

Property Buyers under IBC

What is the issue?

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- Insolvency and Bankruptcy Code (IBC) 2016 was a disappointment for home buyers as they were rated below banks as unsecured lenders in order of priority.

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- Considering that they are mere consumers, who didn't invest their money in the company, their status needs to be upgraded above the lenders.

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What is the current situation?

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- IBC came into force in November 2016 in order to help in speedy winding up of failed businesses and secure possible settlements to creditors.

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- When real estate companies fail, they need to settle multiple creditors - banks, bond/stock market investors, suppliers, and property buyers.

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- Notably, property buyers are neither investors nor lenders, but mere consumers who paid advances for the promised delivery of property.

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- In the current scheme, property buyers are treated as non-secured lenders, and list them below other financial creditors in the order of priority.

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What changes are expected?

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- The Union Cabinet has recently cleared an ordinance for amending the IBC that came into force in November 2016.

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- While the government hasn't divulged the specifics, the change to the law is expected to offer better treatment to property buyers.

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- It is yet to be known whether homebuyers will be treated better or worse than banks and other financial lenders under the amended law.

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- But there is a sound reason to treat them a step above these traditional lenders as they haven't offered money in expectation of better returns.

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- Until now, homebuyers have had to knock on the doors of the courts to uphold their rights, while other stakeholders benefited significantly at their cost.

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What are the possible implications?

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- The amendment could help in reducing inconsistencies between the IBC and the Real Estate Regulation Act (RERA).

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- Real Estate Regulation Act (RERA) was introduced with the goal of protecting the rights of buyers by ensuring the timely and honest delivery of homes.

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- But the lower ranking of buyers in the bankruptcy proceedings contradicted the provisions in RERA, which calls for a review.

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- Along with RERA, appropriate amendments to IBC can go a long way in stopping unscrupulous real estate developers from fleecing homebuyers.

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Source: The Hindu

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