2026 INSC 952

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 3132 of 2026

The Authorised Representative for Granite Gate Properties Private Limited, Ms. Rakesh Verma

...Appellant(s)

Versus

M/s New Okhla Industrial Development Authority and Ors.

...Respondent(s)

With

Civil Appeal No. 4207 of 2026

J U D G M E N T

K.VINOD CHANDRAN, J.

Yet another case highlighting the plight of home buyers, who invest their hard-earned life savings for a roof over their heads, on promises of living in style and luxury, in grandiose high-rise buildings promised by the developer, with exotic names, end up with the realization that it was all a pipe dream.

2. Here, we are faced with a developer who took on perpetual lease, at a high premium, two plots of land to put up highrise buildings; apartment complexes thereon. On lease granted by the New Okhla Industrial Development Authority (NOIDA), two projects were advertised; one in Sector 100 and the other in Sector 110, called project 'Lotus Boulevard' and project 'Lotus Panache' respectively.

3. The developer M/s Granite Gate Properties Private Limited, ran into rough weather and was declared a Corporate Debtor (CD). The Committee of Creditors (CoC) was constituted of the home buyers who formed a Class of Financial Creditors. A Resolution Plan was approved and is to be put in motion through the Successful Resolution Applicant (SRA).

4. Numerous IAs were filed before the adjudicating authority, the NCLT, which was disposed of together with an IA filed by the Resolution Professional (RP) to approve the Resolution Plan of M/s SMV Agencies Private Limited, who has now turned the SRA.

5. From amongst the various directions passed by NCLT, an appeal was filed by the Authorized Representative for M/s Granite Gate Properties Private Limited, essentially the home buyers (herein after referred to as AR), NOIDA too filed an appeal.

6. In the appeal before us, the AR is concerned with the order of the NCLAT which directed the time extension charges with regard to both the lease deeds to be treated as CIRP costs for the maximum period of three years provided in the lease deed, for completion of the project. Insofar as NOIDA is concerned, they assert that the time extension charges are sought, not for three years alone, but for the further period as introduced by office order dated 18.10.2019, which are also to be included as CIRP costs.

7. Mr. Dhruv Mehta, learned Senior Counsel appearing for the AR submitted that during the CIRP, the home buyers pooled their own resources as advance payment of the balance sale consideration and carried out the construction as a going concern under the CoC approved 'Pool and Build' mechanism. However, NOIDA sealed three towers of the Lotus Panache on 16.10.2024 till a decision is arrived on the time extension charges. As far as time extension charges are concerned it does not come under Section 5(13)(c) of the Regulations since neither is it incurred by the Resolution

Professional nor does it concern itself with the continuation of the project.

8. The time extension charges were claimed by NOIDA as dues payable by the Corporate Debtor for the first year from December 2016 to December 2017, the second year from December 2017 to December 2018 and in the third year from December 2018 up to the insolvency commencement date on 10.01.2019. If at all, the time extension charges are to be paid as CIRP costs only the remaining period from 10.01.2019 would stand included. The time extension charges in any event are penal in nature and the developer who has caused the default having ended up in a CIRP, the inclusion as CIRP costs would be unjust and misconceived. The default was of the developer and homebuyers cannot be mulcted with that liability.

9. Mr. Rachit Mittal, learned counsel appearing for the appellant-NOIDA in Civil Appeal No.4207 of 2026, on the other hand asserted that without payment of the time extension charges, there is no question of the project being continued and hence it has to be included as CIRP costs. It is also pointed out from the lease deed that the lease would be governed by the provisions of the UP Industrial Area Development Act, 1976 as also by the Rules/Regulations made or directions issued under this Act. NOIDA has come out with an office order dated 18.10.2019, as per the prevailing policy which, read with earlier office order dated 18.06.2015 has stipulated time extension, even beyond three years upto the 10th year. As per the new policy 7, 8, 9 and 10 percentage respectively for the first four years and thereafter at 1% of the total premium per year upto the 10th year and cancellation after that, which too has to be included as CIRP costs.

10. The SRA appears through Mr. Krishnendu Datta, learned Senior Counsel who adopts the arguments of the AR but points out, without prejudice, that in the resolution plan contingent protection is capped at the overlap period balance alone and the resolution plan itself records that unless specifically adjudicated to form part of CIRP costs by a binding judicial pronouncement any cost above Rs.3 crores estimate shall first be recovered from the allottees of towers 17/18/19 of Lotus Panache as super area charge.

11. We are hence concerned with the issue as to whether the time extension charges are to be treated as CIRP costs. We have looked at the lease agreement produced as Annexure A1 in the appeal filed by NOIDA. The lease deed indicates that the plot demised on lease has been acquired under the Land Acquisition Act, 1894 for development by NOIDA for the purpose of setting up an urban and industrial township. Hence, the intention of NOIDA in entering into such lease agreements is for development of urban and industrial township. An overall development of the area under its control to promote industrial and commercial enterprises as also build homesteads in multi-storeyed buildings is the purpose behind the acquisition and lease.

12. As the original lease deed existed, the stipulation for time extension charges were at 4%, 5% and 6% in the first, second and the third years of delay, respectively with only a stipulation for cancellation of the lease itself after the three year period is over. It would result in resumption of the properties to the NOIDA. The underlying purpose of the lease itself is to provide adequate infrastructure for the development of industries and commercial establishments as also to provide housing by utilisation of lands, both as a welfare measure and revenue generation to the local authority. When the development fructifies, by virtue of the taxes and duties imposed on the various activities as also housing there is considerable generation of money, which is pumped into development activities again. The authority surely is involved in a commercial venture, but it cannot be divorced from the essential purpose which every local authority pursues and advances, i.e.: welfare measures without a mere profit motive. Development brings within its wake infrastructure challenges and these are to be met from the taxes, cesses and duties levied and collected, necessitating prudent financial and economic measures too.

13. In the present case, we see that the project was commenced to provide housing, an essential part of development. Lured by the opportunity, many persons had invested their savings with the intention of obtaining a roof over their heads. The project itself ran into rough weather and at this point, the lessee/developer has been declared as a Corporate Debtor. The homebuyers together have pooled money to carry on the project during the CIRP period and now a SRA has come into the picture. The Resolution Plan of the SRA has been accepted by the CoC consisting of the homebuyers alone. It is to be noted that the project was to be completed in the year 2016, and despite another decade having passed, the homebuyers are still left in the lurch. The essential purpose of development would fail if NOIDA brings in a stipulation of payment of default charges.

14. The default charges, as imposed in the lease deed as also now introduced as per the new policy, specifies a percentage of the lease premium to penalise a defaulting developer. The intention is also to motivate completion within time lines and to act as a deterrent to avoid time lags. In the present case, the defaulting developer is out of the picture and the half baked project can be completed only if the Resolution Plan is put into operation and completed.

15. In the peculiar circumstances of this case, we are of the opinion that it is only proper that NOIDA waives the penalty charges since it is neither the default of the homebuyers nor the default of the SRA, which led to the delay. The homebuyers and the SRA are sought to be penalised for past sins of the Corporate Debtor, which cannot be allowed, especially in the context of the authority imposing penalty, ie: the local authority being concerned essentially with the development of the area under its control.

16. We hence, order that in the peculiar facts and circumstances of the case, the penalty as imposed by the NOIDA on delay, now mulcted on the SRA and the homebuyers, cannot be so validly imposed. We set aside the directions to consider the time extension charges as CIRP costs and modify the impugned order to that extent. NOIDA's appeal praying for time extension charges even beyond the three years upto the 10th year also stands rejected.

17. Civil Appeal No.3132 of 2026 is allowed. Civil Appeal No.4207 of 2026 is dismissed.

18. Pending application(s), if any, shall stand disposed of.

.... J.
(J. B. PARDIWALA)

.... J.
(K. VINOD CHANDRAN)

NEW DELHI;
SEPTEMBER 03, 2026.