

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

**I.A No. 1987 of 2020**

**IN**

**Company Appeal (AT) (Ins.) No.926 of 2019**

**In the matter of:**

**Flat Buyers Association Winter  
Hills-77**

**....Appellant**

**Vs.**

**Umang Realtech Pvt. Ltd.  
Through IRP & Ors.**

**....Respondents**

**Present**

**For Appellant: Ms. Shweta Bharti & Mr. Shantanu Malik, Advocates.**

**For Respondents: Mr. Manish Kumar Gupta, Mr. Karan Rajpurohit,  
Mr. Abhijeet Sinha & Mr. Vijay Nair, for IRP  
Mr. Saurabh Gauba, Intervenor for allottee Anuj Mittal  
Mr. Shobit Nanda, Intervenor for Ravinder Kr. Nanda,  
Homebuyer.  
Mr. Abhishek Srivastava (CS), for Uppal Housing  
Intervenor.  
Mr. Ankur Singhal, for Brilltech Engineers Pvt. Ltd.  
Mr. Gaurav Verma, Advocate**

**With**

**Contempt Case (AT) No. 28 of 2020**

**IN**

**Company Appeal (AT) (Ins.) No. 926 of 2019**

**In the matter of:**

**Pooja Mining & Marbles Pvt. Ltd.**

**....Appellant**

**Vs.**

**Umang Realtech Pvt. Ltd.  
Through IRP & Ors.**

**....Respondents**

**Present**

**For Appellant: Mr. Gautam Singh, Advocate.**

**For Respondents: Mr. Manish Kumar Gupta, for R-1/ IRP.  
Mr. Abhishek Srivastava, CS for Uppal Housing/ R-5.  
Mr. Gaurav Verma, Advocate.**

**With**  
**Contempt Case (AT) No. 02 of 2021**  
**IN**  
**Company Appeal (AT) (Ins.) No. 926 of 2019**

**In the matter of:**

**Brilltech Engineers Pvt. Ltd.**

**....Appellant**

**Vs.**

**Manish Kumar Gupta, IRP**

**....Respondent**

**Present**

**For Appellant: Mr. Ankur Singhal, Advocate.**

**For Respondent: None.**

**ORDER**  
**(Virtual Mode)**

**15.07.2021:** From the perusal of the Additional Affidavit filed on behalf of the 'Uppal Housing Private Limited' in compliance of the Order dated 28.06.2021 duly sworn by Mr. Abhishek Srivastava (Company Secretary) of 'Uppal Housing Private Limited' has been filed on 13.07.2021. Let it be kept on record as Original Appellant.

Further, in terms of the Order dated 28.06.2021 the Resolution Professional Mr. Manish Kumar Gupta has filed Status Report on 14.07.2021. But, as per COVID-19 protocols of this Tribunal all documents which has been filed as a hard copy has to be compulsorily sanitized for 48 hours. Let this document kept on record after following the COVID-19 protocols.

Learned Counsel Mr. Abhijeet Sinha appeared on behalf of the Appellant is directed to serve the soft copy of the Status Report to all the Learned Counsel appearing in these proceedings latest by Thursday i.e. 22.07.2021.

Learned Counsel Ms. Shweta Bharti appeared for 'Home Buyers' referred to Para 13 of the Judgement of this Tribunal passing in Company Appeal (AT) (Insolvency) No. 926 of 2019 dated 04.02.2020 which is as hereunder: -

*“One of the Promoter-‘Uppal Housing Pvt. Ltd./ Intervenor agreed to remain outside the Corporate Insolvency Resolution Process but intended to play role of a Lender (Financial Creditor) to ensure that the Corporate Insolvency Resolution Process reaches success and the allottees take possession of their flats/apartments during the Corporate Insolvency Resolution Process without any third party intervention. The Flat Buyers Association of Winter Hill-77 Gurgaon also accepted the aforesaid proposal. It is informed that ‘JM Financial Credit Solutions Ltd.’ one of the financial institution has also agreed to cooperate in terms of agreement with the condition that they will get 30% of the amount paid by the allottees at the time of the registration of the flat/ apartment.”*

And further referred to Para 26 which reads as hereunder:-

*“The ‘Uppal Housing Pvt. Ltd.’- Intervenor (One of the Promoter) is directed to cooperate with the Interim Resolution Professional and disburse amount (apart from the amount already disbursed) from outside as Lender (financial creditor) not as Promoter to ensure that the project is completed with the time frame given by it. The disbursement of amount which has been made by ‘Uppal Housing Pvt. Ltd.’ and the amount as will be generated from dues of the Allottees (Financial Creditors) during the Corporate Insolvency Resolution should be deposited in the account of the Company (Corporate Debtor) to keep the Company a going concern. The amount can be*

*utilized only by issuance of cheque signed by the authorised person of the Company (Corporate Debtor) with counter signature by the Interim Resolution Professional. The Bank in which the Corporate Debtor (Company) has account the amount should be deposited only for the purpose of completion of the Winter Hill-77 Gurgaon Project. Banks will allow the cheques for encashment only with the counter signature of the Interim Resolution Professional.*

Learned Counsel appearing for 'Uppal Housing Pvt. Ltd.' will address this Court on the next date in view of the categorical direction of this Tribunal till date and how they have discharged their responsibility as a Lender (Financial Creditor) and also in future how they propose to discharge their responsibilities.

From the perusal of the Affidavit filed on behalf of 'Uppal Housing Pvt. Ltd.' marked at Page 3 at paragraph 4 at Serial (viii) **Defaulting Allottees/ Home Buyers who have not made Payment**- 53 Allottees out of total offered possession 639.

Serial (ix.) **Amount Recoverable from Defaulting Allottees/ Home Buyers (53 Allottees)**- Rs. 9.55 crores;

Serial (xiii) **Total Amount Recoverable from Defaulting as well as new Allottees/ Home Buyers**-Rs. 14.10 crores;

Serial (xiv) **Number of Unsold Units/ Flats** – 54;

On next date, Learned Counsel for the Parties in view of the Additional Affidavit filed on behalf of the 'Uppal Housing Pvt. Ltd.' will give suggestions in this matter. So that some appropriate directions can be issued by this Bench.

List I.A. No. 1987 of 2020 in Company Appeal (AT) (Ins.) No. 926 of 2019 & Contempt Case (AT) No. 28 of 2020 in Company Appeal (AT) (Ins.) No. 926 of 2019 **'For Orders'** along with Contempt Case (AT) No. 02 of 2021 in Company Appeal (AT) (Ins.) No. 926 of 2019 **'For Admission (Fresh Case)'** on **11<sup>th</sup> August, 2021** at **2:00 P.M.**

**[Justice Anant Bijay Singh]**  
**Member (Judicial)**

**[Dr. Alok Srivastava]**  
**Member (Technical)**

**[Ms. Shreesha Merla]**  
**Member (Technical)**

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