

LANDMARK CASES SERIES

In this series, we look at recent court orders in the real estate sector with significant impact on various stakeholders like buyers, builders and financiers.

BIKRAM CHATTERJI & ORS. VS. UNION OF INDIA & ORS.

Supreme Court Judgment dated July 23, 2019 in Writ Petition Civil No.940/2017

The case that upheld claims of homebuyers over those of financial creditors and government authorities.

CASE BACKGROUND

Amrapali Group of Companies proposed to construct 42,000 flats by assuring delivery of possession in 36 months to the home buyers on the land which was given on lease by Noida/Greater NOIDA Authority. Later, Amrapali Group were found in serious breach of their obligation to deliver the projects and the payment due to the Authorities and the Banks.



OBSERVATIONS BY COURT

Forensic audit ordered by the Supreme Court confirmed that there had been diversion of funds along with loans from banks, and that the promoters had created a web of more than 150 companies for routing of funds.

The Supreme Court observed that the banks and the Authorities had colluded and acted against the doctrine of 'Public Interest', as both were public institutions and were supposed to protect the trust of the public.

DECISION BY COURT

The case led to multiple decisions by the Supreme Court. The primary decision was the order to complete the pending construction of the flats by the government company NBCC and cancellation of RERA registration of Amrapali Group. All dues of the Authorities and Banks have to be recovered from the sale of other properties of Amrapali Group and not those of homebuyers.



IMPACT

Supreme Court upheld the claims of homebuyers over those of financial creditors and government authorities. The Authorities and Banks would have no right to sell the flats of the home buyers for the realization of their dues.



BACKGROUND OF IRREGULARITIES

- Forensic audit revealed that the Anil Sharma promoted 'Amrapali Group' had siphoned off approx. Rs 3500 Crores collected from homebuyers.
- Approx. 42,000 homebuyers were impacted by the fraud.
- The builder was said to have engaged in forex violations and to have used Shell firms to send money abroad.
- The Supreme Court observed that the Builder and Banks had colluded in the money laundering activities.

TIMELINE - RISE AND FALL OF THE AMRAPALI GROUP

