IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)
IN
CP (IB)-188/ND/2026

IN THE MATTER OF CP(IB)-188/ND/2026

(Under Section: 7 of IBC, 2016)

M/s Utsav Securities Pvt. Ltd.
Through Director Virendra Jain
203, Aman Chambers, Pusa Road,
Rajinder Place Metro Station,
New Delhi, Central Delhi-110060 **... Applicant/ Financial Creditor**

Versus

Angel Promoters Pvt. Ltd.
Through its Director Desh Bhushan Jain
04, Angel House, Jagriti Enclave,
Vikas Marg Extension, Delhi-110092 **... Respondent/ Corporate Debtor**

Order delivered on: 11.08.2026

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)
SH. ATUL CHATURVEDI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant :
For the Respondent : Adv. Rajnish Sinha, Adv. Ashutosh Sharma, Adv. Aadiya Sinha

ORDER

PER: SHRI ASHOK KUMAR BHARDWAJ, MEMBER (J)

The captioned application has been preferred by M/s Utsav Securities Pvt. Ltd. claiming itself to be allottees of 14 units by the CD viz. Angel Promoters Pvt. Ltd. in Angel Business Square. The particulars of the unit Nos. allotted to it and the amount paid as consideration for the same has been mentioned in Part-IV of the application reads thus:-

1.	Total amount of debt granted Date(s) of disbursement	i.	Rs.27,89,325 with respect to unit no. 525, 5TH Floor w.e.f. from the date of respective payments
		ii.	Rs.22,31,460 with respect to unit no. 526, 5th Floor w.e.f. from the date of respective payments
		iii.	Rs.22,31,460 with respect to unit no. 527, 5th Floor w.e.f. from the date of respective payments
		iv.	Rs.47,59,289 with respect to unit no. 528, 5th floor w.e.f. from the date of respective payments
		v.	Rs.47,59,289 with respect to unit no. 529, 5th Floor w.e.f. from the
		vi.	Rs.11,86,131 with respect to unit no. 530, 5th floor w.e.f. from the date of respective payments
		vii.	Rs.17,05,473 with respect to unit no. 531, 5th floor w.e.f. from the date of

		respective payments viii. Rs.47,59,289 with respect to unit no. 532, 5th floor w.e.f. from the date of respective payments ix. Rs. 47,59,289 with respect to unit no. 533, 5th floor w.e.f. from the date of respective payments x. Rs. 47,59,289 with respect to unit no. 534, 5th floor w.e.f. from the date of respective payments xi. Rs. 35,67,679 with respect to unit no. 537, 5th floor w.e.f. from the date of respective payments xii. Rs. 39,41,658 with respect to unit no. 538, 5th floor w.e.f. from the date of respective payments xiii. Rs. 39,41,658 with respect to unit no. 539, 5th floor w.e.f. from the date of respective payments xiv. Rs.35,67,680 with respect to unit no. 540, 5th floor w.e.f.
		from the date of respective payments
	Grand Total-	Rs. 4,89,58,969
2.	Amount claimed to be in default and the date on which the default occurred (Attach the workings for computation of amount and days of default in tabular form)	i. Rs.27,89,325 with respect to unit no. 525, 5TH Floor w.e.f. from the date of respective payments ii. Rs.22,31,460 with respect to unit no. 526, 5th Floor w.e.f. from the date of respective payments

			iii. Rs.22,31,460 with respect to unit no. 527, 5th Floor w.e.f. from the date of respective payments iv. Rs.47,59,289 with respect to unit no. 528, 5th floor w.e.f. from the date of respective payments v. Rs.47,59,289 with respect to unit no. 529, 5th Floor w.e.f. from the date of respective payments vi. Rs.11,86,131 with respect to unit no. 530, 5th floor w.e.f. from the date of respective payments
			vii. Rs.17,05,473 with respect to unit no. 531, 5th floor w.e.f. from the date of respective payments viii. Rs.47,59,289 with respect to unit no. 532, 5th floor w.e.f. from the date of respective payments ix. Rs. 47,59,289 with respect to unit no. 533, 5th floor w.e.f. from the date of respective payments x. Rs. 47,59,289 with respect to unit no. 534, 5th floor w.e.f. from the date of respective payments
			xi. Rs. 35,67,679 with respect to unit no. 537, 5th floor w.e.f. from the date of respective payments xii. Rs. 39,41,658 with respect to unit no. 538, 5th floor w.e.f. from the date of

		xiii. Rs. 39,41,658 with respect to unit no. 539, 5th floor w.e.f. from the date of respective payments
		xiv. Rs.35,67,680 with respect to unit no. 540, 5th floor w.e.f. from the date of respective payments **Total- Rs. 4,89,58,969** **DATE OF DEFAULT:** The first default occurred when the corporate debtor (s) failed to deliver the possession of the said unit as per the Allotment letter / agreement; 10th Sep 2019 plus 06 months grace. It is further mentioned here that the debt is continuing since the possession has not been offered till date

2. In the written submissions filed on behalf of the CD, it has been espoused that the petitioner being a speculative investor cannot invoke Section 7 of Insolvency and Bankruptcy Code. Reliance is placed on the judgment of Hon'ble Supreme Court in ***Mansi Brar Fernandes v. Shuhha Shanna & Anr.*** (2025 SCC Online SC 1972).

3. As can be seen from the aforementioned judgment of the Hon'ble Supreme Court speculative investment as defined in P. Ramanatha Iyer's Law Lexicon (6th edition) is a risky investment of money for the sake of and in expectation of unusually large profit. A speculator is one who practices speculation in trade or business. Speculative investor is someone who expect unusually high profit and its activity in the nature of business or trade. In the present case, the petitioner viz. M/s Utav Securities Pvt. Ltd. is a business entity and has invested in 14 units for business purpose only. As could be noted in para 18.4.5 (3) of the judgment of Hon'ble Supreme Court in ***Mansi Brar Fernandes v. Shuhha Shanna & Anr. (2025 SCC Online SC 1972***), one of the indicator of the speculative investor is purchase of multiple units. The relevant excerpt of the judgment reads thus:-

> *"**18.4.** "Speculation" has been defined in P. Ramanatha Iyer's Law Lexicon (6th edition) as "a risky investment of money for the sake of and in expectation of unusually large profits". A "speculator" is "one who practices speculation in trade or business". Two elements emerge: (i)expectation of unusually high profits; and (ii)activity in the nature of business or trade. These elements accord with the ratio of Pioneer Urban, which described speculative investors as those seeking refund or profit without an intention to occupy.*
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> ***18.4.1.** In **Duni Chand Rataria v. Bhuwalka Brothers Ltd.** this Court considered the validity of an ordinance of the State of West Bengal prohibiting speculative transactions in the jute trade. A Constitution Bench (four Judges) held that constructive delivery by intermediate parties would be valid provided that it culminated in actual delivery to the end purchaser. The Court observed:*
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>> *"The mate's receipts or the delivery orders as the case may be, represented the goods. The sellers handed over these documents to the buyers against cash payment.... The constructive delivery of possession which was obtained by the intermediate parties was thus translated into a physical or manual delivery of possession in the ultimate analysis eliminating the unnecessary process of each of the intermediate parties taking and in his turn giving actual delivery of possession of the goods......*
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> *Thus, where there is an actual chain of delivery ending with possession by a genuine buyer, the transaction is not speculative. Conversely, in the present context, where there is no intention to take*

possession, the onus to find another buyer and effect resale is cast on the developer. Delivery in such cases is more in the nature of a lien or an option. For a genuine allottee, however, delivery and possession are a sine qua non.

18.4.2. *In* ***Jute Investment Co. Ltd v. CIT****, this Court held that for a transaction to fall outside the ambit of "speculative" under the Income-tax Act, 1961, actual delivery of the commodity is essential. By analogy, where an allottee has no intention to take delivery of the unit, the arrangement assumes the character of a speculative transaction.*

18.4.3. *Pioneer Urban (supra), in para 56, defines a speculative investor as one who intends to evade possession and "jump ship", or one who is not genuinely interested in purchasing a flat/apartment. Any allottee, who, from the inception of the agreement, does not intend to take possession, or who later abandons such intent, falls within this category. Such an allottee is primarily concerned with refund or profit, and not with completion of the project.*

18.4.4. *Thus, the determination of whether an allottee is a speculative investor, must be holistic, having regard to the terms of the agreement, the allotment letter, the payment terms, and the overall conduct of the allottee.*

18.4.5. *Non-exhaustive indicators include:*

(1) If the agreement substitutes possession with a buyback or refund option, or any other special arrangement, the allottee is likely a speculative investor.

(2) Insistence on refund with high interest, coupled with refusal to accept possession would indicate speculation.

(3) Purchase of multiple units, especially in double digits, shall invite greater scrutiny, though it is not conclusive. If the terms of the agreement provide for possession or refund in the event of failure

to give possession alone, this factor may not be held against the allottee.

(4) Special rights, preferential treatment, or unusual privileges to the allottee would signal investment intent.

(5) Deviation from the RERA Model Agreement shall be a crucial indicator as to the nature of the transaction-the greater the departure, the greater the likelihood of speculation.

(6) Unrealistic interest rates and promises of 20-25% returns over a short duration are indicative of speculation.

18.4.6. *However, it must be clarified that the distinction between speculative investors and genuine homebuyers is relevant only at the stage of initiation of CIRP. Such allottees are not barred from filing claims for the principal amount invested, or from pursuing remedies before other fora in accordance with law."*

4. Apparently, in view of the aforementioned judgment of Hon'ble Supreme Court, the applicant falls within the definition of speculative investor and cannot maintain the present application. Also in ***Pioneer Urban Land and Infrastructure Ltd. & Anr. vs. Union of India & Anr.*** (***Writ Petition (Civil) No. 43 of 2019),*** the Hon'ble Supreme Court made an exception in respect of investors and viewed that the investors need to be looked at differently from Homebuyers and this Tribunal will not turn Nelson's eyes to legitimate defences of REAL Estate Developer. The para 56 of the judgment reads thus:-

"56. Several counsel appearing on behalf of the Petitioners made alternative submissions stating that if the Constitutional validity of the impugned provisions is to be upheld, then the amendment to the Code needs to be read-down so as to make it conform with Article 14 and 19(1)(g) and 300-A. Different suggestions were given as to reading down these provisions by different counsel. According to some of them, before an order admitting a Section 7 application is made, all the

financial creditors of the corporate debtor could be called to the NCLT so that the NCLT can then ascertain their views. If the vast majority of them were to state that they would prefer to remain outside the Code, then the Section 7 application filed by a single allottee ought to be dismissed. Another learned counsel stated that there should be a threshold limit by which at least 25% of the total number of allottees of the project should be reached before they could trigger the Code. Other learned counsel suggested that at the stage of the Section 7 application, an inquiry be made to see if the corporate debtor is otherwise well-managed and is solvent, in which case the Section 7 application ought to be dismissed. Shri Jayant Bhushan, learned Senior Advocate appearing on behalf of some of the Petitioners, also suggested that allottees ought not to be allowed to trigger the Code at all, but that if the Code is otherwise triggered, they can be members of the Committee of Creditors to take decisions that will be beneficial to them. It was also suggested that, before the Code is triggered by an allottee, there should be a finding of "default" from the authorities under RERA. This is not unknown to law, and this Court has itself stated, in another context, that a jurisdictional finding by the Telecom Regulatory Authority of India must first be obtained before the Competition Commission of India gives a finding on unfair competition in the telecom sector, and the case of ***Competition Commission of India v. Bharti Airtel Limited and Ors.*** *(2019) 2 SCC 521 was relied upon for this purpose. All these arguments were really made based on the presumption that some allottees who may now want to back out of the transaction and get a return of their money owing to factors which may be endemic to them, or owing to the fact that the market may have slumped as a result of which the investment made by them in the flat/apartment would fall flat requiring them to pull out of the transaction, would then be able to trigger the Code mala fide, and a reading down of these provisions would, therefore, obviate such problem. All these arguments have been refuted in detail earlier in this judgment. In a Section 7 application made by an allottee, the NCLT's 'satisfaction' will be with both eyes* *open the NCLT will not turn a Nelson's eye to legitimate defences by a real estate developer, as outlined by us hereinabove. There is, therefore, no necessity to read into or read down any of these provisions. Also, in Cellular Operators Association of India v. TRAI (2016) 7 SCC 703, this Court held that when a provision is cast in definite and unambiguous language, it is not permissible either to mend or bend it, even if such recasting is in accord with good reason and conscience. This Court said:*

> *"**50.** But it was said that the aforesaid Regulation should be read down to mean that it would apply only when the fault is that of the service provider. We are afraid that such a course is not open to us in law, for it is well settled that the doctrine of reading down would apply only when general words used in a statute or regulation can be confined in a particular manner so as not to infringe a constitutional right. This was best exemplified in one of the earliest judgments dealing with the doctrine of reading down, namely, the judgment of the Federal Court in Hindu Women's Rights to Property Act, 1937, In re Hindu Women's Rights to Property Act, 1937, In re, 1941 SCC OnLine FC 3: AIR 1941 FC 72]. In that judgment, the word "property" in Section 3 of the Hindu Women's Rights to Property Act was read down so as not to include agricultural land, which would be outside the Central Legislature's powers under the Government of India Act, 1935. This is done because it is presumed that the legislature did not intend to transgress constitutional limitations. While so reading down the word "property", the Federal Court held: (SCC OnLine FC)*
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> > *"... If the restriction of the general words to purposes within the power of the legislature would be to leave an Act with nothing or next to nothing in it, or an Act different in kind, and not merely in degree, from an Act in which the general words were given the wider meaning, then it is plain that the Act as a whole must be held invalid, because in such circumstances*

it is impossible to assert with any confidence that the legislature intended the general words which it has used to be construed only in the narrower sense: Owners of SS Kalibia v. Wilson [Owners of SS Kalibia v. Wilson, (1910) 11 CLR 689 Co. Pty (Aust)] Vacuum Oil Ltd. v. Queensland [Vacuum Oil Co. Pty. ex p Whybrow & Ltd.v. Queensland, (1934) 51 CLR 677 (Aust)] R. v. Commonwealth Court of Conciliation and Arbitration Co. [R. v. Commonwealth Court of Conciliation and Arbitration, ex p Whybrow & Co.. (1910) 11 CLR 1 (Aust) and British Imperial Oil Co. Ltd. v. Federal Commr. of Taxation [British Imperial Oil Co. Ltd. v. Federal Commr. of Taxation, (1925) 35 CLR 422 (Aust)]."

(emphasis in original)

51. This judgment was followed by a Constitution this Court Bench of in DTC v. Mazdoor Congress [DTC v. Mazdoor Congress, 1991 Supp (1) SCC 600: 1991 SCC (L&S) 1213] In that case, a question arose as to whether a particular regulation which conferred power on an authority to terminate the services of a permanent and confirmed employee by issuing a notice terminating his services, or by making payment in lieu of such notice without assigning any reasons and without any opportunity of hearing to the employee, could be said to be violative of the appellants fundamental rights. Four of the learned Judges who heard the case, the Chief Justice alone dissenting on this aspect, decided that the regulation cannot be read down, and must, therefore, be held to be unconstitutional. In the lead judgment on this aspect by Sawant, J., this Court stated: (SCC pp. 728-29, para 255)

"255. It is thus clear that the doctrine of reading down or of recasting the statute can be applied in limited situations. It is essentially used, firstly, for saving a statute from being struck down on account of its unconstitutionality. It is an extension of the principle that when two interpretations are possible-one

rendering it constitutional and the other making it unconstitutional, the former should be preferred. The unconstitutionality may spring from either the incompetence of the legislature to enact the statute or from its violation of any of the provisions of the Constitution. The second situation which summons its aid is where the provisions of the statute are vague and ambiguous and it is possible to gather the intentions of the legislature from the object of the statute, the context in which the provision occurs and the purpose for which it is made. However, when the provision is cast in a definite and unambiguous language and its intention is clear, it is not permissible either to mend or bend it even if such recasting is in accord with good reason and conscience. In such circumstances, it is not possible for the court to remake the statute. Its only duty is to strike it down and leave it to the legislature if it so desires, to amend it. What is further, if the remaking of the statute by the courts is to lead to its distortion that course is to be scrupulously avoided. One of the situations further where the doctrine can never be called into play is where the statute requires extensive additions and deletions. Not only it is no part of the court's duty to undertake such exercise, but it is beyond its jurisdiction to do so."

(emphasis in original)

5. We may also be not oblivious of the fact that in the written submissions, filed on behalf of the CD, it has been espoused that the respondent is ready and willing to handover the possession of subject unit to petitioner forthwith. The relevant excerpt of the submissions reads thus:-

"15. At the conclusion of arguments, this Hon'ble Bench required the Respondent to state (i) how many buyers have been given possession, and the time within which possession can be handed over, and (ii) the status likelihood of the Occupancy Certificate

from UPSIDA. On instructions, the Respondent respectfully states:

a. *Possession already delivered: 44 buyers have been handed over possession, and possession letters stand issued to each of them; the possession so delivered covers 65 units admeasuring 148,946.039 sq. ft. Agreements for Transfer of Leasehold Rights stand executed in respect of the entire said area of 148,946.039 sq. ft.*

b. *The building is complete and occupiable: it has a subsisting electricity connection, a No-Objection Certificate from the Fire Department, and permission from the U.P. Pollution Control Board, copies whereof the Respondent craves leave to place on record as and when directed by this Hon'ble Tribunal, if need be.*

c. *Occupancy Certificate: The Respondent is in the process of applying for the Occupancy Certificate, which shall be diligently applied for and pursued in the meantime.*

d. *Possession to the Petitioner: As categorically stated during the arguments, the Respondent is ready and willing to hand over possession of the subject units to the Petitioner forthwith; the Petitioner may take possession at any time. Possession shall, as a matter of course, be handed over against production of the original Space Buyer/Builder Buyer Agreements by the Petitioner. It is, however, for the Petitioner to obtain the requisite permission of the Directorate of Enforcement for transfer of the subject units, the said proceedings being against the Petitioner itself.*

16. *A company whose project stands complete, possession delivered to 65 units out of 99 units and functional as a going concern presents no insolvency to resolve. The Code "privileges resolution over ruin" and is "a remedial framework conceived for revival and the protection of sick companies" (Mansi Brar, paragraphs 5 and 21); it "is not a recovery mechanism or a bargaining chip" (Mansi Brar paragraph 5.3). Dragging a solvent, functioning company*

> *into CIRP at the instance of a time-barred and speculative claim would invert the very object of the Code."*

6. The application being preferred by a speculative investor is not maintainable, thus is liable to be rejected. Ordered accordingly. However, we are sanguine that the CD would abide by the stand taken by it in clause d of para 15 of its written submission. **Subject to aforementioned, the petition is disposed of.**

Sd/-	**Sd/-**
(ATUL CHATURVEDI)	**(ASHOK KUMAR BHARDWAJ)**
MEMBER (T)	**MEMBER(J)**