

EXPERT COMMITTEE REPORT TO REHABILITATE STALLED REAL ESTATE PROJECTS

Expert Committee, constituted by Ministry of Housing and Urban Affairs and headed by Mr Amitabh Kant, presently G-20 Sherpa of India and ex- CEO, NITI Aayog, to examine issues related to legacy stalled real estate projects, has submitted its report. Committee has categorised its recommendations in following heads:

- I. Mandatory Registrations of Projects with RERA*
- II. Execution of Registration/Sub Lease Deeds for All Occupied Units*
- III. Occupancy/ Possession of all substantially completed projects*
- IV. Proposal for State Government's Rehabilitation Package for a promoter led resolution.*
- V. Framework for RERA and Administrator Led Revival of Projects*
- VI. Financing of Stalled Project*
- VII. Use of IBC for resolving projects as a measure of last resort*

The Committee concluded that:

- a) The primary reason for stress in real estate projects is lack of financial viability of these projects. This has resulted in cost overruns, project and time delays. The Committee observed that the steps to improve the Internal Rate of Return (IRR) of these projects would attract more funding and judicial interventions such as Insolvency & Bankruptcy Code (IBC) should be used only as a last resort. The Project resolution should be a win-win situation for all stakeholders.
- b) Both financial and operational creditors have to take a haircut under IBC, while the equity of the developers is generally written off.
- c) The Committee was of the view that all stakeholders including Developers, Financiers, Land Authority etc. will have to take haircuts to make the project financially viable. The haircuts should be on a *pari passu* basis.

d) Execution of Registration/Sub Lease Deeds for All Occupied Units

The Committee examined status of the pending Registration/Sub Lease Deeds. Committee observed that prevalent delay in the execution of Registration/subleases, despite project completion, is largely attributable to instances of builders defaulting on their dues to the relevant authorities. This has adversely affected genuine home buyers, who have fulfilled their obligations but are yet to receive their legitimate rights.

Committee has strongly recommended immediate registration/execution of subleases in favour of these rightful home buyers. Registration / sublease should not be contingent on the recovery of dues from the builders. This would benefit approximately about one lakh home buyers.

Committee also recommended, simultaneous, initiation of rigorous and strict proceedings to recover outstanding dues from the defaulting builders. Recovery can be done by invoking Revenue Recovery Act/Provision of the Industrial Authority Act and all other provisions of Law. This dual-pronged approach will ensure that genuine home buyers are not penalized for

the shortcomings of the builders while holding the latter accountable for their financial obligations.

In scenarios where homebuyers are expected to remit outstanding dues to the builders, the Committee suggested a modification in the current procedure. RERA should directly collect these payments from homebuyers, bypassing the builders. This amount can be paid based on the waterfall mechanism suggested in paragraph VI(c) of the Report.

e) Occupancy/ Possession of all substantially completed projects

The Committee has noted numerous instances where construction of the projects is substantially completed, yet possession remains undelivered due to varied administrative hurdles, like the procurement of No Objection Certificates (NOCs),

Completion certificates, and similar necessary approvals. For such cases, the Committee recommended that RERA should identify such projects on a crash basis for resolution within a period of the next thirty (30) days.

The allottees may be given the option to take possession of these units on 'as it is where is' basis. The allottees could get the interiors of their home finished from balance funds which they have not paid. Once identified, efforts should be undertaken to expedite the clearance process including Occupation and Completion certificates for these projects, ensuring that the necessary approvals are granted promptly and efficiently.

Committee also recommended that the above should not be contingent on the recovery of dues from the builders. This process should be completed within six months to avoid any further delays. Once units are handed over, registration/sub-lease should be done.

In case the allottees do not want to take possession, project can be dealt with in accordance with recommendations as stated in part IV or V of the report.

Committee also recommended, simultaneous initiation of rigorous proceedings to recover the outstanding dues from the defaulting builders under the provisions of Revenue Recovery Act, the Industrial Authority Act and all other provisions of Law. This recommendation aims to facilitate the smooth handover of properties to their rightful owners without unnecessary hold-ups due to administrative bottlenecks.

Is Report panacea

No doubt, if report is implemented in all earnest, it would rehabilitate many stalled real estate projects. However, following issues need to be addressed:

- i. In real estate projects located in NCR, substantial inventory has been booked by investors. Many investors have defaulted in payments due to slow down in real estate market, which have resulted into serious cashflow problem. Availability of funds from banks is unlikely to resolve cash flow problem and would further affect viability of the project also.

- ii. In most of the real estate projects, home buyers do not have confidence in existing promoters due to diversion of funds and alleged other mal practices. Measures proposed in report appears to be inadequate to address such issue.
- iii. Most of the stalled real estate projects were launched about 10 years ago. Due to inflation alone, there has been substantial increase in construction cost of such projects. Except projects where there is substantial unsold inventory or projects which are near to completion, viability of the project would continue to be a question mark and resolution through IBC would be the only solution.

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