



Financial Debt and Tripartite Home Loan Agreements: Evaluating the NCLAT's Reasoning in UCO Bank v. Debashish Nanda, RP of Bulland Buildtech Pvt. Ltd.

Author by: Lokesh Bhola, Managing Partner and Sanjana Manchanda, Associate

Introduction

The National Company Law Appellate Tribunal's decision in UCO Bank v. Debashish Nanda, Resolution Professional of Bulland Buildtech Pvt. Ltd., delivered on 29 October 2025¹, marks another significant contribution to the growing body of jurisprudence concerning the treatment of lenders in real estate insolvencies. The ruling squarely addresses whether a bank that extends home loans to individual allottees under Tripartite Arrangements can assert a direct Financial Creditor relationship with the real estate developer undergoing CIRP. By rejecting UCO Bank's claim, the NCLAT has reinforced the doctrinal boundaries laid down in earlier decisions, while offering a nuanced distinction from a recent precedent where such a claim was allowed.

Background

The dispute arose in the context of the stalled real estate project "Bulland Elevates" in Greater Noida, developed by Bulland Buildtech Pvt. Ltd. Multiple homebuyers booked units in the project, many of whom financed their purchases through home loans sanctioned by UCO Bank. These loans were disbursed based on Tripartite Agreements executed among the Bank, the borrower, and the developer, under which the sanctioned loan amounts were paid directly to the developer pursuant to the borrowers' instructions. Following initiation of the CIRP in March 2021, UCO Bank filed a claim of Rs. 18.82 crore, asserting that it was a financial creditor of the developer because the loan amounts had been disbursed for the benefit of the project and were secured through registered charges.

The Resolution Professional rejected the Bank's claim, maintaining that the loans were sanctioned exclusively to the borrowers and not to the Corporate Debtor. The RP further submitted that many of the Allottees referred to by the Bank were not recorded in the books of the developer, that several transactions were under scrutiny through avoidance Applications filed under Section 66 of the Code and that only one genuine allottee was identifiable from the Bank's list. The NCLT rejected the Bank's Application seeking admission of its claim, prompting the present appeals, including a challenge to the resolution plan that was subsequently approved.

Issue

The Appeal was on the ground that whether the Bank's claim constituted a "financial debt" owed by the corporate debtor under Section 5(8) of the IBC.

¹ 2025 SCC OnLine NCLAT 1690



Findings

A careful reading of the Tripartite Agreement became central to the Tribunal's analysis. The NCLAT noted that the Agreement expressly recognized that the loan was sanctioned to the borrower for purchasing the Apartment, and although disbursed directly to the developer, it continued to be deemed disbursement to the borrower. The repayment obligation was equally unambiguous—liability rested solely on the borrower, with no clause creating a direct repayment commitment on the part of the developer.

UCO Bank attempted to rely on certain clauses enabling it to sell or alienate the unit upon borrower default, as well as a general clause where the builder agreed to be bound by the terms of the agreement. However, the Tribunal held that none of these provisions created a right to payment from the developer, which is essential for satisfying the definition of a "claim" under Section 3(6) of the IBC. The Agreement also lacked any form of indemnity or guarantee by the developer. Given that Section 5(8)(i) requires a clear liability arising from a guarantee or indemnity, the Bank could not satisfy this provision either.

In reaching its conclusions, the NCLAT relied on established precedents. The decisions in *Axis Bank v. Value Infracon India Pvt. Ltd.*² and *Indiabulls Housing Finance Ltd. v. Rudra Buildwell Projects Pvt. Ltd.*³ directly supported the proposition that banks financing homebuyers do not, by that fact alone, become financial creditors of the developer. The Supreme Court's seminal judgment in *Pioneer Urban Land & Infrastructure Ltd. & Anr. v. Union of India & Ors.*⁴ was also invoked to reiterate that the status of "Financial Creditor" is conferred upon homebuyers themselves, not upon the institutions financing them.

More notably, the Tribunal distinguished the case from its recent ruling in *Canara Bank v. Vivek Kumar, RP of AVJ Developers (India) Ltd.*⁵, wherein the Bank's claim was recognized as a Financial Debt. In *AVJ Developers*, the Tripartite Agreement contained a categorical Clause requiring the builder to refund the entire loan amount to the bank in the event of default by the borrower or non-completion of the project. The NCLAT held, that the Clause created a direct and primary liability upon the builder, thereby satisfying the definition of Financial Debt. In contrast, the *Bulland Buildtech* Agreement contained no such language; the builder never undertook an obligation to refund the loan nor assumed any guarantee-like responsibility.

The Tribunal also rejected the Bank's reliance on registered charges under CERSAI, observing that a charge does not confer creditor status unless a valid underlying debt exists. Similarly, DRT decrees obtained by the Bank were deemed irrelevant, as they were neither disclosed in the Bank's Form C claim nor argued before the NCLT. Since the Bank's claim was rightly rejected, its challenge to the resolution plan necessarily failed.

Conclusion

The ruling underscores a consistent principle: the classification of a lender as a Financial Creditor in the CIRP of a real estate company is fundamentally dependent on the contractual framework between the parties. Simply routing loan disbursements through the developer or registering a charge does not create a debtor-creditor relationship under the Code. For banks,

² 2021 SCC OnLine NCLAT 426]

³ MANU/NL/0215/2019

⁴ (2019) 8 SCC 416

⁵ 2025 SCC OnLine NCLAT 51



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A-76, LGF, East of Kailash, New Delhi - 110065
T: 011-46780008 E: admin@legalicons.in

the Judgment serves as a clear caution that if they intend to secure recourse against Developers in cases of project failure or borrower default, it is imperative that Tripartite Agreements contain explicit and enforceable clauses creating repayment liability or indemnity obligations on the builder.

In a sector riddled with project delays, abandoned constructions, and insolvency proceedings, this decision reinforces the importance of precision in drafting financing documents and clarifies the boundaries within which lenders must operate when seeking to assert claims in CIRP. By affirming that the Code remains strictly grounded in contractual and statutory definitions, the NCLAT's judgment brings clarity and predictability to an otherwise contentious area of litigation, and further harmonizes the insolvency framework as it applies to the real estate sector.
