

## INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

### **Becon Trusteeship vs Radius Estate and Developers Private Limited, Mumbai NCLT.**

In the matter of Beacon Trusteeship Limited Vs. Radius Estate and Developers Pvt Ltd (CD), wherein a CIRP for a Real Estate Project was commenced vide order 30.04.2021 and a Resolution Plan submitted by M/s. Adani Goodhomes Pvt Ltd (RA) which as approved by the CoC by 83.93%.

The disputed plot is owned by MHADA and the same was leased to Middle Income Group Co-Operative Housing Society (MIG-CHS) and they entered into Development Agreement dated 31.10.2010 with MIG (Bandra) Realtors and Builders Pvt Ltd (DB). Thereafter, CD via a Joint Venture as "Co-Developers" entered into Redevelopment Agreement dated 31.03.2016 for the said plot.

Instantaneously, due to termination of the Development Agreement, DB –Developer initiated Arbitration Proceedings. In the meantime, CIRP was admitted against CD – Radius and simultaneously, an Interim Award dated 05.05.2021 was passed with conditional stay. The EOI & RFRP explicitly stated that SRA was required to commence construction upon approval from CoC.

At the behest of CoC's approval, RA raised an Interim Finance of Rs. 725.00 Crs by entering into a Master Facility Agreement to save the project and for effective implementation of the Resolution Plan before the Approval Order from AA.

It is pertinent to note that the interest of RA by raising Interim Finance was secured as the same is already been entailed in the definition / provision of Insolvency Resolution Process Cost u/s. 5(13)(a) of the Code.

The time gap between COC approval of Resolution Plan u/s 30(4) and final approval by AA u/s 31 ( approximately one year ) was effectively utilised and good amount of construction was carried out by Resolution Applicant.