
THE POSITION OF HOMEBUYERS IN REAL ESTATE INSOLVENCY: RIGHTS AND REMEDIES DURING AND AFTER LIQUIDATION

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Abstract:

The growing real estate market in India which is dealt with under the Real Estate (Regulation and Development) Act, 2016 (RERA), is also governed by the Insolvency and Bankruptcy Code, 2016 (IBC), which has been instrumental in shaping the real estate insolvency framework with the Code being witness to some of the major real estate insolvencies in India. However, concerns have constantly arisen over the position of homebuyers in real estate insolvency. This research seeks to analyze and interpret the position of homebuyers under IBC, with a focused study on the implications of their categorization in the liquidation process, be it in the form of financial creditors which they are currently treated as, or in other probable investigations into forms such as that of Consumers. Additionally, the interpretation on the position of homebuyers under the IBC in this research is followed up with questions pertaining to the treatment of partial-payment homebuyers, liquidation remedies for homebuyers on matters relating to the Insolvency proceedings but amidst of which involves exclusion of certain homebuyer interests or claims as a result of exclusions made out from the liquidation estates of the corporate debtor. The concerns over the aforementioned questions are crucial to take into consideration, as the current position of the IBC towards homebuyers is unique in India, and there is a need to answer these questions to reform the framework towards the addressal of the concerns of homebuyers.

Keywords: Real Estate Insolvency, Financial Creditors, Liquidation, Waterfall Mechanism, Non-Obstante Clause.

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I. INTRODUCTION

The Real Estate market in India is one of the first recipients of the implications of the Insolvency and Bankruptcy Code, 2016 (“IBC”)³ at the time of which also saw the enactment of the Real Estate (Regulation and Development) Act, 2016 (“RERA”)⁴. The effects of the crossroads which the Real Estate market finds itself in, with both the IBC and RERA being parallel legislations available for various remedies, the contested exclusivity and classification of homebuyers along with the extent of the scope of each act for the homebuyers to pursue claims against real estate companies remains tested. The testing times can be exemplified with the 2018 notification⁵ classifying homebuyers as financial creditors, along with the 2020 amendment⁶ which sets the threshold or the minimum requirement for homebuyers to initiate the Corporate Insolvency Resolution Process (“CIRP”) thereby amending Section 7⁷ of the IBC which deals with Financial Creditors. With the aforementioned developments, the efficacy of the IBC in facilitating revivals over liquidation seems to be tested as well, given the large claims of homebuyers which in some sense also makes the Code seem like a recovery mechanism for homebuyers which seems to defeat the object of the Code.⁸ One of the reasons for this is also the concerns over the lack of commercial wisdom of homebuyers, in addition to prioritization of recovery of monies or completion of projects over the beneficial recovery of the Corporate Debtor in particular. Therefore, keeping the same in mind, it becomes pertinent to study the outcome in the case of liquidation of a Corporate Debtor, with respect to the current position of homebuyers under the IBC.

II. LEGISLATIVE FRAMEWORK GOVERNING HOMEBUYERS UNDER THE RERA AND IBC

A. CLASSIFICATION OF HOMEBUYERS AS FINANCIAL CREDITORS: THE IBC PERSPECTIVE

³ Insolvency and Bankruptcy Code, No. 31 of 2016.

⁴ Real Estate (Regulation and Development) Act, No. 16 of 2016.

⁵ Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, Promulgated June 6, 2018.

⁶ Insolvency and Bankruptcy (Amendment) Act, No. 1 of 2020.

⁷ Insolvency and Bankruptcy Code, No. 31 of 2016, § 7.

⁸ Sneha Jaisingh & Akshay Ayush, *IBC Not a Tool for Debt Collection*, India Business Law Journal (Law.asia), Feb. 27, 2025, <https://law.asia/ibc-debt-recovery/>.

Homebuyers are included within the purview of both, the IBC as well as RERA- which is looked into as a dual mechanism available for homebuyers to proceed alternatively against the Real Estate Companies. Homebuyers include those who have paid certain amount towards the future allotment of Real Estate projects, and are referred to as allottees who can be also be classified as partial payment homebuyers. The IBC in fact therefore deliberately uses the term “allottees” which is also defined under Section 2(d)⁹ of RERA as using the words allotted, sold, or otherwise transferred. This deliberate use seeks to include the partial payment homebuyers. Under the IBC, homebuyers were not initially included as financial creditors which led to serious concerns on the demands of homebuyers against Real Estate Companies, and there was a pressing demand for their inclusion within the IBC amidst the first Real Estate Insolvency which pertains to the Jaypee Infratech Insolvency.¹⁰ Subsequent to demands of their inclusion and the concerns of homebuyers, the 2018 amendment was introduced as a move aimed at classifying homebuyers as Financial Creditors within the definition given under Section 7¹¹ of the IBC.¹² A Financial Creditor under the IBC is defined under Section 5(7)¹³ as someone to whom financial debt is owed, which includes loans, guarantees, bonds, debentures etc., with the definition of financial debt given under Section 5(8)¹⁴ of the IBC which outlines the constituents of a financial debt. The IBC however remains unclear on whether homebuyers are secured or unsecured Financial Creditors. There may be a number of ways to attempt to classify homebuyers as Secured Financial Creditors even without the explicit existence of a charge or security interest, which could be done by assuming the homebuyers to be charge-holders of the lands or houses which they are entitled to receive.¹⁵ However, the same does not fructify especially with respect to homebuyer allottees- as security interest over non-existing security cannot be proved, due to absence of any provision to prove the interest over property not in existence.¹⁶ Therefore, one such concern that tests the application of IBC on Real Estate Insolvency includes the categorization of homebuyers under the category of Financial Creditors.

⁹ Real Estate (Regulation and Development) Act, No. 16 of 2016, § 2(d).

¹⁰ The Jaypee Infra Insolvency Saga (Sumant Batra), 1st ed. (Om Books International 2024).

¹¹ Insolvency and Bankruptcy Code, No. 31 of 2016, § 7.

¹² Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, Promulgated June 6, 2018.

¹³ Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(7).

¹⁴ Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(8).

¹⁵ Ranu Tiwari, *Placing Homebuyers Under the Category of Secured Financial Creditors Under the IBC, 2016*, NUALS L. J. (Jan. 20, 2020), <https://nualslawjournal.com/2020/01/20/placing-homebuyers-under-the-category-of-secured-financial-creditors-under-the-ibc-2016/>.

¹⁶ Kahnnav Mahajan, *Allottees under Real Estate Project – Unsecured Financial Creditors*, [2019] 2 Insolvency and Bankruptcy Journal (Article) 43.

Under the IBC, Section 5(f)(i)¹⁷ classifies amounts raised from an allottee as having the effect of a commercial borrowing. This is to be read with Section 3(30)¹⁸ which defines a Secured Creditor as someone in favour of whom security interest is created, and Section 3(31)¹⁹ which includes performance of obligations, title, or interest to property as security interest. Therefore, the understanding as a result of this interpretation could possibly lead to the direction in assuming that homebuyers are to be looked at as Secured Financial Creditors. However, this again remains challenged for allottees due to non-existence of the property and the lack of being able to prove the existence of security interest as compared to Secured Financial Creditors. While the 2018 notification did include homebuyers as Financial Creditors, it did not classify them as either secured or unsecured.²⁰ It is crucial to delve into the aforementioned classification of homebuyers within the category of Financial Creditors, as the mere classification of homebuyers as Secured Financial Creditors would place them at the top of the hierarchy in the Waterfall Mechanism under Section 53²¹ of the IBC, while receiving the dues, post completion of the liquidation process. While the ambiguity over the classification of homebuyers within the category of Financial Creditors is one facet, the other includes the very categorization as Financial Creditors, as an attempt to override the protection granted to homebuyers under the RERA, and the alternative approach towards treating homebuyers as Consumers.

B. CLASSIFICATION OF HOMEBUYERS AS CONSUMERS: THE RERA PERSPECTIVE

The IBC has an overriding effect over other existing laws by virtue of Section 238, which does not however mean that it bars for claiming protection under the RERA.²² The approach taken by the court in the case of *Pioneer Urban Land and Infrastructure Ltd. vs Union of India*²³ highlights that parallel remedies may be pursued under both the IBC as well as RERA, and stated that IBC may be used for the purpose of replacing the management of the Corporate Debtor whereas the RERA

¹⁷ Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(f)(i).

¹⁸ Insolvency and Bankruptcy Code, No. 31 of 2016, § 3(30).

¹⁹ Insolvency and Bankruptcy Code, No. 31 of 2016, § 3(31).

²⁰ Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, Promulgated June 6, 2018.

²¹ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53.

²² Insolvency and Bankruptcy Code, No. 31 of 2016, § 238.

²³ *Pioneer Urban Land & Infrastructure Ltd. & Anr. v. Union of India & Ors.*, AIR 2019 SC 4055.

may be used with respect to getting flats reconstructed or in claiming compensation for the same.²⁴ Therefore, if the homebuyers seek to merely claim compensation or the completion of projects, then the RERA would seem to be more suitable.²⁵ Section 18 of the RERA gives the allottees two options- to either withdraw from the project granting them the compensation, or to continue with the project in which case the delayed transfer of the possession of the project would entitle them to additional compensation.²⁶ The mention of the non-obstante clause in IBC, however, and as being a later enactment would result in the IBC prevailing in the case of inconsistency with RERA.²⁷ However, it is crucial to understand that both the IBC and the RERA treat homebuyers, the allottees, in a completely different approach. Under the RERA, the Act specifically mentions in its preamble as having the object to protect the interests of “Consumers” in the Real Estate sector. Additionally, the stress on the rights and remedies available to allottees are tilted towards claiming compensation or the completion of projects. The very concern of allottees is in fact to be read in alignment with either completion of the project or in claiming compensation, overriding the larger financial viability and commercial stability of the Corporate Debtor. The 2018 ordinance gave the homebuyers the right to vote and participate in the CoC meetings through an authorized representative, thereby being a part of the substantive decision-making process.²⁸ However, the ordinance overlooks commercial wisdom of the homebuyers. Homebuyers under the IBC serve a dual process- as Consumers as well as Financial Creditors, which raises concerns over their commercial wisdom. The observation made in the case of *Flat Buyers Assn. v. Umang Realtech (P) Ltd.* is noteworthy as it acknowledges that the homebuyers do not possess the same level of financial or business expertise.²⁹ Therefore, it is the dual role of homebuyers along with the lack of financial or business expertise leads to concerns over the current position of homebuyers under the IBC. This concern over the need to approach RERA over IBC for homebuyers has been welcomed in the recent precedent of *Mansi Brar Fernandes v. Shubha Sharma & Anr*³⁰ as can be

²⁴ Rachita Shah & Arundhati Diljit, *Real Estate Developers and Homebuyers: Finding a Harmony Under the IBC*, 6 National Law School Business Law Review 80 (2020).

²⁵ Sara Jain, *Analysing the Overriding Effect of the Insolvency and Bankruptcy Code, 2016*, 13 NUJS L. Rev. 39, 59 (2020).

²⁶ Real Estate (Regulation and Development) Act, No. 16 of 2016, § 18.

²⁷ *supra* note 23.

²⁸ Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, Promulgated June 6, 2018.

²⁹ *Flat Buyers Association Winter Hills – 77, Gurgaon vs Umang Realtech, Company Appeal (AT) (Insolvency) No. 926 of 2019 (Order dated 04.02.2020)*.

³⁰ *Mansi Brar Fernandes v. Shubha Sharma*, (2023) 10 S.C.C. 161.

seen, and this case therefore performed course correction by stating that RERA must be the primary forum for homebuyer grievances.³¹

The approach towards categorizing homebuyers, the allottees, as Consumers serves the primary purpose of fulfilling their objectives which is either the completion of the project, or in case of failure then timely compensation. The treatment of homebuyers, the allottees, as Consumers under the purview of the RERA, and therefore in case of liquidation under the IBC as Consumers would serve the purpose of being able to better fit the concerns of the homebuyers. Unless the CIRP is triggered, it is contended that RERA would be the appropriate mechanism for realization of the interests of the homebuyers. The question now would however lie on the categorization of certain types of Consumers within the IBC under the waterfall mechanism under Section 53³². This alternate approach towards looking at homebuyers as Consumers within the IBC could align with the Code as well as RERA in the larger sense and avoid the confusion so caused with their categorization as Financial Creditors, in addition to the deeper ambiguity over whether constituting as Secured or Unsecured Financial Creditors.

III. HOMEBUYER CONCERNS BEFORE AND DURING LIQUIDATION PROCEEDINGS

A. POSITION OF HOMEBUYERS IN CIRP, CoC MEETINGS AND IN THE COMMENCEMENT OF LIQUIDATION PROCEEDINGS.

The position of homebuyers in CoC meetings is well established as being constrained due to lack of business or financial expertise or wisdom, and therefore unable to effectively being able to be part of the substantive decision-making process that in turn has implications affecting them.³³ The 2020 amendment to the IBC set a limit for homebuyers to trigger CIRP, to either a minimum of

³¹ Deep Dighe & Adhya Pandey, *RERA over IBC: The Supreme Court's Course Correction in Real Estate Insolvency*, Bar & Bench (Nov. 7, 2025), <https://www.barandbench.com/columns/rera-over-ibc-the-supreme-courts-course-correction-in-real-estate-insolvency> (last visited March. 9, 2026).

³² Insolvency and Bankruptcy Code, No. 31 of 2016, § 53.

³³ Hitesh Mankar, *Commercial Wisdom of the Committee of Creditors Consisting of Homebuyers*, SCC Online (Blog) (Nov. 27, 2024), <https://www.sconline.com/blog/post/2024/11/27/commercial-wisdom-of-the-committee-of-creditors-consisting-of-homebuyers/>.

100 or 10% of the total allottees with the condition that such homebuyers must be part of the same real estate project.³⁴ Triggering CIRP leads to two outcomes notably- either the resolution of the Corporate Debtor which would in turn mean the addressal of the failure to complete the projects the homebuyers are entitled to; or on the failure of the resolution plan to materialize the Tribunal ordering the liquidation of the Corporate Debtor which would mean a subsequent return of dues following the Section 53³⁵ waterfall mechanism in place. The role of CoC meetings amidst the CIRP process is crucial as it has direct implications to the outcome of the process, and therefore the decision making in such CoC meetings would be of substantive importance. The 2020 amendment ensured that homebuyers are included through an authorized representative in CoC meetings and also able to cast votes, irrespective of the fact whether or not they in fact have the financial or business wisdom or expertise in assessing the same.³⁶ The homebuyers are little concerned with the survival or revival of the Corporate Debtor and more concerned with the completion of the projects or the compensation due to the non-completion or delay of the Real Estate projects.³⁷ Therefore, the ability of homebuyers triggering CIRP is one aspect which is not contended, but what is contended is their participation rights in CoC meetings and decision making. It is pertinent to note that the ambiguity over whether homebuyers should be given an explicit categorization as secured or unsecured is one such concern, which would change their ability to make a difference in such CoC meetings due to the fact that Secured Financial Creditors have more voting powers in the meetings.

The Real Estate sector has seen fewer liquidations as compared to resolutions; however, this must not imply neglecting the concerns posed by their status amidst the liquidation process. On being ordered to liquidate, the Corporate Debtor's assets comprising of what is known as the Liquidation Estate is to be auctioned to third parties for the realization of monies which is to be transferred to the stakeholders in the distribution under Section 53³⁸ of the IBC. The liquidation estate is defined

³⁴ Insolvency and Bankruptcy (Amendment) Act, No. 1 of 2020.

³⁵ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53.

³⁶ Insolvency and Bankruptcy (Amendment) Act, No. 1 of 2020.

³⁷ Pratham Kapoor, *The Forgotten Creditors: IBC's Dual Approach for Homebuyers and Other Consumers*, LiveLaw (Aug. 28, 2024), <https://www.livelaw.in/articles/forgotten-creditors-ibcs-dual-approach-homebuyers-Consumers-267834>.

³⁸ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53.

under Section 36³⁹ of the IBC as including assets over which the Corporate Debtor has ownership rights, then including tangible assets whether movable or immovable etc. which the Corporate Debtor shall hold as a fiduciary for the benefit of all the Creditors as mentioned additionally in Section 36(2)⁴⁰ of the IBC. Therefore, it is crucial to note that such property under construction or which the Corporate Debtor has failed to transfer to the homebuyers must all come within the purview of the Liquidation Estate, which is to be auctioned, thus excluding the property already allotted and in possession of the allottees from the purview of the Liquidation Estate. It is only those allottees to a project who do have not been allotted their property yet as a failure on the part of the Corporate Debtor whose claims can be made out from the sale of the Liquidation Estate.

B. EXCLUSION OF ASSETS AS A RESULT OF TERMINATION OF CONTRACTS FROM LIQUIDATION ESTATE MIDWAY LIQUIDATION OR BEFORE, AND ITS IMPACT ON CERTAIN HOMEBUYER CLAIMS.

The Liquidation Estate while being a crucial element of the liquidation process under the IBC remains concerning with respect to the constituents of the Estate. The liquidation estate is meant to include all the assets of the company in liquidation, but it does not always remain fixed. Sometimes, contracts such as Joint Development Agreements (JDAs) are cancelled midway, and this leads to certain properties being taken out of the liquidation estate. When this happens, homebuyers who have invested their money in such projects are left in a difficult position.⁴¹ Their claims can no longer be addressed under the IBC, because the property is no longer part of the liquidation estate, and they also cannot go to RERA, since the developer is no longer in control of the project. In these situations, the homebuyer's right shifts from being a claim under insolvency to a straightforward claim for compensation or recovery against the landowner or developer. Such disputes would seem to fall outside the jurisdiction of the NCLT and must instead be taken up before civil courts. While the courts have answered the position of corporates in pursuing claims against developers or vice versa over the concerns over categorization of the developers in a JDA as Operational Debtors, the position of homebuyers with respect to termination of JDAs and certain

³⁹ Insolvency and Bankruptcy Code, No. 31 of 2016, § 36.

⁴⁰ Insolvency and Bankruptcy Code, No. 31 of 2016, § 36(2).

⁴¹ Yadu Krishna & Anjana O.C., *Restoring Homebuyer Confidence via Regulation 46-A: A Flawed Truce?*, IBC Laws Blog (June 8, 2024), <https://ibclaw.blog/restoring-homebuyer-confidence-via-regulation-46-a-a-flawed-truce-by-yadu-krishna-and-anjana-o-c/>.

homebuyers being left out post liquidation unclear and therefore concerning. This makes it clear that when assets are excluded from the liquidation estate, civil courts become the only forum left for homebuyers to seek justice, which is therefore an aspect that needs to be looked into.

The exclusion of assets midway also exposes a serious gap in the liquidation process, because while IBC was designed to protect creditors as a group, it often leaves individual homebuyers stranded when assets are carved out. In the case of *Yeshwant Deorao Deshmukh v. Walchand Ramchand Kothar*, the court highlighted the difference between an execution application for the recovery of money for an individual decree holder from the relief under insolvency which is for the benefit of all creditors.⁴² Therefore, individual application for the recovery of money, especially that of the liquidation estate which no longer is part of the settlement and belonging to the corporate debtor, makes it unrelated as well as different from relief under insolvency. Therefore, it must be noted that civil courts must be approached in such cases, and not NCLT. While the IBC confers wide jurisdiction on the NCLT under Section 60(5)⁴³, such jurisdiction is not all-encompassing. When a claim or dispute does not arise in relation to or out of the insolvency or liquidation process, particularly where the asset is excluded from the liquidation estate or compensation is not tenable under IBC or RERA then the civil courts retain their jurisdiction.

IV. POST LIQUIDATION CONCERNS UNDER IBC: POSITION OF HOMEBUYERS UNDER THE WATERFALL MECHANISM OF THE IBC.

The IBC has effectively ensured in its framework a proper mechanism for the timely realization of debts, and in specific for the liquidation process the IBC has carved out a mechanism under Section 53⁴⁴ which in literal terms acts as a waterfall which begins from the top, covering costs pertaining to the insolvency resolution process and liquidation costs, workmen's dues and Secured Financial Creditors subsequently to be treated on par, then wages owed to employees other than workmen, then to Unsecured Creditors, then amount due to Central and State Government and to Secured Creditor for amount unpaid following the enforcement of security interest. It is only

⁴² *Yeshwant Deorao Deshmukh v. Walchand Ramchand Kothar*, 1951 AIR 16.

⁴³ Insolvency and Bankruptcy Code, No. 31 of 2016, § 60(5).

⁴⁴ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53.

following this that the mention of ‘any remaining debts and dues’ can be found which is crucial for consideration with respect to the alternative approach towards relooking homebuyers as Consumers. The treatment of homebuyers or allottees on the same level as Unsecured Creditors would result in injustice due to the extent of aid that the homebuyers provide in general towards the financing of any Real Estate Project, especially in cases where the projects are substantially financed by the payment carried by homebuyers with minimal Bank, NBFC and other types of intervention of financiers who constitute to be Secured Financial Creditors. The concern that exists therefore is over the categorization of homebuyers as Financial Creditors, who in fact may constitute a major portion of investments for Real Estate Projects. The question lies on whether there can be an insertion of a provision to treat claims of allottees on par with that of the Secured Financial Creditors and workmen’s dues under Section 53(1)(b)⁴⁵. Notably, Section 53⁴⁶ does not mention allottees, and therefore the position of allottees must be read as Financial Creditors, based on the 2018 ordinance.⁴⁷ However, there is a need to carve out a specific mention for allottees as being a position distinct from the traditional notion of being part of the entire class of Financial Creditors.

Relooking the position of homebuyers as Consumers for the purpose of receiving the dues under the waterfall mechanism would necessitate a reading into Section 53(1)(f)⁴⁸ which states the priority for the payment of any remaining debts and dues. Due to the absence of explicit mention for the payment towards Consumers who are part of a non-instantaneous exchange such as that of allottees and even Consumers who have paid for flight tickets for instance, the position of Consumers should be placed under Section 53(1)(f).⁴⁹ This would however undermine even the current position of homebuyers under the waterfall mechanism as unsecured Financial Creditors, as is interpreted. Therefore, the clash arises between the inherent nature of homebuyers as Consumers and their classification in the lower strata of the framework of the distribution of assets in terms of priority.

⁴⁵ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53(1)(b).

⁴⁶ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53.

⁴⁷ Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, Promulgated June 6, 2018.

⁴⁸ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53(1)(f).

⁴⁹ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53(1)(f).

V. THE WAY FORWARD

The intersection of the IBC and RERA has created overlapping remedies for homebuyers, but the current framework still leaves gaps especially during liquidation, in addition to the categorization of homebuyers being contested. A more balanced approach is required to ensure that the objectives of the IBC are not diluted, while still protecting the genuine interests of homebuyers. Firstly, there is a need to clarify the status of homebuyers as secured or unsecured creditors depending on the agreements, and also in understanding the potential for their classification as Consumers. The absence of such clarity creates confusion the process of liquidation including the distribution as well as post liquidation concerns. An amendment could expressly categorize homebuyers as a special class of financial creditors or as Consumers, with protections proportionate to the fact that their payments substantially finance projects. Second, coordination between IBC and RERA should be institutionalized, especially after the course correction with the recent precedent giving primacy to RERA. RERA can continue to safeguard Consumer rights through compensation and project completion, while the IBC can focus on revival of the Corporate Debtor. It is an already recognized precedent and position that remedies can be pursued in parallel; this principle should be operationalized through harmonization to avoid triggering CIRP without mandatorily attempting to get the protection under RERA. Finally, the waterfall mechanism under Section 53⁵⁰ may be revisited to provide homebuyers parity with secured creditors or at the least create a higher sub-category for allottees, preventing them from being pushed into the unsecured category. This reconciles both, the protection of homebuyers or allottees and the objectives of IBC.

VI. CONCLUSION

The position of homebuyers in real estate insolvency reflects the concerns between two parallel frameworks IBC and RERA each designed with distinct objectives but inevitably intersecting in practice. The inclusion of homebuyers as financial creditors under the IBC in 2018 was a crucial first step, yet it left unresolved the ambiguity of their precise classification as secured or unsecured, thereby confusing their rights during CIRP and liquidation. The developments examined shows that while RERA recognizes homebuyers primarily as Consumers entitled to possession or

⁵⁰ Insolvency and Bankruptcy Code, No. 31 of 2016, § 53.

compensation, the IBC views them as a Financial Creditor within a creditor hierarchy as under the waterfall mechanism. This dual identity creates friction, particularly in CoC participation and distribution under Section 53 - all of which become pertinent to understand while analyzing the implications of the current position of Real Estate Insolvency on liquidation in particular. The analysis demonstrates that the present framework neither adequately safeguards homebuyer interests nor fully aligns with the IBC's revival-centric purpose. Addressing these concerns demands a calibrated reform, in order to harmonize protection of allottees with the objectives of IBC.

