

Why homebuyers must register property after getting possession letter

Insolvency proceedings have been initiated against some builders in the National Capital Region by their financiers for non-payment of dues. While these include partially completed projects in Noida, in the case of Gurgaon, possession had already been granted and apartments occupied.

Here's a look at how claims should be filed by homebuyers in both cases, how they are different, and why allottees must get conveyance deeds executed as soon as they receive letters of possession.

Insolvency in case of incomplete projects—what you should know

[Supertech](#), which is developing several projects in Noida, Greater Noida, Gurgaon and Ghaziabad, went into insolvency on March 25 after the National Company Law Tribunal (NCLT) admitted a petition by Union Bank of India for non-payment of dues of Rs 431 crore.

The default pertained to a loan given by the bank for the Eco Village II project in Greater Noida (West) in Uttar Pradesh, which was being developed at a cost of Rs 1,106.45 crore.

Logix, another developer in Noida, is facing bankruptcy, and the fate of about 3,000 buyers in the Logix Logic Blossom Zest housing project in Sector 143 of Noida seems uncertain.

This project started in 2011 and is yet to be completed. In this case, Colliers International (India) Property Services approached the NCLT against Logix. The NCLT appointed an interim resolution professional (IRP) and buyers had to file claims by April 5.

In both cases, the companies were admitted to the corporate insolvency resolution process and there is a moratorium on all pending civil, consumer, Real Estate (Regulation and Development) Act cases, including deed executions, till the matter is resolved.

Legal experts advise homebuyers in these cases not to panic but instead file their claims with the resolution professional by [April 8](#) (in the case of Supertech), as required by the law.

"They should make sure that they submit all the documents such as builder-buyer agreement, statement of accounts and correspondence relating to any special privileges that the builder may have given to buyers such as extra parking that may not be part of the agreement but may have been mentioned on email, copies of RERA orders," said Aditya Parolia, a partner in law firm PSP Legal. **Insolvency in case of completed projects—what you should know**

The NCLT admitted a plea by ICICI Prudential Venture, claiming dues of Rs 25 crore from an ATS Group company on March 25. The insolvency tribunal appointed Harish Taneja as the IRP to oversee the management of Ananda Divine Developers while suspending the company's board.

This ATS Group company developed and delivered the ATS Triumph project in Sector 104 in Gurgaon.

This case is different because the project received an occupancy certificate and many buyers are residing in the complex. Buyers who have not registered their units (executed a conveyance deed) will have to file their claims with the IRP, said a legal expert.

Piyush Singh, a partner at PSP Legal, which represents the buyers in various courts, said the project included a subvention-cum-buyback scheme, under which the developer would buy back units three or four years after allotment.

"Homebuyers who received possession of their units from the corporate debtor but do not have a deed of conveyance in their favour should file their claims with the IRP for obtaining ownership of their flats/units," said Sandeep Bhuraria, a senior partner at Zeus Law Associates.

Legal experts pointed out that homebuyers who have registered their units are also advised to claim dues on account of delays in the delivery of their flats.

"In a situation wherein the homebuyer has the ownership of their flat, i.e., a deed of conveyance in their favour in the project developed by the corporate debtor, and has outstanding debts in the form of interest accrued against delay in possession or otherwise as envisaged under their respective builder-buyer agreement, they may also file their claims to that extent with the IRP," said Bhuraria.

If a housing unit was to be delivered to a buyer within 36 months but was handed over after 42 months, the buyer is entitled to interest or compensation for the delay. While this amount is usually settled/adjusted at the time of executing a sale deed, in many cases, buyers get their conveyance deed registered first and wait to file their claims for the interest against delay.

The amount payable for delays used to be Rs 5 to Rs 10 per square foot earlier, but under RERA, it has been prescribed at MCLR +1 percent. MCLR refers to Marginal Cost of funds-based Lending Rate, an internal reference rate for banks set by the Reserve Bank of India to help define the minimum interest rate on various types of loans.

"So, if this amount is pending, buyers can file their claims with the IRP," Bhuraria explained.

To avoid a situation like this altogether, it is advisable that homebuyers should ensure that they get their property registered as soon as they receive their letter of possession from the builder.

"This is to avoid situations wherein a builder may be dragged to insolvency by banks even after granting possession to buyers. Once the IRP is appointed, the process of getting your unit registered may invariably get delayed. Make sure you have a clear title just after you decide to move into your apartment," Bhuraria added.

According to Bhuraria, while there is no defined period for a buyer to execute a conveyance deed, Section 17 of RERA states that the promoter must execute a registered conveyance deed in favour of the allottee, along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, and hand over physical possession of the plot, apartment or building, to the allottees within the period specified in the sanctioned plans, as provided under the local laws.

However, in the absence of any local law, a conveyance deed in favour of the allottee should be carried out by the promoter within three months from the date of issue of the occupancy certificate, he said.

All those who have booked apartments should carefully go through their builder-buyer agreements and ensure that they are in line with what has been prescribed under RERA, he added. The submissions will enable the homebuyers to ascertain their claims on the company and to become a part of the committee of creditors (CoC). The CoC is a panel that represents a company's creditors in bankruptcy proceedings.

However, homebuyers should not stop paying the EMIs on their home loans even though insolvency proceedings have been initiated against the builder.