
HOMEBUYERS AS FINANCIAL CREDITORS AND THE RESULTING DELAYS IN CIRP DUE TO INFORMATION ASYMMETRY

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ABSTRACT

The recognition of homebuyers as financial creditors under the Insolvency and Bankruptcy Code, 2016, marked a significant shift in how Indian insolvency law treats a traditionally vulnerable class of stakeholders. Yet this formal inclusion has not resolved the deeper tensions that arise when dispersed, often legally uninformed allottees interact with a framework built around strict timelines and procedural finality. This chapter examines one such tension, the problem of belated claims and argues that it constitutes a structural bottleneck rather than a mere procedural inconvenience.

The chapter traces the legislative and judicial evolution of homebuyers' standing under the Code, from early uncertainty through the 2018 amendment and subsequent Supreme Court validation, before turning to the practical realities that undermine their effective participation. Chief among these is information asymmetry: homebuyers are frequently unaware that a Corporate Resolution Insolvency Process has commenced, and public announcement mechanisms remain ill-suited to reaching a geographically scattered creditor class. The result is a recurring pattern of late filings that strain the resolution process, disrupt Committee of Creditors deliberations, and create uncertainty for resolution applicants.

The chapter critically examines the judicial response to this tension. While courts have invoked equity to accommodate belated claims, notably through an expansive reading of the Resolution Professional's obligations, such interventions carry their own costs, often reopening settled stages of the CIRP and undermining the clean slate principle articulated by the Supreme Court in *Ghanshyam Mishra*. Drawing on recent NCLAT decisions and the IBBI's April 2026 Committee Report, the chapter concludes that the solution lies not in relaxing procedural timelines but in addressing the informational deficits upstream, through strengthened Resolution Professional duties, modernised public announcement methods, RERA coordination, and a more robust role for Information Utilities.

Keywords: Financial Creditor, Insolvency and Bankruptcy Code, 2016, Homebuyers, Belated Claims, Information Asymmetry.

Introduction

The inclusion of homebuyers as financial creditors in the “Insolvency and Bankruptcy Code, 2016” was made with the intention of filling the gaps of insufficient legal remedies for allottees in real estate developments. The introduction of this provision was intended to serve as a means of safeguarding their rights and ensuring that developers can be made accountable. However, the application of this framework has been found to bring out an underlying problem that is rooted in the very manner in which homebuyers participate in the process.¹

While institutional creditors are more centralized than individual homebuyers, homebuyers tend to be dispersed in various regions. They also lack knowledge about the commencement of CIRP under the Code and its requirements. Consequently, many homebuyers fail to file their claims before the specified time limit.

On the other hand, the legal structure of the IBC stresses stringent compliance with time limits and finality, especially through the concept of clean slate as per Section 31², whereby all other claims except those in the resolution plan cease to exist when the latter is approved. This creates a conflict between the legal interpretation that frowns on claims made late and practical considerations that necessitate them.³

Courts, while acknowledging the problems confronting the homeowners, have shown leniency by allowing late claims in various instances. Although there may be justifications for this stance based on fairness and consumer protection, there are profound implications for the insolvency process.

The inclusion of late claims at an advanced stage of the CIRP process will affect the timeline, claim verification, creditor composition, and in some instances, the resolution plan itself. This will result in inefficiencies in the entire insolvency process.

This paper deals with the issue of fairness and finality. While it is evident that including the homebuyers in the resolution process is crucial, lack of a process for addressing information asymmetries and late claims is bound to create bottlenecks in the entire CIR process.

¹ The Insolvency and Bankruptcy Code (Second Amendment) Act, No. 26 of 2018 (India).

² The Insolvency and Bankruptcy Code (IBC), s. 31 of 2016 (India).

³ *Id.*

Evolution of Homebuyers as Financial Creditors

The Insolvency and Bankruptcy Code of 2016 was enacted as an all-encompassing code for handling corporate insolvency in a timely manner. However, it did not initially address the position of homebuyers, leaving them in a state of uncertainty despite being heavily affected by defaults in real estate projects.

In the early years, homebuyers struggled to find their place within the framework of the Code. Courts initially attempted to treat them as financial creditors in specific situations. In “*Nikhil Mehta & Sons (HUF) v AMR Infrastructures Ltd*”⁴, the tribunal recognised homebuyers as financial creditors where the agreement involved assured returns, treating such transactions as having the commercial effect of borrowing. However, since most homebuyer agreements did not contain such clauses, this approach had limited applicability.

Homebuyers also attempted to approach insolvency as operational creditors, but this position did not gain acceptance. In cases like *Mukesh Kumar v AMR Infrastructures Ltd*⁵ and *Rubina Chadha v AMR Infrastructure Ltd*,⁶ tribunals did not provide clear recognition, leaving homebuyers without an effective remedy.

The difficulties faced by homebuyers became more evident in large-scale insolvency matters such as “*Chitra Sharma v Union of India*”⁷ and *Bikram Chatterji v Union of India*”⁸, “whereby it upheld the right of the home buyers and appointed a representative of the home buyers; to participate in meetings of the Committee of Creditors of Jaypee Infratech Ltd.”⁹

A major shift came with the “Insolvency and Bankruptcy Code (Amendment) Act, 2018”¹⁰, which expressly recognised homebuyers as “financial creditors under Section 5(8)(f)”.¹¹ This view was held by the “Supreme Court in *Pioneer Urban Land & Infrastructure Ltd. v. Union of India*”¹², wherein it was declared that such an arrangement was indeed legitimate and

⁴ Nikhil Mehta and Sons v. AMR Infrastructure Ltd., 2017 SCC OnLine NCLAT 377(India).

⁵ Mukesh Kumar v. AMR Infrastructures Ltd., 2017 SCC OnLine NCLT 515(India).

⁶ Rubina Chadha v. AMR Infrastructure Ltd., 2017 SCC OnLine NCLAT 420(India).

⁷ Chitra Sharma v. Union of India, (2018) 18 SCC 575(India).

⁸ Bikram Chatterji v. Union of India, (2019) 19 SCC 161(India).

⁹ PSL Chambers, *Homebuyers: The Amendments to IBC* (PSL Chambers, 2020),

[<https://www.pslchambers.com/article/homebuyers-the-amendments-to-ibc/>], (last visited [14th April, 2026]).

¹⁰ The Insolvency and Bankruptcy Code (Second Amendment) Act, No. 26 of 2018 (India).

¹¹ IBC, s. 5(8)(f), No. 31 of 2016 (India).

¹² Pioneer Urban Land and Infrastructure Ltd. v. Union of India, (2019) 8 SCC 416(India).

essential for safeguarding the interests of homebuyers.

Following this, concerns arose regarding excessive and individual filings by homebuyers. To address this, the 2019 amendment (later reinforced in 2020¹³) introduced a “threshold requirement, mandating that a minimum of 100 allottees or 10% of the total allottees” in a project must jointly file an application.

Subsequent judicial developments continued to clarify the position of homebuyers. In *Vishal Chelani v Debashis Nanda*¹⁴, the Court held that homebuyers continue to remain financial creditors even where recovery proceedings are initiated under RERA.

In parallel, regulatory reforms have also been introduced to address practical issues in real estate insolvency. The IBBI (CIRP) Amendment Regulations, 2025¹⁵ aim to improve efficiency and transparency. These include provisions enabling delivery of possession to homebuyers during CIRP (subject to approval of the Committee of Creditors), allowing participation of project-related experts in CoC meetings and relaxing certain procedural requirements for homebuyer groups in the process of resolution.¹⁶

Overall, the position of homebuyers under the IBC has evolved from complete uncertainty to formal recognition and structured participation. However, while these developments have strengthened their rights, they have also introduced new complexities in the insolvency process, particularly in cases involving large numbers of stakeholders.¹⁷

Information Asymmetry and the Belated Claims

“Homebuyers whose number runs in several hundred in real estate project belong to different class of Financial Creditors. All Homebuyers who have booked a flat may not normally be residing in the area where Corporate Debtor has its corporate office and registered office. The publication in the newspaper is normally done in the area where Corporate Debtor has its registered office and corporate office and there is every likelihood that all Homebuyers could

¹³ The Insolvency and Bankruptcy Code (Amendment) Act, No. 26 of 2019(India).

¹⁴ *Vishal Chelani v. Debashis Nanda*, (2024) 242 Comp Cas 261(India).

¹⁵ Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fifth Amendment) Regulations, 2025

¹⁶ *Id.*

¹⁷ IBC Laws, 'The Evolution of Homebuyers Role in India's Insolvency Framework' (IBC Laws), [<https://ibclaw.in/the-evolution-of-home-buyers-role-in-indias-insolvency-framework-by-k-sushrutha-reddy-k-gowtham-satya-krishna-karthikeya/>], (Last visited, [12th April 2026]).

not know within the fourteen days period allowed in Form-A to file their claim and practically Homebuyers who are hundreds in number neither come to know about the CIRP nor did they file their claim within the fourteen days' time allowed. Even in maximum 90 days period as provided in Section 12(2)¹⁸, on several occasion, Homebuyers could not file their claims. The Homebuyers are a class belonging to middle class of society and majority of whom, who book flat has taken loan from Banks and other financial institutions and they are saddled with liability to pay their loan from their hard-earned income they make payment to the Corporate Debtor in hope of getting a possession of the flat for their residence. Non-submission of claim within the time prescribed is a common feature in almost all project of real estate.”¹⁹

Despite the clarity of law, the practical reality is that a large group of homebuyers fail to file their claims within the prescribed timelines. This primarily arises due to **information asymmetry**.

Homebuyers are often unaware of initiation of CIRP, procedural requirements under IBC or strict timelines for submission of claims. Unlike institutional creditors, homebuyers do not have access to structured legal or financial advice. Their claims, however, were already being reflected in the records of the corporate debtor in the form of allotment letters, payment records, and agreements.

“In the event a claim belatedly filed by a Homebuyer is not accepted to be taken up, such Homebuyer cannot be included in the List of Creditors as prepared under CIRP Regulations. Looking to the procedure as is prevalent regarding filing of the claim by Financial Creditors, large number of Homebuyers are unable to file their claim within the time due to various genuine reasons related to such Homebuyers.”

Consequently, allottees often approach the NCLT at a later stage to seek the inclusion of their claims, causing delays in the CIRP, undermining the Code's “time-bound objective”, and increasing the overall costs of the CIRP. On the other hand, even though homebuyers have a knowledge of both the Resolution Professional (RP) and the debtor but are sometimes excluded from the resolution plan. In such cases, issue of validity of late claims arises. Accordingly, in “*Shankar Sawant & Another v. Mr. Arun Kapoor*”²⁰, the homebuyers were denied inclusion

¹⁸ IBC, s. 12(2), No. 31 of 2016 (India).

¹⁹ *Puneet Kaur v. K.V. Developers (P) Ltd.*, (2024) 242 Comp Cas 728 (India).

²⁰ *Shankar Sawant v. Arun Kapoor*, 2023 SCC OnLine NCLT 18529 and Company Appeal No. 9 of 2022 (India).

in the resolution plan by the RP due to the approval of resolution plan by the COC already and only pending approval from the NCLT. Due to this, the NCLT emphasized that since the presented plan is still pending adjudication, the claim of the homebuyer's remains valid. It follows the principles laid down in the judgment of "hon'ble Supreme Court in the case of *Ghanshyam Mishra v. Edelweiss Asset Reconstruction Co. Ltd.*²¹ The Court had clarified that claims under a resolution plan are only frozen upon the approval of the resolution plan by the adjudicating authority. Claims not forming the part of the resolution plan are considered as extinguished. This was so because of the application of clean slate".²²

The existence of information asymmetry in real estate insolvency has also been formally recognised by "the Insolvency and Bankruptcy Board of India" in their report dated April 2026. "The Committee" observed that the absence of a centralised and reliable database of homebuyer information creates significant challenges in identifying genuine allottees and verifying claims. The Committee further noted that homebuyers often surface at a later stage of CIRP, sometimes even after the resolution plan has been approved by the adjudicating authority, raising claims which may conflict with the corporate debtor's records. Such belated and disputed claims not only undermine finality but also expose resolution applicants to post-resolution risks.²³

Statutory Framework and Clean Slate Principle

Once the Adjudicating authority approves the Resolution Plan, the claim of all the Homebuyers should stand extinguished as per the Clean Slate Theory. The foundation of the principle is rooted in Section 31(1),²⁴ which deals with the approval of Resolution Plan to the following effect:

"31. Approval of resolution plan. - (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in subsection (2) of section 30, it shall by order approve the resolution plan

²¹ *Ghanshyam Mishra v. Edelweiss Asset Reconstruction Co. Ltd.*, (2021) 9 SCC 657(India).

²² IIP ICAI, *Research Report: Gap Identification and Conflict Resolution Between IBC 2016 and RERA 2016* (2025).

²³ Insolvency and Bankruptcy Board of India, *Report of the Committee on Framing Guidelines for Insolvency Proceedings in Real Estate Sector* (Apr. 2026).

²⁴ *Supra* note 2.

which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan. Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.”

“The Hon’ble Supreme Court in *Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (2021) 9 SCC 657*²⁵ while dealing with the above principle, concluded in paragraph 102.1 and held that once Resolution Plan is approved by the Adjudicating Authority, the claims as provided in the Resolution Plan shall stand frozen and all such claims, which are not part of Resolution Plan shall stand extinguished.”

The relevant paragraph reads as follows:

“102.1. That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.”

Thus, it clarifies the extinguishment of the claim of the Homebuyers shall happen post approval of the resolution plan by the adjudicating authority. Therefore, accepting and admitting the belated claims of the Homebuyers after the approval stage would go against the settled law of Clean Slate Theory as propounded by the Supreme Court and founded under Section 31 of the

²⁵ Ghanshyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd., *supra* note 21

IBC, 2016²⁶.

To Strengthen the above stance, reliance is placed on a judgment of this “National Company Law Appellate Tribunal in *Mukul Kumar vs. M/s RPS Infrastructure, Company Appeal (AT) (Insolvency) No. 1050 of 2020*²⁷, where the Tribunal has held that the Resolution Plan has already been approved by the CoC and pending resolution for approval, new claims cannot be entertained.”

The Relevant paragraph of the judgment has been laid down:

“34. With the aforesaid, we are of the view that when the Resolution Plan has already been approved by the CoC and it is pending before the Adjudicating Authority for approval, at this stage, if new claims are entertained the CIRP would be jeopardized and the Resolution Process may become more difficult. Keeping in view the object of the IBC which is resolution of Corporate Debtor in time bound manner to maximize the value, if such request of claimant is accepted the purpose of IBC would be defeated. Hon’ble Supreme Court in the case of CoC of Essar Steel India Ltd. (Supra) held as under:-

88. For the same reason, the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with “undecided” claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run

²⁶ *Supra* note 2.

²⁷ *Mukul Kumar v. RPS Infrastructure Ltd., Company Appeal (AT) (Insolvency) No. 1050 of 2020 (NCLAT 2020) (India).*

the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, the NCLAT judgment must also be set aside on this count.”

Moreover, reliance is placed upon the law laid down by the “Hon'ble Supreme Court of India in *M/s RPS Infrastructure Ltd. V. Mukul Kumar & Anr*”²⁸ *Civil Appeal No. 5590 of 2021*, whereby, it has been categorically held that the mere fact that the Adjudicating Authority has yet not approved the plan does not imply that the plan can go back and forth, thereby, making the CIRP an endless process.”

The relevant paragraphs of the judgment has been laid down:

“19. The second question is whether the delay in the filing of claim by the appellant ought to have been condoned by Respondent 1. The IBC is a time bound process. There are, of course, certain circumstances in which the time can be increased. The question is whether the present case would fall within those parameters. The delay on the part of the appellant is of 287 days. The appellant is a commercial entity. That they were litigating against the corporate debtor is an undoubted fact. We believe that the appellant ought to have been vigilant enough in the aforesaid CA (AT) (Ins) Nos. 170, 357, 359, 361,362,408,460,468,476,494,505,510,511,529, 532,575, 720, 722,728,729 of 2025 62 of 66 circumstances to find out whether the corporate debtor was undergoing CIRP. The appellant has been deficient on this aspect. The result, of course, is that the appellant to an extent has been left high and dry.

20. Section 15 of the IBC and Regulation 6 of the IBBI Regulations mandate a public announcement of the CIRP through newspapers. This would constitute deemed knowledge on the appellant. In any case, their plea of not being aware of newspaper pronouncements is not one which should be available to a commercial party.

21. The mere fact that the Adjudicating Authority has yet not approved the plan does not imply that the plan can go back and forth, thereby making the

²⁸ RPS Infrastructure Ltd. v. Mukul Kumar, Civil Appeal No. 5590 of 2021 (SC 2023) (India).

CIRP an endless process. This would result in the reopening of the whole issue, particularly as there may be other similar persons who may jump onto the bandwagon. As described above, in Essar Steel, the Court cautioned against allowing claims after the resolution plan has been accepted by the COC.

22. We have thus come to the conclusion that the NCLAT's impugned judgment cannot be faulted to reopen the chapter at the behest of the appellant. We find it difficult to unleash the hydra-headed monster of undecided claims on the resolution applicant."

“The law regarding belated claims is settled. Reliance is placed upon the judgment of *Harish Polymer Product Vs. George Samuel, 2021 SCC OnLine NCLAT 210*²⁹ which has held if the claims of the different creditors are being accepted in a phase manner and/or on such belated stage, that too after the stipulated time, so provided for submitting claims, in that event, the Resolution Plans can never get materialized and there would be no resolution of Corporate Debtor which is main object of the IB Code, more so, when CIRP is to be completed in a time bound manner.”

In paragraph 10 of the judgment, following has been laid down:

“10. We find that the reasons recorded by the Adjudicating Authority have substance and if at belated stage when the Resolution Applicants are already before the Committee of Creditors with their Resolution Plan(s) if new claims keep popping up and are entertained, the CIRP would be jeopardized and Resolution Process may become more difficult. Keeping in view the object of the ‘I&B Code’ which is Resolution of the Corporate Debtor in time bound manner to maximize value, if such requests of applicants like Appellant are accepted the purpose of ‘I&B Code’ would be defeated.”

Thus, the legal position clearly distinguishes the inclusion of belated claims in order to preserve finality and ensure time-bound resolution.

²⁹ Harish Polymer Product Vs. George Samuel, 2021 SCC OnLine NCLAT 210(India).

Judicial Approach in Inclusion of Belated Claims

Despite the strict legal position, courts and tribunals have adopted a more flexible approach in cases involving homebuyers.

In *Puneet Kaur v. K V Developers*³⁰, the “Hon’ble NCLAT took into account the settled legal principle that creditors cannot file claims after the resolution plan is approved by the Committee of Creditors (CoC). However, in order to give relief to the allottees/homebuyers who had filed their claim at a belated stage, the NCLAT indirectly allowed the belated claims of homebuyers after the CoC had approved the resolution plan. The NCLAT categorically recorded that it was not setting aside the order of the NCLT rejecting the belated claims of the homebuyers as the same was passed keeping in mind the settled legal principles. Instead, the NCLAT gave an expansive meaning to Regulation 36 of CIRP Regulations³¹, which is for preparation of information memorandum by the Resolution Professional (RP). NCLAT held that allotment of residential units to allottees/homebuyers was a liability in the books of accounts of the Corporate Debtor and, therefore, the RP was obligated to include the same in the information memorandum.”³²

The relevant observations are reproduced below:

“27. In the present case there is no denial that details of the Appellant(s) and other Homebuyers, who could not file their claims has not been reflected in the Information Memorandum. There being no detail of claims of the Appellant(s), the Resolution Applicant could not have been taken any consideration of the claim of the Appellant(s), hence, Resolution Plan as submitted by Resolution Applicant cannot be faulted. However, we are of the view that the claim of those Homebuyers, who could not file their claims, but whose claims were reflected in the record of the Corporate Debtor, ought to have been included in the Information Memorandum and Resolution Applicant, ought to have been taken note of the said liabilities and should

³⁰ Puneet Kaur, *supra* note 19.

³¹ Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, reg. 36 (India).

³² Bar & Bench, *The IBC Needs a Separate Regime for the Real Estate Sector*, Bar & Bench, [<https://www.barandbench.com/columns/insolvency-and-bankruptcy-code-needs-a-separate-regime-for-the-real-estate-sector>] (last visited [13th April 2026]).

have appropriately dealt with them in the Resolution Plan. Non-consideration of such claims, which are reflected from the record, leads to inequitable and unfair resolution as is seen in the present case. To mitigate the hardship of the Appellant, we thus, are of the view that ends of justice would be met, if direction is issued to Resolution Professional to submit the details of Homebuyers, whose details are reflected in the records of the Corporate Debtor including their claims, to the Resolution Applicant, on the basis of which Resolution Applicant shall prepare an addendum to the Resolution Plan, which may be placed before the CoC for consideration. The above exercise be completed within a period of three months from today and the addendum along with minutes of the CoC be placed before the Adjudicating Authority at the time of approval of Resolution Plan, which is pending consideration before the Adjudicating Authority. The Resolution Applicant may also bring into the notice of the Adjudicating Authority the order of this date, so that the Adjudicating Authority may await the addendum and minutes of the CoC, which may be considered along with approval of the Resolution Plan.”

Similarly, in *Reena v. Rabindra Kumar Mintri*³³, the Tribunal allowed delayed claims, emphasising that genuine homebuyers should not be excluded on technical grounds.

“38. In view of the foregoing discussions, we are of the view that the judgment of the Adjudicating Authority rejecting applications cannot be sustained. Appellant has made out a case for treatment of their claims in the Resolution Plan as per the details which were submitted by the Resolution Professional before the Adjudicating Authority by means of an Affidavit. In result of foregoing discussions, we allow the Appeals to the following effect:-

CA (AT) (Ins) Nos. 170, 357, 359, 361, 362, 408, 460, 468, 476, 494, 505, 510, 511, 529, 532, 575, 720, 722,728,729 of 2025 64 of 66.

(i) The order dated 22.01.2025 passed by the Adjudicating Authority in the IAs filed by the Appellants is set aside.

³³*Reena v. Rabindra Kumar Mintri*, 2025 SCC OnLine NCLAT 2424 (India).

(ii) IAs filed by the Appellants are allowed to the extent that the claim of the Appellants as reflected in the Affidavit of the Resolution Professional filed in pursuance to order dated 05.03.2024 and 11.06.2024 need to be dealt with by the Resolution Applicant in the Resolution Plan.

(iii) The Resolution Applicant shall prepare an Addendum (Second Addendum) and include the claims of the Appellants as reflected in the Affidavit of the Resolution Professional filed in pursuance of the orders dated 05.03.2024 and 11.06.2024 and treat the Appellant as Financial Creditors in a Class by giving same treatment as has been given in the Resolution Plan to other homebuyers which process be completed within 30 days from today.”

These decisions demonstrate that judicial forums have prioritized fairness and welfare of the creditors particularly in the case of real estate insolvency wherein the homebuyers' claims are on stake. Though, the law is extremely clear with this respect. “The creditors of the Corporate Debtor are supposed to file their claim with Resolution Professional before the last date, as mentioned in the public announcement. Thereafter, if any creditor still fails to file its claim within the stipulated period, the said creditors, in terms of Regulation 12(2) of CIRP Regulations³⁴ may submit its claim to the Resolution Professional on or before the 90th day of the Insolvency Commencement date. If the claim of the Appellant herein was genuine, it could have accepted the claim as per the extended period in terms of Regulation 12(2) of CIRP Regulations³⁵. Once the extended period also lapses, the Resolution Professional is not empowered to accept such claim and more so.”

However, homebuyers, unlike institutional financial creditors, are scattered across different geographical locations and are often not aware of the initiation of CIRP or the procedural requirements under the Code. The public announcement made under Section 15³⁶ is generally published in newspapers in the region where the corporate debtor has its registered office, which may not effectively reach allottees residing in different cities or states. As a result, a significant number of homebuyers fail to file their claims within the prescribed time period,

³⁴ Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, reg. 12(2) (India).

³⁵ Insolvency and Bankruptcy Code § 60(5), No. 31 of 2016 (India).

³⁶ Insolvency and Bankruptcy Code § 15, No. 31 of 2016 (India).

not due to negligence, but due to lack of awareness and access to information.

The tribunals have adopted a lenient approach and permitted inclusion of belated claims of homebuyers. The rationale behind such decisions is rooted in equity and the need to protect a vulnerable class of creditors, who may otherwise be left without any remedy.

Information Asymmetry, Delays and Disruption in CIRP: Identification of a Structural Bottleneck

While the inclusion of belated claims is justified from a fairness perspective, it has significant consequences for the insolvency process. The admission of such claims at a belated stage leads to re-verification of claims by the Resolution Professional; revision of the list of creditors, recalculation of voting shares in the CoC and thereby modifying the Resolution Plan.

In the judgment of *KV Developers*³⁷, “The resultant effect of the decision was that it delayed the CIRP by three months. While the judgment acknowledged the limitations of the current framework of the Code, it did not resort to procedural invention. NCLAT used Regulation 36 of CIRP Regulations³⁸ to make it incumbent upon the RP to include all dues which are mentioned in the books of accounts, thereby protecting those homebuyers who have belatedly filed their claims. It is pertinent to note that the judgment of *KV Developers* highlighted the systematic failure of the Code in addressing the problem of information asymmetry.”³⁹ This effectively reopens stages of the CIRP that are expected to move towards finality and disrupts the time-bound nature of the process.

In addition to the above practical consequences, recent judicial developments also recognize that permitting belated claims at an advanced stage of CIRP can directly lead to delays and disrupt the resolution process.

In the matter of *M/s Art Construction Pvt. Ltd. Vs Udayraj Patwardhan Resolution professional Adel Landmarks Ltd*⁴⁰. Order dated 16th April 2026, “the National Company Law Appellate Tribunal (NCLAT)” refused to permit reopening of belated claims of homebuyers where the

³⁷ Puneet Kaur, *supra* note 19.

³⁸ Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, *supra* note 31, reg. 36.

³⁹ *Supra* note 32.

⁴⁰ *Art Construction Pvt. Ltd. v. Udayraj Patwardhan (Resolution Professional, Adel Landmarks Ltd.)*, Company Appeal (AT) (Insolvency) No. 460 of 2026 (NCLAT 2026) (India).

resolution plan had already provided for equitable treatment of even “those homebuyers who have not filed their claims”. The tribunal observed that allowing such claims at a later stage would be contrary to the settled legal position and would unnecessarily open the resolution process. It also emphasized the importance of respecting the “commercial wisdom of the CoC” and cautioned against any interference that would delay the resolution process. The relevant observations are reproduced below:

“14. On the last observation made by the Adjudicating Authority for the CoC to consider pending claim applications, it was pointed out that the plan clearly provided that home-buyers who have not filed claims shall be treated at par with the home-buyers who have filed their claims. In view of such explicit provision for equitable treatment made out even for home-buyers who have not submitted their claims in the plan, we are inclined to agree with the RP that when the plan as approved by the CoC provided for parity of treatment to even those who had not filed their claim, re-opening belated claims of home-buyers at this stage would clearly run counter to the precepts of law laid down in the judgment of the Hon’ble Supreme Court in the case of M/s RPS Infrastructure Ltd. Vs Mukul Kumar (2023) 10 SCC 718.

18. In the given statutory framework of IBC, there is only limited review which can be exercised by the Adjudicating Authority without trespassing upon the business decision of the CoC. There can be no fetters on the commercial wisdom of CoC and the supremacy of commercial wisdom of CoC has been reaffirmed time and again by the Hon’ble Supreme Court. When the CoC has approved a Resolution Plan by requisite voting share after considering its feasibility and viability, such decision of CoC cannot be interfered in the exercise of judicial review either by the Adjudicating Authority or by this Tribunal in the exercise of its appellate powers. The legislative fiat of IBC does not equip the Adjudicating Authority to raise general concerns about the fitness, justness or effectiveness of the plan once it is approved by the CoC in the exercise of its commercial wisdom. Furthermore, when the resolution plan had already been approved by the CoC wherein the Class of Creditors who largely belonged to the middle class gentry some of whom were aged and senior citizens who had invested their

entire savings in the project of Corporate Debtor and were now eagerly looking forward to a time-bound resolution process and hoping to get ownership and possession of units for which they had paid more than a decade back it goes without saying that their hopes would be dashed to the ground if the impugned order is allowed to prevail over the commercial wisdom of the CoC. We do not see any cogent basis for remanding back of the plan and pushing it into the quagmire of delay at a time when the home-buyers have already waited for nearly 14 years for delivery of their units.”

The above observations clearly indicate that the Tribunal was conscious of the delays that may arise from entertaining belated claims at a late stage of CIRP. The use of phrases like “quagmire of delay” brings into focus the apprehension that a new claim would undo the “time-bound nature of the Code”.

This reinforces the argument that while inclusion of belated claims may be justified on equitable grounds, it has the potential to derail the resolution process and prolong insolvency proceedings. Thus, even judicial forums have recognised that such practices can adversely impact the efficiency of CIRP.

The issue of belated claims arising from information asymmetry constitutes a structural bottleneck in the insolvency process. This is because as noted above it delays the completion of CIRP; it disrupts the decision making within the CoC; creates uncertainty for Successful Resolution Applicant; undermines the “objective of time bound resolution” and goes against the settled law of clean slate principle.

The bottleneck lies not in the inclusion of homebuyers itself, but in the absence of a mechanism to address delayed claims in a structured manner.

“The Insolvency and Bankruptcy Board of India (IBBI)” report dated April 2026, has explicitly recognise that such issues “significantly delay claim verification, complicate resolution planning, and lead to increased litigation”. This reinforces the argument that delays in real estate CIRP are not incidental but arise from structural issues such as information asymmetry and fragmented records.⁴¹

⁴¹*Supra* note 23.

The Committee categorically identifies “structural information asymmetry” as a core reason for belated claims and delays in CIRP, thereby directly supporting the identification of such issues as a structural bottleneck within the insolvency framework.

Way Forward

In order to solve the problem of delays caused due to tardy claims of homebuyers, it is vital to focus on the underlying cause of such delay, i.e., information asymmetry, rather than extending the timelines of procedures. The aim should be such that all the valid claims of homebuyers must be considered and taken into account during the initial stage of the CIRP without violating the timely procedure under the code.

As a consequence of an increasing number of insolvency cases of real estate companies, one important problem that needs to be considered is the problem of late filing of valid claims of the homebuyers. Although the Code allows homebuyers to file their claim against the defaulters and initiate CIRP proceedings, it is important to note that their role and status as compared to other financial creditors are different due to their scattered spatial factor and lack of awareness.

As noted by the “Insolvency and Bankruptcy Board of India (IBBI)”, a major action to reduce the filings of belated claims by the homebuyers, “the duties and responsibilities of the Resolution Professional” must be strengthened. The Tribunals in various judgments, including but not limited to the *KV Developers*⁴², iterated the fact, the Resolution Professionals are duty bound to identify, verify and add the names of the creditors, especially if they reflect in the “financial records of the Corporate Debtor”. This would directly reduce the current bottleneck and would therefore, ensure time resolution of the Corporate Debtor, benefitting all the stakeholder involved in it.

Additionally, IBBI also noted, the procedure of “Public Announcement under Section 15”⁴³ of the Code, needs to be amended, in order to introduce more ways to create awareness and timely participation of dispersed class of creditors, including Homebuyers in the Resolution process. This might be include various kinds of digital means due to its wide circulation and reach, including E-mails, WhatsApp channels and digital advertising. The Resolution Professionals must also start co-ordinating with the RERA authorities that would be in the possession of list

⁴² Puneet Kaur, *supra* note 19.

⁴³ *Supra* note 36.

of allottees. All of these steps would definitely impact the resolution process in a positive way.⁴⁴

Another step would lie in increasing the efficiency of Information Utilities (IUs). IUs acts as the repository consisting of loan related financial data and presently does not include the debts of the Homebuyers along with the relevant information regarding the Homebuyers, thereby creating difficulties for the Resolution Professionals to verify the claims of the creditors through a reliable source. At present, the RPs have to rely on the financial records of the Corporate Debtor, which is not always reliable, correct and true. Thus, by including the relevant and appropriate data regarding the Homebuyers in the IUs would directly have a positive impact in Resolution process by minimising the timelines and completing the process as promised by the legislature. It would also increase the possibilities of the Resolution Applicant, both prospective and successful, to prepare a plan consisting of appropriate treatments to cover all the liabilities and asset, thereby reducing future disputes.

Thus, the solution to delays caused by belated claims does not lie in diluting the timelines under the Code, but in strengthening institutional mechanisms to ensure early identification and verification of claims. By reducing information asymmetry and improving data reliability, it is possible to strike a balance between protecting homebuyers and preserving the efficiency and finality of the CIRP.⁴⁵

⁴⁴ Ctr. for Bus. & Fin. L., Nat'l L. Univ. Delhi, *The Misery of Homebuyers: Late Filing of Claims and Their Validity*, [<https://www.cbflnludelhi.in/post/the-misery-of-homebuyers-late-filing-of-claims-and-their-validity>] (last visited [12th April 2026]).

⁴⁵ *Supra* note 23.