



The real estate sector in India is a significant contributor to the country's economy. It encompasses residential, commercial, retail, and hospitality segments and has been one of the fastest-growing sectors in the country over the past few decades. The sector has been instrumental in driving economic growth in India, contributing to the country's GDP, employment generation, and foreign investment inflows.[1] The real estate industry in India is estimated to have a direct and indirect impact on more than 250 ancillary industries, including cement, steel, and construction materials, thereby providing an impetus to overall economic growth.[2]

The real estate sector's contribution to India's GDP has been steadily increasing over the years, accounting for around 7% of the GDP in 2020, according to the National Statistical Office (NSO), and contributing 13% of the country's GDP by 2025.[3] Nonetheless the Real estate insolvency in India is a major issue, as the sector is capital-intensive and prone to delays and cost overruns.

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- The Insolvency and Bankruptcy Code (IBC)[4] has played a crucial role in

addressing Real estate insolvency in India. The code was introduced in 2016 to streamline and expedite the process of resolving insolvency and bankruptcy in real estate investment cases, and it has been widely lauded for its effectiveness in helping to resolve long-pending cases. In the real estate sector, the IBC has played a critical role in addressing Bankruptcy in real estate investments can occur when an investor is unable to repay their debts, including loans taken for real estate investments.

This can happen due to various reasons such as project delays, cost overruns, economic downturns, and other external factors.

The IBC has provided a much-needed mechanism for resolving insolvency and bankruptcy in real estate investments, which has helped to protect the interests of both the developers and the homebuyers. The code has brought in a structured approach to resolving disputes, ensuring transparency, and providing a level playing field for all stakeholders.

Homebuyers as Creditors Under IBC

Under the Insolvency and Bankruptcy Code (IBC), homebuyers are considered as financial creditors and have been given a prominent role in the resolution process of insolvent real estate companies under IBC.^[5] This has brought in a significant change in the real estate sector and has a profound impact on the developers.

Earlier, homebuyers were considered as unsecured creditors and had limited rights in the resolution process of insolvent real estate companies under IBC. This often led to situations where homebuyers were left in the lurch, with no option but to wait for the resolution process to be completed, and hope that they would receive some compensation for their investment.

However, the IBC has brought in a significant change, and homebuyers are now considered as financial creditors with a voice in the resolution process. This means that they have a seat at the table during the resolution process and can participate in the decision-making process, which was not possible earlier.

The impact on developers:

The impact of this change on developers has been significant. Developers now have to take into account the interests of homebuyers, who are now significant stakeholders in the resolution process. They have to ensure that the resolution plan is in the interest of all stakeholders, including the homebuyers. In cases where the resolution plan is not acceptable to homebuyers, they can take the matter to the National Company Law Tribunal (NCLT) and seek redressal. This has put pressure on developers to ensure that the resolution plan is fair and reasonable, and takes into account the interests of all stakeholders.

In addition, the IBC has also led to an increase in transparency in the real estate sector. Developers are now required to provide regular updates on the progress of the project, and homebuyers have access to information that was not available earlier. This has helped to build trust and confidence among homebuyers, which is essential for the growth of the real estate sector. And the inclusion of homebuyers as financial creditors under the IBC has been a significant step in protecting the interests of homebuyers and ensuring that developers are held accountable for their actions.

The resolution process for distressed real estate assets, the role of lenders and homebuyers in IBC proceedings:

The resolution process for distressed real estate assets under the Insolvency

and Bankruptcy Code (IBC) involves multiple stakeholders, including lenders and homebuyers. The process is designed to ensure that distressed assets in real estate industry, are resolved in a time-bound and transparent manner, and that all stakeholders are treated fairly and equitably.[6]

The role of lenders in the resolution process is crucial. Lenders, who may be banks or other financial institutions, have a significant stake in the resolution process as they have provided loans to the distressed company. They are also required to ensure that the resolution plan is feasible and viable, and that it maximizes the value of the assets.

Lender's rights in real estate insolvency proceedings are to submit their claims to the resolution professional appointed by the National Company Law Tribunal (NCLT). They have to provide details of the loans they have provided to the company, and the collateral that has been pledged against these loans. Lenders also have to vote on the resolution plan, which is prepared by the resolution professional and approved by the Committee of Creditors (CoC). Homebuyers, who are now considered as financial creditors under the IBC, also play a significant role in the resolution process. They have to submit their claims to the resolution professional, and they have a voice in the CoC. They can also challenge the resolution plan if it is not in their interest, and they can take the matter to the NCLT for redressal.

Homebuyers are also required to approve the resolution plan, along with the other members of the CoC. They have to ensure that the resolution plan protects their interests, and that they receive their rightful compensation for their investments.

The resolution process under the IBC is designed to ensure that all stakeholders are treated fairly and equitably. The process is time-bound, and the resolution plan has to be approved within a period of 180 days, which can be extended by another 90 days if required. This ensures that the resolution process is completed in a timely manner, and that the value of the distressed assets is maximized.

Thus, it is evident that the resolution process for distressed real estate assets under the IBC is a complex and multi-stakeholder process. The role of lenders and homebuyers is crucial in ensuring that the resolution plan is feasible and viable and that all stakeholders are treated fairly and equitably. The process is designed to ensure that the distressed assets are resolved in a timely and transparent manner, which is essential for the growth and development of the real estate sector.

Impact of IBC on the Real Estate Sector

The Insolvency and Bankruptcy Code (IBC) has had a significant impact on the real estate sector in India. The introduction of IBC has brought in more accountability and transparency in the sector, which has helped to build trust and confidence among investors and homebuyers.

One of the biggest impacts of IBC on the real estate sector has been the inclusion of homebuyers as financial creditors. This has given homebuyers a voice in the resolution process of insolvent companies and has ensured that their interests are protected. Homebuyers can now participate in the decision-making process and have a say in the resolution plan, which was not possible earlier. This has helped to build trust and confidence among homebuyers, which is essential for the growth of the real estate sector.[7]

The IBC has also led to an increase in transparency in the real estate sector. Developers are now required to provide regular updates on the

progress of the project, and homebuyers have access to information that was not available earlier. This has helped to build trust and confidence among homebuyers and investors, and has increased the credibility of the real estate sector.

The introduction of IBC has also brought more discipline to the real estate sector. Developers now have to ensure that the project is completed within the stipulated timeframe and that they deliver what they have promised. This has helped to build trust and confidence among homebuyers and investors and has ensured that developers are held accountable for their actions.

Another significant impact on the real estate sector has been the increase in the Liquidation of distressed real estate assets under IBC. The resolution process under IBC has helped to unlock the value of distressed assets, which has led to an increase in liquidity in the sector. This has helped to boost the growth of the sector and has led to more investments in the real estate sector.

Conclusion

Overall, the introduction of the IBC has been a significant step in addressing the challenges faced by the real estate sector in India. The code has provided a much-needed mechanism for Resolving real estate insolvency in India, cases, and has helped to protect the interests of both the developers and the homebuyers. Further, the impact of IBC on the real estate sector has been positive. It has helped to bring in more transparency, accountability, and discipline in the sector, which is essential for its growth and development.

The inclusion of homebuyers as financial creditors has also been a significant step in protecting the interests of homebuyers and ensuring that developers are held accountable for their actions.

FAQs

How does the IBC impact real estate developers in India?

The IBC has brought in more accountability and transparency in the real estate sector in India. It has made it more difficult for developers to delay projects or divert funds from one project to another. The inclusion of homebuyers as financial creditors has also held developers accountable for their actions and ensured that they deliver the projects as promised. The IBC has increased transparency, boosted trust and confidence among homebuyers and investors, and led to more discipline and accountability in the real estate sector.

What are the challenges faced by real estate developers under the IBC?

Real estate developers face challenges under the IBC as they must complete projects within stipulated time frames and deliver as promised. The inclusion of homebuyers as financial creditors has also increased accountability, which can be challenging for developers who may have diverted funds or delayed projects in the past. Developers also face the risk of losing their control over the company if it goes into insolvency, which can affect their ability to complete ongoing projects.

What are the opportunities presented by the IBC for real estate developers?

The IBC has presented several opportunities for real estate developers in India. Some of these include access to new funding sources, collaborations with other developers, increased transparency and accountability, resolution of disputes, acquiring distressed assets etc.

[2]

<https://www.assochem.org/event-detail.php?event=national-conference-on-real-estate-india>

[3] www.ibef.org

[4] The Insolvency and Bankruptcy Code, 2016 (Act No. 31 of 2016)

[5] Explanation under Section 5(8) (f), Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018

[6] <https://ibbi.gov.in/uploads/whatsnew/b5fba368fbd5c5817333f95fbb0d48bb.pdf>

[7] <https://ibbi.gov.in/uploads/whatsnew/b5fba368fbd5c5817333f95fbb0d48bb.pdf>

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