

Ansal Crown Heights Flat Buyers Association (Regd.)

v.

M/s Ansal Crown Infrabuild Pvt. Ltd. & Ors.

(Civil Appeal No(s). 8465-8466 of 2024)

12 January 2026

[Dipankar Datta* and Augustine George Masih, JJ.]

Issue for Consideration

Issue arose as to whether persons who were arrayed as respondents in the consumer complaints but ultimately against whom no notice was issued and the complaints did not proceed, could be brought within the net of execution, on the premise that they were directors/promoters of the judgment-debtor company.

Headnotes[†]

Consumer Protection Act, 2019 – s.71 – Insolvency and Bankruptcy Code, 2016 – s.14(3) – Enforcement of orders of District Commission, State Commission and National Commission – Execution proceedings – Consumer complaints by the flat buyers against the builders for possession of the flats, allowed and builders directed to complete the project – Non-compliance of the order by the builder – Initiation of execution proceedings – Meanwhile corporate insolvency resolution process initiated against the builder and moratorium came into force – Persons arrayed as respondents in the consumer complaints by the flat buyers but against whom no notice was issued and the complaints did not proceed, if could be brought within the net of execution, on the premise that they were directors/promoters of the judgment-debtor company:

Held: Decree cannot, by process of execution, be employed to shift or enlarge liability so as to bind persons who were neither parties to the decree nor otherwise legally liable thereunder – Where the judgment debtor is a company, the liability of its shareholders or joint venture partners remains confined to the extent of their shareholding or to such guarantees or undertakings as may have been expressly furnished by them – On facts, the appellant-association of flat

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buyers neither pleaded nor established that the respondents 2 to 9-directors/promoters had furnished any guarantee or surety in respect of the investment made in the project, nor has any material been placed on record to attract the application of s.14(3) – Once a moratorium has been declared against the judgment debtor company-ACIPL, the modes of execution contemplated u/s.71 including attachment and sale of movable or immovable property, attachment of bank accounts, or withdrawal of decretal amounts from the accounts of the judgment debtor, stand interdicted – Execution proceedings cannot, thus, be permitted to continue indirectly against the respondents 2 to 9, who are neither judgment debtors nor guarantors, and against whom no independent liability under the order allowing the complaints has been established – CP Act envisages a complete adjudicatory process founded on service of notice, pleadings, opportunity to contest, leading of evidence, and recorded findings of fact and law – These are not mere procedural formalities but substantive safeguards that precede the fastening of liability – No such adjudicatory exercise was undertaken qua the respondents 2 to 9 – No pleadings attributing any personal role to them, no evidence led to establish individual culpability, and no findings returned fixing personal liability – In the absence of these foundational elements, execution proceedings cannot be utilised as a surrogate forum to impose liability where none has been adjudicated – Invocation of the doctrine of piercing the corporate veil wholly unwarranted – Lifting of the corporate veil is an exceptional measure, to be resorted to only upon a clear finding that the corporate personality was abused for fraudulent or dishonest purposes – Such a finding must be preceded by specific pleadings and a determination on merits – No such allegation of fraud or misuse of the corporate form was either pleaded or established before the adjudicatory forum – In the absence of a prior and reasoned determination justifying disregard of the corporate personality, the directors/promoters cannot be exposed to personal liability through execution – NCDRC committed no error of law or jurisdiction in declining to execute the order against persons who were admittedly not parties to the complaints – Order binds only ACIPL – Appellant did not challenge the order of the NCDRC declining to issue notice to the respondents 2 to 9 and directing it to file amended memo of party with ACIPL as the sole respondent, and cannot now enlarge the order through execution. [Paras 13-15, 17, 18, 20-23]

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Case Law Cited

Rajbir v. Suraj Bhan [2022] 16 SCR 932 : (2022) 14 SCC 609;
Electronics Corpn. of India Ltd. v. Secy., Revenue Deptt., Govt. of A.P. [1999] 2 SCR 1078 : (1999) 4 SCC 458 – referred to.

List of Acts

Insolvency and Bankruptcy Code, 2016; Consumer Protection Act, 2019; Companies Act 2013.

List of Keywords

Consumer complaint; Notice; Execution; Directors/promoters; Judgment-debtor company; Enforcement of orders of District Commission, State Commission and National Commission; Execution proceedings; Flat buyers; Builders; Possession of flats; Initiation of execution proceedings; Corporate insolvency resolution process; Moratorium; Decree; Doctrine of piercing the corporate veil; Lifting of the corporate veil; Corporate personality; Adjudicatory forum.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 8465-8466 of 2024

From the Judgment and Order dated 20.06.2024 of the National Consumers Disputes Redressal Commission, New Delhi in EA Nos. 27, and 28 of 2023

With

Civil Appeal No(s). 8539, 10874-10877, and 10878 of 2024

Appearances for Parties

Advs. for the Appellant(s):

Bishwajit Bhattacharyya, Sr. Adv., Chandrachur Bhattacharyya, Sahil Tagotra.

Advs. for the Respondent(s):

Jayant Bhushan, Ms. Ruchi Kohli, Sr. Advs., Sanjay Jain, Vikas Agarwal, Jayant Chawla, Sonam Sharma, Palaash S. Singhai, Kamakshi Singh Rao, Rahul Gupta, Sudarshan Singh Rawat, Vikas Aggarwal, Ms. Saakshi Singh Rawat, Sunny Sachin Rawat.

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Judgment / Order of the Supreme Court

Judgment

Dipankar Datta, J.

CIVIL APPEAL NOS.8465-8466 OF 2024

1. The lead appeals call in question the judgment and order dated 20th June, 2024¹ of the National Consumer Disputes Redressal Commission² dismissing Execution Application Nos. 27/2023 and 28/2023 filed by the appellant against the respondents 2 to 9 (directors/promoters of M/s. Ansal Crown Infrabuild Pvt. Ltd.³). Such applications arose from two final orders rendered by the NCDRC while deciding complaints lodged by the appellant bearing nos. CC/2600/2018 and CC/86/2018 respectively.

FACTUAL BACKGROUND

2. Appellant is an association of flat buyers which entered into Flat Buyer Agreements with ACIPL for units in Ansal Crown Heights. *Vide* individual builder buyer agreements, ACIPL promised to handover possession of the apartments within a period of 36 months from the date of execution of the agreements, which expired for all the buyers in the time period from December, 2013 - December, 2015. Possession of the flats not having been delivered, the appellant instituted two consumer complaints – the first on 10th, January 2018 (on behalf of 45 flat buyers), and the second on 26th November, 2018 (on behalf of 20 flat buyers). The respondents were ACIPL and its directors/promoters being the respondents 2 to 9.
3. While admitting CC/86/2018, the NCDRC *vide* order dated 25th January, 2018 directed that the proceedings would continue only against ACIPL and not the respondents 2 to 9. Accordingly, the appellant was directed to file amended memo of party impleading ACIPL as the sole respondent.

1 impugned order

2 NCDRC

3 ACIPL

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4. Subsequently, CC/2600/2018 came to be lodged wherein ACIPL was arrayed as the sole respondent, in conformity with the earlier admission order.
5. On 28th February, 2022, the complaints were allowed and directions were issued to ACIPL to complete the project; obtain the occupancy certificate; and hand over possession of the flats to the buyers, i.e., the allottees, with interest @ 9% per annum on the amounts deposited by them from the committed date of possession until the offer of possession or, alternatively, if the allottees were unwilling to wait for possession, ACIPL was directed to refund the entire amount deposited with interest @ 9% per annum, to be paid within six weeks, failing which interest @ 12% per annum would apply for the period of default.
6. Owing to ACIPL not complying with the said order, the appellant initiated proceedings for execution. During this time, corporate insolvency resolution process having been initiated under the Insolvency and Bankruptcy Code, 2016⁴ against ACIPL, a moratorium had come into force. NCDRC, accordingly, *vide* order dated 18th May, 2023, adjourned proceedings *sine die*, including against the directors of ACIPL with the following observations:

“ ... So far opposite party Nos.2 to 9 are concerned, they were not party in the main complaint. If the decree cannot be executed against opposite party No.1 due to moratorium under Section 14 of the IBC, it would not be appropriate to proceed in same execution against opposite party Nos.2 to 9. In the light of order of National Company Law Tribunal, this Matter is adjourned sine die with liberty to the Parties to file an Application for listing of the Case in the event the National Company Law Tribunal alter, modify or vacates of the Order or decides the proceedings finally.”
7. Appellant then challenged the *sine die* adjournment granted by the NCDRC by filing Civil Appeal Nos. 4247, 4480 and 4481 of 2023 before this Court. The said appeals were allowed *vide* order dated 17th January 2024, whereby the abovementioned order of the NCDRC was set aside. This Court directed that the execution proceedings may

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continue against the respondents 2 to 9, while granting them liberty to raise all available objections, including the plea that they were not liable to satisfy or implement the order sought to be executed. This Court held that the moratorium under Section 14 of the IBC shields only the corporate debtor and does not extend to directors/promoters.

8. Upon revival, the appellant pressed the execution applications against the respondents 2 to 9. As noted, the NCDRC dismissed the execution applications insofar as they sought to proceed against the respondents 2 to 9, holding that the order is executable only against ACIPL, the sole respondent in the original complaints.

ISSUE

9. The core controversy lies within a narrow compass. Question that arises is, can persons who were arrayed as respondents in the consumer complaints but ultimately against whom no notice was issued and the complaints did not proceed, could be brought within the net of execution, on the premise that they were directors/promoters of the judgment-debtor company. NCDRC has answered this question in the negative. We are called upon to decide whether such view warrants interference.

ANALYSIS AND OBSERVATIONS

10. It is not in dispute that at the stage of admitting CC/86/2018, the NCDRC consciously admitted the complaint on 25th January, 2018 only *qua* the respondent no. 1, namely ACIPL, while declining to issue notice to the directors and promoters. A specific direction was issued to amend the memo of parties accordingly, whereafter notice was issued only to ACIPL. The said order was never assailed and, therefore, attained finality.
11. Proceedings in the complaints thereafter continued on that basis alone. No pleadings were directed to be filed against, nor issues framed in relation to the directors or promoters, and no findings came to be recorded against them at any stage of the adjudicatory process. Once the *lis* stood consciously and finally confined to ACIPL, the adjudication culminated in an order binding exclusively ACIPL and none else. The order neither records any determination of liability against the respondents 2 to 9 nor contains any direction requiring them to perform or refrain from performing any act. In the

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absence of pleadings, adjudication, or findings against them, the essential foundation for fastening liability upon the respondents 2 to 9 is plainly lacking.

12. Since, the judgment and order in CC/86/2018 and CC/2600/2018 had not been passed against the respondents 2 to 9, at the stage of execution, the order passed against ACIPL could not be enforced against them. It is settled law that execution must strictly conform to the decree. This principle has been reiterated in a catena of precedents. For the purpose of this discussion, we may profitably refer to ***Rajbir v. Suraj Bhan***⁵ where this Court held that:

“14. It is well settled that the executing court cannot go beyond the decree. The decree must be executed as it is. Though, it is indeed open to the executing court to construe the decree; it cannot go beyond the decree ...”

13. It is trite that a decree cannot, by process of execution, be employed to shift or enlarge liability so as to bind persons who were neither parties to the decree nor otherwise legally liable thereunder. Where the judgment debtor is a company, the liability of its shareholders or joint venture partners remains confined to the extent of their shareholding or to such guarantees or undertakings as may have been expressly furnished by them.
14. In the present case, the appellant has neither pleaded nor established that the respondents 2 to 9 had furnished any guarantee or surety in respect of the investment made in the project, nor has any material been placed on record to attract the application of Section 14(3) of the IBC.
15. Once a moratorium has been declared against the judgment debtor company, i.e., ACIPL, the modes of execution contemplated under Section 71 of the Consumer Protection Act, 2019⁶ including attachment and sale of movable or immovable property, attachment of bank accounts, or withdrawal of decretal amounts from the accounts of the judgment debtor, stand interdicted. Execution proceedings cannot, therefore, be permitted to continue indirectly against the respondents 2 to 9, who are neither judgment debtors nor guarantors,

5 (2022) 14 SCC 609

6 CP Act

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and against whom no independent liability under the order allowing the complaints has been established.

16. This Court in ***Electronics Corpn. of India Ltd. v. Secy., Revenue Deptt., Govt. of A.P.***⁷ underscored that a clear distinction must be maintained between a company and its shareholders by observing as follows:

“15. A clear distinction must be drawn between a company and its shareholder, even though that shareholder may be only one and that the Central or a State Government. In the eye of the law, a company registered under the Companies Act is a distinct legal entity other than the legal entity or entities that hold its shares.”

17. We are in complete agreement with the approach adopted by the NCDRC that the CP Act envisages a complete adjudicatory process founded on service of notice, pleadings, opportunity to contest, leading of evidence, and recorded findings of fact and law. These are not mere procedural formalities but substantive safeguards that precede the fastening of liability. In the present case, no such adjudicatory exercise was undertaken *qua* the respondents 2 to 9. There are no pleadings attributing any personal role to them, no evidence led to establish individual culpability, and no findings returned fixing personal liability. In the absence of these foundational elements, execution proceedings cannot be utilised as a surrogate forum to impose liability where none has been adjudicated.
18. It is apposite to note that the invocation of the doctrine of piercing the corporate veil is wholly unwarranted in the present factual matrix. The lifting of the corporate veil is an exceptional measure, to be resorted to only upon a clear finding that the corporate personality was abused for fraudulent or dishonest purposes. Such a finding must be preceded by specific pleadings and a determination on merits. No such allegation of fraud or misuse of the corporate form was either pleaded or established before the adjudicatory forum. In the absence of a prior and reasoned determination justifying disregard of the corporate personality, the directors/promoters cannot be exposed to personal liability through execution.

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19. Appellant placed reliance on the order of this Court dated 17th January, 2024. The order reads as follows:

“11. Therefore, we are of the view that only because there is a moratorium under Section 14 of the IBC against the company, it cannot be said that no proceedings can be initiated against the opposite party Nos. 2 to 9 (the respondent Nos. 2 to 9) for execution, provided that they are otherwise liable to abide by and comply with the order, which is passed against the company. The protection of the moratorium will not be available to the directors/officers of the company.

12. Therefore, we set aside the impugned judgments and orders and remit the execution application to the National Commission. The execution will continue against the opposite party Nos. 2 to 9 (the respondent Nos. 2 to 9) in the execution application.

13. It is open for the opposite party Nos. 2 to 9 (the respondent Nos. 2 to 9) to raise a contention that they are not bound to implement the order sought to be executed. They are entitled to file additional objections along with documents raising the issue of executability as against them.

14. We clarify that the issue whether opposite party Nos. 2 to 9 (the respondent Nos. 2 to 9) to the execution are otherwise liable, will have to be decided by the National Commission in accordance with law.”

(emphasis ours)

20. A plain reading of the said order shows that it addressed a limited issue, namely, whether the existence of a moratorium under Section 14 of the IBC, against ACIPL, operated as a bar to the continuation of execution proceedings against its directors/promoters. This Court held that the moratorium, by itself, does not preclude execution proceedings against directors or officers, provided they are otherwise liable.
21. Importantly, the order did not determine or declare any personal liability of the respondents 2 to 9. On the contrary, this Court expressly left it open to them to raise all objections as to executability and clarified

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that the question whether they are otherwise liable to comply with the order was required to be decided by the NCDRC in accordance with law. The order dated 17th January, 2024, therefore, merely removed the moratorium-related impediment and did not expand the scope of the order or fasten liability upon the directors.

22. Viewed in this light, the impugned order of the NCDRC, which examines the issue of executability against the respondents 2 to 9 on its own merits and declines to proceed against them in the absence of any legal or factual basis for personal liability, cannot be said to be inconsistent with the order of this Court.
23. Having heard learned counsel for the parties and having perused the record, we are of the considered view that the NCDRC committed no error of law or jurisdiction in declining to execute the order against persons who were admittedly not parties to the complaints. The order binds only ACIPL. Appellant did not challenge the order dated 25th January, 2018 of the NCDRC declining to issue notice to the respondents 2 to 9 and directing it to file amended memo of party with ACIPL as the sole respondent, and cannot now enlarge the order through execution. Hence, in our opinion, the appeals must fail.
24. Consequently, the appeals are dismissed.
25. However, this dismissal will not preclude the appellant from pursuing any remedy available in law against the promoters/directors, including proceedings under the Companies Act, IBC, or civil law, should the statutory requirements therefor be satisfied.
26. There shall be no order as to costs.

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27. These appeals involve similar questions of fact and law as raised in the lead appeals and for the reasons aforementioned, the same too stand dismissed.

Result of the case: Appeals dismissed.