Insolvency Law Committee's Directives

What is the issue?

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- The Insolvency Law Committee was appointed to look into contentious issues plaguing the NPA resolution process.
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- The Committee has addressed many contentious issues, but some disagreements have been flagged by NCLT.
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What are the differing views?

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- Under the Insolvency & Bankruptcy Code (IBC) - Insolvency Law Committee was tasked to assess the operational and interpretational issues in the Code.
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- Subsequently, conflicting rulings were given out by National Company Law Tribunal (NCLT) and the Law Committee on numerous appeals.
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- NCLT through section 29 has restricted eligibility criterion for bidders to keep out errant and wilful defaulters from buying back stressed assets.
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- But the law committee's recommendations to streamline 'Section 29A' and widen the pool of eligible bidders have been a majorly contested aspect.
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- The law committee has now narrowed the list of debarred entities to only those closely related to defaulting promoters.
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- Also, the committee has sought to enable "pure-play financial entities like asset reconstruction companies, alternate investment funds" for bidding.
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- Additionally, only a time bound 3-year restriction has been placed for bidders who've acquired an NPA, in order to not allow well intentioned buyers.
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What are the other significant rulings of the committee?

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- In most cases, the money given by home buyers as advance to the defaulting firms is much higher than the money lent by banks.
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- The committee has hence recommending that home buyers be treated as financial creditors in order to grant them more say in the resolution process.

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- Also, the approval threshold for a resolution plan has been reduced from 75% of the home buyers to 66%, which will thereby enhance speedy resolutions.
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- The committee has also clarified that all assets of guarantors to the corporate debtor will be outside the scope of freeze.
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- This will thwart promoter’s efforts to delay recovery by lenders against their personal assets.
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What is the way ahead?

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- The tussle between operational and financial creditors warrants more attention.
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- Poor recovery for operational creditors (money or good supplied in advance) can snowball into fresh NPA for banks from the SME space.
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- Hence, like in the “Sick Industrial Companies Act”, we can mandate the acquirer to issue a public notice inviting objections to the resolution plan.
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- Also, Indian companies filing bankruptcy in the foreign destinations with nefarious intention needs to be plugged through a cross border insolvency law.
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- While the Committee recognizes this, it has not laid down suggestions.
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Source: Business Line

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