesh Gupta, Mr. Anubhav Mehrotra, Advocates.**

**Mr. Rajiv Ranjan, Senior Advocate with Ms. Aliya, Advocate.**

**Ms. Jaswant, Advocate.**

**Mr. Praful Jindal, Advocate.**

**Mr. Siddharth Srivastava, Advocate.**

**Mr. Rishab Jain, Advocate. Ms. Ananya Mohan, Advocate.**

**O R D E R**

**07.01.2020—** Mr. Rishab Jain, Advocate for Mr. Gaurav Katiyar, Resolution Professional submitted that after voting of the allottees ('Financial Creditors') out of 100% voting, 81% of the allottees agreed to have their flats/apartment/premises within the time frame as suggested by the Appellant/ Promoter, 12% of the allottees have agreed to receive

their amount and 7% of the allottees have not turned up nor made any claim.

Mr. Sunil Kumar, learned Senior Counsel appearing on behalf of the Appellant/ Promoter submits that the flats for all the allottees will be completed within 180 days which is a normal period of Resolution. The investment will be made by the Appellant/ Promoter by generating money from some other sources.

The allottees who intend to take the flats/apartment/premises will have to pay the rest of the amount in terms of the Agreement and on completion of the flats, full amount to be paid before taking the possession. The amount, as may be invested or will be deposited in an account under the supervision of the 'Resolution Professional' for the purpose of construction of the premises in terms of RERA.

12% of the allottees who want money back, they will be paid the total principal amount with interest, if any, within 180 days in two equal instalments. Out of the two, first instalment will be paid by three months and the next instalment will be paid by three months.

It is also informed that the Appellant/ Promoter will discuss the matter with the 'Indiabulls Commercial Credit Ltd.', other 'Financial Creditors', 'Financial Institutions' and 'Operational Creditors' and give a time frame to pay the agreed amount as may be agreed by them. Such agreed amount will be also paid in the aforesaid period of six months in two equal instalments.

Some of the counsel appearing on behalf of the allottees submit that they have asked for refund. Those allottees have taken loans from Banks and Banks are forcing them to pay back the instalments with interest/ penal interest.

For the said reason, we have asked the Appellant to state as to whether they intend to pay any interest to the parties along with the principal amount.

The 'Financial Institutions' given loans to the allottees ('Financial Creditors' and other set of 'Financial Creditors'), if any, will not force the allottees ('Financial Creditors') to refund the amount, without prior permission of this Appellate Tribunal. Their claims will be taken into consideration once the matter is settled in terms of the Agreement or Resolution.

The Appellant/ Promoter is given time till 10<sup>th</sup> January, 2020 to file an Affidavit giving therein the time frame on all the issues. It may take up the matter with all the 'Financial Institutions' and 'Operational Creditors' and will also decide the question of payment on interest.

The Appellant/ Promoter will also make it clear the time frame the fund they intend to deposit with the 'Resolution Professional' for completion of the project and return of the amount and for paying back the 'Financial Institutions' and the 'Operational Creditors'.

As the Company is to remain a going concern, the 'Resolution Professional with the help of the Directors/ Officers/ Employees/ Workmen of the Company take steps for completion of the project and will take appropriate permission from one or other Authority on its completion for handing over the same to the allottees. Only after handing over the possession of the allottees, it will also be open to complete the unsold flats/ apartments/ premises with the help of the 'Resolution Professional' to transfer it to the allottees and then if necessary, to transfer to other person to pay back the dues of the 'Financial Institutions' and the 'Operational Creditors'.

Post the case 'for orders' on 13<sup>th</sup> January, 2020 on the top of the list.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

Ar/g