

## **The claim of an allottee can't be extinguished merely because of being a Speculative Investor**

The NCLT Chandigarh in the case of **Tajinder Pal Setia vs Arvind Kumar [IA (I.B.C)/2105(CH)2023 in CP(IB) No. 248/Chd/Chd/2019]** dated July 02, 2025, has held that the claim of an allottee cannot be rejected solely on the ground of being a speculative investor, and an allottee does not cease to be a financial creditor merely because they qualify as a speculative investor. The NCLT, therefore, rejected the application filed under section 60(5) read with section 21 of the Insolvency and Bankruptcy Code, 2016 (IBC) to exclude the Respondents from the Committee of Creditors (CoC) as they are not financial creditors/ home buyers or allottees but business/services providers and speculative investors.

The Respondents Nos. 2 and 3 were alleged to be speculative investors on the ground that they are not homebuyers/allottees/Financial Creditors. They are business partners, developers, speculative investors, and are interested only in the profit of the project and are not homebuyers. Their business terms are completely different as compared to other allottees.

NCLT observed that the Hon'ble Supreme Court of India in *Pioneer Urban Land [(2019) ibclaw.in 13 SC]* held that the allottee, who has given advance or paid money to the Real Estate Developers, is a Financial Creditor. The issue regarding the genuine Homebuyers v/s Speculative Homebuyers is relevant only at the stage for the admission of CIRP under Section 7 of the Code. Speculative Investor is barred from initiating the CIR Process

On the issue of exclusion of certain respondents from the CoC on the ground that their claims were not reflected in the balance sheet of the Corporate Debtor (CD), the NCLT observed that the balance sheet is not the sole determinant for admission of the claim. Referring to the decision of the NCLAT in the case of *Everlike Real Estate & Developers Pvt Ltd. vs Mohit Goyal [CA(RP) and Anr. (2024) ibclaw.in 429 NCLAT]*, the NCLT observed that although Speculative Investors are prohibited from initiating the Corporate Insolvency Resolution Process (CIRP), their claims can be admitted as financial creditors in a class.