

News

Supreme Court uses Article 142 of Constitution to order completion of Supertech's Supernova project



The proceedings emerged from insolvency action started against Supertech Realtors Pvt Ltd in relation to its flagship Supernova project in Sector 94, Noida.

The Supreme Court has exercised its extraordinary powers under Article 142 of the Constitution to issue a series of steps to ensure the completion of the stalled Supernova real estate project in Noida, whose developer, Supertech Realtors Pvt Ltd., had been facing insolvency proceedings [**Ram Kishor Arora Vs Bank of Maharashtra**]

In the December 16 decision, a Bench comprising Chief Justice of India Surya Kant and Justice Joymalya Bagchi set up a court-monitored mechanism to ensure the completion of

construction, protect homebuyers, and oversee further resolution proceedings against Supertech.

“This is a fit case for this Court to exercise its powers under Article 142 of the Constitution of India,” the Bench recorded, adding that the prevailing circumstances warranted a solution beyond the conventional bankruptcy framework.

Invoking Article 142, the Court discharged Supertech's intermediate resolution professional (IRP), the committee of creditors, and the suspended board of directors, and constituted a three-member empowered committee to take over the management of the project.

The group comprises:

Justice MM Kumar, former Chief Justice of the Jammu and Kashmir High Court and previous President of the NCLT, as chairperson;

Dr Anoop Kumar Mittal, building and project management expert;

Rajeev Mehrotra, business management expert

The committee will run from New Delhi, with costs borne by Supertech.

Other key orders from Supreme Court Immediate takeover: The three-member court-appointed committee will immediately replace the IRP, the committee of creditors and the suspended board to take charge of the project.

Flexible composition: The Chairperson may add members or reconstitute the committee if needed for effective implementation.

Project execution: The committee will appoint an executor to execute the approved project plan and take all operational decisions. The role of Supertech's former directors is limited to technical support, while the discharged IRP must assist when needed.

New developer and fund control: A new developer will be selected through a vetted, proposal-based process, excluding entities related to the erstwhile management of Supertech. All

project inputs will be routed through an escrow account for construction only.

Final authority with consultation: Although the committee has been asked to contact lenders, homebuyers and NOIDA while making decisions, the committee's ultimate decisions will be final and binding.

Audit: A thorough audit of Supertech has been ordered.

Zero period and approvals: Development officials must process approvals without insisting on past dues from homebuyers. The Court further said that there will be a zero time, whereby the payments due from Supertech to lenders or NOIDA are to wait until project completion and the handing over of dwelling units to homebuyers. The Court added,

"During this time, the NOIDA Authority and the financial lenders shall not initiate or continue any coercive action against home buyers who have paid the consideration for their respective dwelling units. Upon completion of the project, any surplus produced shall be utilized towards the satisfaction of the dues of the financial lenders and the NOIDA Authority."

The case was tied to insolvency proceedings started against Supertech Realtors Pvt Ltd in connection to its flagship Supernova project in Sector 94, Noida, a large mixed-use development consisting of residential apartments, studios, office spaces, and commercial units.

The National Company Law Appellate Tribunal (NCLAT) had earlier supported the initiation of the Corporate Insolvency Resolution Process (CIRP) against Supertech at the instance of a financial creditor. A suspended director of Supertech finally filed an appeal before the Supreme Court. During these proceedings, other stakeholders also approached the Court saying that their rights were also affected by these proceedings.

With the project remaining stalled for years and multiple stakeholders making competing claims, the Supreme Court appointed Senior Advocate Rajiv Jain as amicus curiae to assist it on the way forward.

The amicus produced a report after consulting with all stakeholders, and told the Court that the financial creditors had failed to take timely action against Supertech when the

company was showing early signs of financial distress. This weakened the financial creditors' claim that the repayment of dues owed to them should be priority.

The Court also noted that all parties had broadly agreed to having a court-monitored mechanism to oversee future steps.

Accordingly, it set up a three-member group to ensure that the completion of the project is prioritised, while also tasking it with overseeing the repayment of dues made by Supertech to its lenders.

The plaintiffs were represented by ***Senior Advocates Shyam Divan and Rakesh Kumar Jain, with Advocates Siddharth Bhatli, Lashita Dhingra, Abhishek Garg, Dhananjay Garg, Shashi Kant Sharma, Mansi Jain, IS Jain, and Dinesh Kumar Garg.***

Senior **Advocates Ajit Kumar Sinha, K Parameswar, Niranjan Reddy, Radhika Narula, Gaurav Bhatia and Narender Hooda** presented for the respondents