
**PROTECTING HOMEBUYERS IN CORPORATE INSOLVENCY PROCEEDINGS: A
COMPARATIVE STUDY OF RECENT IBC PROVISIONS WITH INTERNATIONAL BEST
PRACTICES**

¹Damaraju Pradeep Kumar and ²Kandukuri Sai Krishna

¹Associate Professor, K.K.C. College of Law, Puttur, Tirupati District. A.P.

²Research Scholar in Law, Shri Venkateswara University, Gajraula, U.P., Advocate, Tirupati, Tirupati District. A.P.

ABSTRACT

The protection of homebuyers in corporate insolvency proceedings has become a subject of intense academic and policy debate, particularly in emerging markets like India where real estate forms a dominant avenue of household investment. Historically, insolvency law privileged banks and financial institutions as primary creditors, leaving individual homebuyers, despite their significant financial contributions, in a precarious position during the collapse of real estate developers. The Insolvency and Bankruptcy Code, 2016 (IBC), at its inception, did not accord homebuyers the legal recognition of creditors. This gap, exposed by high-profile insolvency cases in the real estate sector, resulted in prolonged consumer distress and highlighted systemic deficiencies in balancing insolvency efficiency with consumer protection. Subsequent reforms, most notably the 2018 amendment legislating homebuyers as financial creditors under Section 5(8)(f), alongside significant judicial pronouncements, have redefined the contours of their protection by granting a seat in the Committee of Creditors (CoC) and participatory rights in resolution proceedings. This transformation represents a fundamental reorientation of India's insolvency jurisprudence, merging consumer protection principles with corporate restructuring objectives.

The study adopts a comparative legal framework to evaluate the evolution and effectiveness of India's approach in light of global best practices. Drawing from the United States' Chapter 11 paradigm, the United Kingdom's creditor-driven model, and recent European Union restructuring directives, this paper situates India's legal innovations within a broader transnational discourse on insolvency and consumer rights. While some jurisdictions embed homebuyer protections through robust consumer law mechanisms outside of insolvency codes, others integrate explicit participatory and distributive safeguards within insolvency procedures. By analyzing these models, the paper interrogates whether India's recognition of homebuyers as financial creditors provides long-term structural balance or generates new challenges, such as dilution of creditor consensus, fragmentation of voting blocs, and risks to timely resolution processes.

Beyond doctrinal comparison, the paper engages with larger normative and policy debates. It explores whether the elevation of homebuyers aligns with foundational insolvency objectives of maximizing asset value and ensuring equitable distribution, or whether it reflects an exceptionalist consumer-driven response to a high-profile sectoral crisis. It also investigates the implications for financial creditors like banks, whose recovery prospects may be altered by expanding creditor classes, and examines how courts mediate conflicts between institutional and individual stakeholders. Through this lens, the Indian model is tested against principles of procedural fairness, distributive justice, and systemic insolvency efficiency.

The findings suggest that while India has made significant strides in embedding homebuyer protections, its framework remains transitional, requiring further refinement to reconcile consumer rights with the exigencies of insolvency resolution. The paper argues for a calibrated approach: one that preserves the collective nature of insolvency, establishes clear procedural mechanisms for large and dispersed creditor classes like homebuyers, and aligns consumer-centric reforms with international best practices. Ultimately, the study contributes to the evolving discourse on strengthening insolvency systems to promote both market stability and consumer welfare, positioning the Indian experience as a critical case study in comparative insolvency law.

Keywords: *Insolvency and Bankruptcy Code (IBC), corporate insolvency, homebuyers' rights, financial creditors, Committee of Creditors, comparative insolvency law, real estate insolvency, creditor hierarchy, consumer protection, Chapter 11, EU restructuring framework.*

1. INTRODUCTION

The relationship between insolvency law and consumer protection has become increasingly complex in jurisdictions where real estate development is a critical driver of the economy and a major sector of individual financial investment. In India, the **Insolvency and Bankruptcy Code, 2016** (hereafter **the IBC**), was a landmark reform designed to consolidate and modernize the framework of corporate insolvency resolution. Initially, however, the IBC was structured around traditional concerns of creditor primacy and systemic

efficiency, privileging institutional lenders such as banks and financial institutions. Within this framework, homebuyers, despite being among the largest groups of financial contributors in the real estate sector, were not recognized as creditors. Their position as vulnerable stakeholders became painfully clear during major corporate insolvency proceedings affecting real estate giants, where thousands of individual homebuyers found themselves without completed homes or meaningful access to the resolution process.

Mounting consumer activism, public pressure, and litigation before the Supreme Court of India prompted the legislature to intervene. The watershed came in 2018 when the **Insolvency and Bankruptcy Code (Amendment) Act** inserted **Section 5(8)(f)**, categorizing homebuyers as “**financial creditors**.” This amendment granted them representation in the **Committee of Creditors (CoC)** and the right to participate in the insolvency resolution process. Judicial reinforcement, most notably in the **Pioneer Urban Land and Infrastructure Ltd. v Union of India (2019)** decision, validated this legislative shift. These changes have been hailed as a landmark in consumer-centric insolvency reform, giving homebuyers a meaningful collective voice in corporate restructuring.

At the same time, significant concerns have surfaced regarding the operational and normative implications of homebuyer participation. Questions remain about whether the inclusion of a large, dispersed, and often inexperienced creditor class dilutes the efficiency and expedition of insolvency resolution. Critics have warned of the risk of fragmented voting, increased litigation, and potential conflicts between financial institutions and individual consumers. More fundamentally, the reordering of creditor hierarchy in favor of consumers raises debates about distributive justice, efficiency, and the economic purposes of insolvency law.

A comparative perspective becomes instructive at this juncture. Internationally, jurisdictions such as the United States, the United Kingdom, and the European Union have considered, and in some cases implemented, measures to address consumer vulnerabilities in insolvency frameworks. In the United States’ Chapter 11 system, consumer protection operates largely outside insolvency law, while restructuring remains creditor-driven. In the United Kingdom, homebuyers are afforded limited protections, but consumer rights are safeguarded through other statutory regimes. The European Union, through its Restructuring and Second Chance Directive, has sought to balance fairness and efficiency by integrating certain protections for vulnerable stakeholders. Studying these jurisdictions opens avenues for assessing India’s position on the spectrum of insolvency-consumer integration and identifying lessons that could enhance the IBC’s evolving framework.

This research, therefore, addresses an urgent and underexplored question: to what extent do India’s recent insolvency reforms protect homebuyers effectively, and how do they compare with international best practices?

RESEARCH OBJECTIVES

- To critically analyze the evolution of homebuyer rights under the IBC, particularly after the 2018 and subsequent amendments.
- To evaluate the role of the judiciary in shaping homebuyer protections within insolvency proceedings.
- To compare the Indian framework with global approaches to consumer protection in insolvency, particularly in the US, UK, and EU contexts.
- To assess the challenges and limitations of India’s approach, including issues of creditor hierarchy, collective action, and timely resolution.
- To suggest normative and policy reform pathways that balance efficiency with the protection of vulnerable stakeholders.

RESEARCH METHODOLOGY

This study adopts a doctrinal and comparative legal research methodology, supplemented by policy analysis.

i. Doctrinal Research: Primary legal sources such as the Insolvency and Bankruptcy Code, 2016 (including amendments), relevant rules, regulations, and circulars issued by the Insolvency and Bankruptcy Board of India (IBBI), and seminal judicial decisions of the Supreme Court and National Company Law Appellate Tribunal (NCLAT) are examined. This forms the core of the analysis of India’s legal framework.

ii. Comparative Analysis: The Indian provisions are studied in juxtaposition with insolvency regimes in select jurisdictions:

- The United States (Chapter 11 of the US Bankruptcy Code), which illustrates how restructuring law interacts with consumer protection outside insolvency frameworks.

- The United Kingdom, with its creditor-driven insolvency process and limited consumer participation models.

The European Union, particularly through the Preventive Restructuring and Second Chance Directive, which represents an evolving framework for balancing creditor and consumer rights. The comparative method helps illuminate best practices, divergences, and transnational lessons that can strengthen India's insolvency law.

iii. Policy and Normative Analysis: Secondary sources, including academic literature, reports by committees such as the Insolvency Law Committee, policy documents, commentaries, and case studies from real estate insolvency cases (e.g., Jaypee Infratech, Amrapali), are analyzed to frame normative debates on collective action, creditor hierarchy, and consumer interests.

iv. Analytical Approach: The paper employs both a descriptive and evaluative approach—first mapping the provisions and their operation, then critically assessing their implications for efficiency, fairness, and systemic stability in insolvency law.

This combined methodology enables a nuanced engagement with both legal doctrine and comparative best practices, ensuring that the inquiry is not limited to black-letter law but extends to policy dynamics and practical effectiveness.

2. EVOLUTION OF HOMEBUYER PROTECTIONS UNDER IBC

The Insolvency and Bankruptcy Code (IBC), 2016, was a landmark legislation aimed at streamlining insolvency resolution in India. However, it initially lacked explicit provisions for homebuyers—one of the most vulnerable creditor classes in real estate insolvencies.

a. Early Phase: Exclusion and Judicial Struggles

In the initial years after the IBC enactment, homebuyers were not recognized as financial creditors, which kept them outside the critical **Committee of Creditors (CoC)** and limited their ability to initiate insolvency proceedings against defaulting developers. This created significant hardships, especially in the wake of stalled housing projects leading to widespread distress.

The turning point was the Supreme Court's intervention in **Chitra Sharma Vs. Union of India (2018) SCC OnLine SC 874**, where the Court recognized the plight of homebuyers and emphasized their constitutional right to shelter. The Court urged a reinterpretation of homebuyers' status given their financial contribution to real estate projects. This judgment underlined the need for legislative reforms to protect homebuyers in insolvency proceedings.

b. Recognition as Financial Creditors

Following this, **the Insolvency and Bankruptcy Code (Amendment) Act, 2018** inserted an explanation in **Section 5(8)(f)** explicitly recognizing homebuyers as financial creditors. This monumental amendment empowered homebuyers to initiate the **Corporate Insolvency Resolution Process (CIRP)** and granted them voting rights in the CoC, allowing meaningful participation in restructuring plans.

The Supreme Court in **Pioneer Urban Land and Infrastructure Ltd. Vs. Union of India (2019)** upheld the constitutional validity of this amendment, confirming the homebuyers' status and dismissing challenges by developers contesting these protections.

c. Refinements and Thresholds

Despite inclusion, to prevent frivolous litigation, **the IBC (Amendment) Bill 2019** and subsequent 2020 amendments introduced thresholds requiring homebuyers to form a minimum group (100 allottees or 10% of a project's allottees) to trigger insolvency proceedings. This collective action requirement was upheld in **Manish Kumar Vs. Union of India (2021)**. These thresholds balance access to remedy and procedural efficiency.

d. 2025 Amendments: Strengthening Protections

The most recent **IBBI (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2025**, further empower homebuyers:

- Regulation 4E:** Permits Resolution Professionals to hand over possession/ownership to homebuyers during CIRP, with CoC approval (at least 66% vote), accelerating delivery of homes even before resolution completion.
- Regulation 18(4):** Empowers CoC to invite experts from regulatory bodies or project managers to inform decision-making.

iii. Regulation 36A: Facilitates representation and relaxed procedural hurdles for large homebuyer groups (>10% or 100 creditors), amplifying their influence in insolvency processes.

These reforms integrate homebuyers as equal partners in insolvency resolution, enhancing transparency, efficiency, and fairness while addressing long-standing delays and uncertainties.

iv. Comparative International Analysis: Specific Case Laws and Practices

a. United States

In the U.S., under **Chapter 11 Bankruptcy**, homebuyers hold secured or administrative creditor status if their payments are held in escrow or trust accounts. Courts focus on enabling project completion or fair compensation.

i. In **re Lafferty Group, LLC, Bankr. D. Utah, 2015**: This case saw the court approving debtor-in-possession financing to complete stalled residential projects, recognizing homebuyers' economic stake and prioritizing their interests in the restructuring plan.

The U.S. approach balances insolvency objectives with consumer protection through secured creditor recognition and financing mechanisms ensuring completion.

b. United Kingdom

The UK protects homebuyers primarily as leaseholders or proprietary interest holders.

i. **Re Central Estates (Belgravia) Ltd. (1975)**: The UK court protected leaseholders' rights during insolvency, emphasizing possession rights and lease continuity.

UK insolvency law nourishes proprietary interests safeguarding homebuyers from loss, integrating insolvency and property law principles to maintain housing rights.

c. Australia

Australia recognizes homebuyers' equitable interests in deposits or payments pre-insolvency, granting them priority via trusts or proprietary claims.

i. **Singh v. Perris (1990)**: This judgment affirmed that homebuyers' deposits create equitable interests secured against property, surviving the developer's insolvency to protect buyer claims.

Australian insolvency law's focus on equitable interests and trusts provides strong safeguards for homebuyers.

d. United Arab Emirates

- The UAE has specialized real estate insolvency regimes embedding buyer protections via escrow accounts and compensation funds.
- Dubai courts have reinforced homebuyers' priority claim on escrowed funds during developer insolvency, ensuring funds' protection for project completion or refund.

This government-backed mechanism uniquely combines regulatory oversight with insolvency protections, providing a robust safety net to homebuyers.

3. PERSISTENT CHALLENGES

Persistent Challenges in Protecting Homebuyers in Corporate Insolvency Proceedings are As follows:

a. Homebuyers' Status as Financial Creditors and Threshold Issues

The Supreme Court's decision in **Pioneer Urban Land and Infrastructure Ltd. Vs. Union of India (2019) AIR SC 4055**, upheld the constitutional validity of the 2018 IBC amendment recognizing homebuyers as financial creditors, allowing them to initiate insolvency proceedings under **Section 7** of the IBC. However, it also rejected challenges that this would be duplicative due to remedies under **RERA** and **Consumer Law**, establishing coexistence of multiple remedies.

b. Balancing Interests among Creditors

In insolvency proceedings, secured creditors typically have priority over unsecured creditors, often overshadowing homebuyers' claims. Courts face challenges in balancing the developers' debt restructuring interests with homebuyers' rights to possession and timely delivery, as highlighted in landmark Indian cases like **Pioneer Urban Land (Supreme Court, 2021)**.

c. Equitable Inclusion of Homebuyers' Claims

The **National Company Law Appellate Tribunal (NCLAT)** emphasized protection of homebuyers who may fail to file claims on time due to practical difficulties or large numbers, as in **Puneet Kaur Vs. K V Developers Pvt Ltd (2022) ibclaw.in 416 NCLAT**. The tribunal held that all claims reflected in the corporate debtor's records must be included to ensure fairness.

d. Speculative Investors Disqualified

In **Mansi Brar Fernandes Vs. Gayatri Infra Planner Pvt Ltd (2025) INSC 1110**, the Supreme Court barred speculative investors from initiating insolvency proceedings, reinforcing that only genuine homebuyers whose amounts qualify as financial debt under **Section 5(8)(f)** can approach the NCLT. This case refined the distinction between genuine buyers and those with buy-back clauses or speculative motives.

e. Recognition of RERA Recovery Certificate Holders as Financial Creditors

The Supreme Court in **Vishal Chelani & Ors. Vs. Debashis Nanda (2023) ibclaw.in 117 SC**, held homebuyers with recovery certificates under RERA still retain financial creditor status and can participate in insolvency proceedings. This judgment also emphasized that no distinction be made between homebuyers with and without RERA decrees in resolution plans.

f. Limited Remedies and Project Completion Risks

Homebuyers want possession of flats rather than refund of money, but if the corporate debtor goes into liquidation, project completion is jeopardized. Insolvency resolutions, focused on financial settlements, may not prioritize project delivery, leaving many homebuyers in limbo (e.g., **Jaypee Infratech case**).

g. Implementation of Reverse CIRP and Segregation of Projects

The experimental "**Reverse CIRP**" process allows insolvency resolution confined to specific projects without impacting others. However, this innovation creates complexities in practice and requires stringent judicial oversight to protect homebuyers' interests effectively, as seen in **Umang Realtech** decisions.

h. Thresholds and Collective Action Problems

Amendments like the 2019 IBC Ordinance imposing minimum thresholds (number of allottees) for initiating insolvency proceedings hinder individual homebuyers from seeking timely resolution and may dilute protections.

i. Legal and Regulatory Harmonization with RERA

The coexistence and sometimes conflicting remedies under **the Real Estate (Regulation and Development) Act (RERA)** and IBC generate ambiguity about homebuyers' secured status and rights, complicating enforcement in insolvency.

International Best Practices: Countries like the UK and USA have more integrated frameworks balancing creditor protection with consumer protection, incorporating reorganization models like Chapter 11 (US) that prioritize business viability alongside consumer rights. Indian jurisprudence and statutory frameworks still need convergence with such international models to enhance homebuyer protection.

Notable International References and Case Law Themes**a. United States — Chapter 11 Bankruptcy**

The US bankruptcy framework under **Chapter 11** follows a debtor-in-possession reorganization model, which balances creditor interests while allowing the business to continue operations and complete projects. Consumer protection provisions facilitate equitable treatment of homebuyers in solvent reorganizations, a practice somewhat lacking in India's liquidation-heavy approach.

b. United Kingdom Insolvency Practices

UK insolvency laws provide certain protections to individual creditors including homebuyers through administration proceedings aimed at company rescue and project completion. The Court of Appeal and Privy Council emphasize stakeholders' interests and equitable distribution among creditors, with consumer protection laws overlapping to ensure homebuyer rights are not sidelined.

c. UNCITRAL Legislative Guide on Insolvency Law (2004)

International best practices endorsed by UNCITRAL emphasize creditor equality, economic stability, and business rescue, which influence reforms like India's IBC. However, the need for integrated consumer creditor protections and project-specific insolvency mechanisms is a common challenge globally, urging legislative reforms.

These multiple systemic, regulatory, and procedural challenges indicate continued gaps in protecting homebuyers within Indian corporate insolvency proceedings. International best practices suggest enhanced participatory rights, protection of security interests, and a focus on business rescue over liquidation, which Indian reforms partly reflect but have room to develop further.

4. INTERNATIONAL BEST PRACTICES

International practices for protecting homebuyers in corporate insolvency proceedings demonstrate a nuanced balance between ensuring homebuyers' interests and maintaining the viability of insolvent real estate companies. The Indian Insolvency and Bankruptcy Code (IBC) has undergone significant amendments and judicial interpretations that align with international norms, yet challenges remain. An expanded, detailed comparative perspective considering recent IBC provisions and international best practices highlights key dimensions as follows:

a. Recognition of Homebuyers as Financial Creditors

A major breakthrough under the Indian IBC came in 2018, with the amendment explicitly recognizing homebuyers who have made payments for property allocations as financial creditors. This recognition empowers homebuyers to initiate **Corporate Insolvency Resolution Processes (CIRP)** against defaulting developers and grants them membership in the **Committee of Creditors (CoC)**. This status aligns with international practices where homebuyers or purchasers often attain secured or prioritized creditor status, enabling active participation in insolvency resolutions. For example, jurisdictions like Singapore employ pro-rata mortgage models that grant buyers fractional ownership, providing a secured interest in the property.

b. Challenges in Homebuyer Representation

Despite this recognition, homebuyers in India typically exercise their rights collectively through an **Authorized Representative (AR)** within the CoC. While structurally necessary given the number of affected buyers, this collective representation often dilutes individual voices, creating challenges in influencing creditor decisions dominated by institutional lenders. Furthermore, homebuyers presently lack secured creditor status equivalent to banks, meaning they rank lower in priority for repayment during insolvency. This gap contrasts with some international regimes where homebuyers' financial contributions translate into secured rights or direct stakes in the property, allowing better protection.

c. Conflict between Insolvency and Real Estate Laws

India's dual framework, IBC and the **Real Estate (Regulation and Development) Act (RERA)**, illustrates tensions common in many jurisdictions between insolvency and real estate regulations. While RERA mandates timely project completion and offers compensation for delays, its effectiveness diminishes once insolvency proceedings under the IBC take precedence. This overlap can leave homebuyers vulnerable with limited immediate legal remedies during insolvency, a challenge also present in other countries lacking harmonized legislative responses. International best practices suggest that harmonization or specialized insolvency frameworks for real estate can protect homebuyer rights and ensure project continuity.

d. Mechanisms for Preventing Fund Diversion

One critical protection for homebuyers internationally is safeguarding the use of their payments. Indian laws like Maharashtra's escrow account guidelines require a significant portion of funds received to be used only for construction. However, weak enforcement and lack of integration with insolvency laws often result in diversion of funds to other projects. Similar escrow or trust account mechanisms are more rigorously enforced in countries like the UAE and Singapore, where funds are ring-fenced to ensure they are used exclusively for the intended projects, thus mitigating insolvency risks.

e. Government-Backed Compensation and Relief Funds

Countries such as the UAE provide government-managed relief funds that financially support homebuyers stranded due to developer insolvency. Such funds can compensate buyers or provide interim financing to complete projects. India currently lacks a robust, centralized relief fund, a reform widely recommended by experts to stabilize investor confidence and provide a safety net during insolvency proceedings.

f. Judicial Activism and Protective Jurisprudence

Indian courts, notably the **Supreme Court** and **National Company Law Appellate Tribunal (NCLAT)**, have significantly shaped homebuyer protections under the IBC. For instance, rulings like those in **Pioneer Urban Land and Infrastructure Ltd. Vs. Union of India**, have upheld homebuyers' financial creditor status and expanded interpretations of "borrowing" to include their advances. Moreover, the courts have underscored the need to prioritize homebuyers' interests and project completion over mere financial settlements. Similar judicial emphasis on protecting consumer interests through insolvency exists in some U.S. bankruptcy cases and U.K.

insolvency jurisprudence, reflecting a growing international trend to balance financial recovery with consumer protection.

g. Treatment of Other Consumer Categories

A comparative concern is the disparity between homebuyers and other consumers affected by insolvency. In India, sectors like aviation treat consumers as operational creditors with fewer rights, as exposed in the Jet Airways insolvency, where ticket holders were subordinated in prioritization. International frameworks tend to have more uniform or sector-specific approaches ensuring consumers making advance payments (e.g., airline passengers) receive equitable protection, a gap India could address through expanded or specialized creditor classifications.

Proposed Reforms and International Lessons

Key reforms suggested include:

- Legislative harmonization between insolvency laws and real estate regulations to clarify precedence and procedural integration.
- Implementation of escrow-backed funding models mandatory for all real estate projects, ensuring payment security and project completion funding.
- Introduction of pro-rata mortgage or fractional ownership rights to confer homebuyers secured creditor status.
- Creation of government-backed compensation or relief funds similar to international models.
- Enhanced role and voting rights for homebuyers in creditor committees.
- Consideration of insolvency mechanisms similar to Chapter 11 (U.S.) that allow restructuring while ensuring ongoing project construction.

5. COMPARATIVE ANALYSIS

The following key points addresses the comparative analysis of protecting homebuyers in corporate insolvency proceedings between the Insolvency and Bankruptcy Code (IBC) of India and international best practices:

- The IBC amendment in 2018 recognized homebuyers who made payments for property allotments as "financial creditors," empowering them to initiate insolvency proceedings against defaulting developers and participate in the Committee of Creditors (CoC).
- The 2020 Amendment to IBC Section 7 introduced a collective threshold for homebuyers (100 allottees or 10% of total allottees) to file insolvency, ensuring credible claims and preventing frivolous lawsuits.
- The 2025 IBBI regulations further streamline real estate insolvency resolution by facilitating homebuyer involvement with eased participation thresholds and including local authority experts in decision-making.
- Measures like allowing possession transfer to homebuyers during insolvency and granting homebuyer groups representation in the CoC emphasize protection of homebuyer rights without compromising corporate insolvency goals.
- Judicial clarifications (Manish Kumar case) have reinforced balancing homebuyers' interests with resolution efficiency under IBC, while highlighting coexistence with the Real Estate (Regulation and Development) Act (RERA) which provides alternate remedies.

Challenges remain such as homebuyers often being unsecured creditors, risking lower recovery priority compared to secured creditors, and the tension between individual homebuyer relief and collective insolvency framework goals.

International best practices usually focus on:

- Strong legislative recognition of homebuyers as protected creditors with clear priority in asset distribution.
- Special insolvency frameworks or fast-track mechanisms dedicated to real estate insolvency to safeguard homebuyers' interests.
- Active involvement of homebuyers or their representative bodies in insolvency resolution with decision-making powers.

- Clear norms on possession delivery and project completion responsibilities to shield homebuyers from long delays.
- Integration of consumer protection laws with insolvency laws to ensure comprehensive safeguards.

A comparative analysis framework could be as follows:

Aspect	Recent IBC Provisions (India)	International Best Practices
Legal Status of Homebuyers	Recognized as financial creditors (since 2018 Amendment)	Usually recognized as secured or specially protected creditors
Threshold for Filing Insolvency	Collective filing threshold (100 allottees or 10%)	Often individual or representative groups can file without high thresholds
Representation in Insolvency	Homebuyer groups participate in Committee of Creditors (CoC)	Active representation with voting rights or strong advocacy roles
Possession and Delivery Rights	Possession can be transferred during insolvency with CoC approval	Clear legal protection for possession rights and project completion
Interaction with Consumer Laws	Parallel remedies under RERA, judicial clarifications for coexistence	Harmonized consumer protection and insolvency laws
Priority in Asset Distribution	Typically unsecured creditors; lower priority than secured creditors	Often given priority or secured status to protect investments
Procedural Simplifications	Eased criteria for homebuyer participation, expert involvement	Specialized fast-track insolvency procedures for real estate cases

This framework highlights India's evolving approach through recent IBC amendments and judiciary support to balance homebuyer protection with efficient corporate insolvency resolution. While significant strides are made, challenges related to priority and security of homebuyer interests remain areas for potential further enhancement compared to some international models.

6. RECOMMENDATIONS

Based on the recent legal provisions, amendments, case law, and international comparative insights, here are key recommendations for protecting homebuyers in corporate insolvency proceedings under **the Insolvency and Bankruptcy Code (IBC)** framework, aligned with global best practices:

a. Recommendations for Protecting Homebuyers in Corporate Insolvency Proceedings

Recognition as Financial Creditors: Homebuyers must continue to be recognized as financial creditors as per the IBC amendment, 2018 allowing them to initiate insolvency proceedings and participate in the Committee of Creditors (CoC). This ensures their active role in decision-making, similar to international best practices where homebuyers/get paid consumers gain legal standing in insolvency resolutions.

b. Representation through Authorized Representatives

Homebuyers should organize through authorized representatives or associations to collectively represent their interests in insolvency processes, as per IBC provisions and emerging reforms. This collective representation facilitates meaningful participation without procedural chaos.

c. Participation and Voting Rights in CoC

They should have voting rights in the CoC with clear thresholds for participation and decision-making influence, comparable to other financial creditors, ensuring fair treatment and collective bargaining power.

d. Specialized Framework or Procedural Adaptations

Consider a dedicated insolvency framework or adapted procedural rules for real estate insolvencies. This approach addresses the peculiarities of homebuyer claims, which often concern unfinished property delivery rather than pure monetary reimbursement. Proposed reforms include allowing possession transfer during insolvency to those fully paid, ensuring either completion of projects or reimbursement, and integrating regulatory bodies like RERA representatives in CoC.

e. Priority or Security Interest Recognition

Explore legal recognition of homebuyers' interests as secured or quasi-secured creditors in the insolvency hierarchy, possibly via statutory charges or liens linked to property interests. This aligns with global norms where homebuyers or similar consumers hold priority claims to minimize losses.

f. Harmonization with RERA and Consumer Laws

Strengthen coordination between IBC provisions and the Real Estate (Regulation and Development) Act (RERA) so that consumer protection laws support insolvency proceedings. Clear rules are needed for conflict resolution, rights enforcement, and safeguarding homebuyers' remedies.

g. Regulatory and Expert Inclusion

Enable inclusion of RERA officials or real estate experts as advisors (non-voting) in CoC meetings to ensure domain expertise influences insolvency resolutions beneficial to homebuyers and facilitates transparency.

h. Expedited and Consumer-Friendly Procedures

Establish streamlined resolution processes tailored for real estate insolvency that reduce delay and complexity, promoting quicker possession, completion of projects, or fair settlements for homebuyers.

i. Judicial and Legislative Support

Continual judicial affirmations and legislative amendments aimed at reinforcing homebuyers' rights and clarity in insolvency proceedings are essential to build confidence and fairness in the system.

These recommendations balance insolvency goals of corporate revival and creditor equity with the need for special safeguards for homebuyers who face unique risks. They reflect both Indian regulatory developments and international best practices in consumer protection during corporate insolvency.

CONCLUSION

The protection of homebuyers within corporate insolvency proceedings reflects a complex intersection of insolvency law, consumer rights, and real estate regulations. Recent amendments to India's Insolvency and Bankruptcy Code (IBC), particularly the recognition of homebuyers as financial creditors, mark a notable advancement in acknowledging their dual role—as both long-term investors and consumers dependent on timely delivery of housing projects. This reform empowers homebuyers to actively participate in the insolvency resolution process, enhancing their ability to influence outcomes and seek recovery. However, the practical implementation exposes challenges including coordination difficulties among numerous dispersed buyers, procedural delays, and the inherent tension between maximizing creditor recoveries and ensuring consumer protections.

When viewed against international best practices, countries with mature insolvency regimes highlight the necessity of specialized protections tailored for real estate buyers, which go beyond financial creditor status alone. These mechanisms include project-specific escrow accounts, developer completion guarantees and regulatory frameworks ensuring oversight during insolvency, and legal provisions that prioritize possession or completion over mere financial settlement. By adopting such safeguards, these jurisdictions strive to mitigate the risk of incomplete or stalled housing projects, a critical social concern, thereby boosting consumer confidence and market stability.

India's evolving IBC framework reflects an important shift towards harmonizing insolvency efficiency with homebuyer safeguards. Nonetheless, this comparative analysis reveals areas requiring further strengthening. Integrating consumer-centric measures such as dedicated real estate insolvency windows, transparent fund management, and faster resolution timelines could significantly enhance protection of homebuyer interests. Furthermore, enhancing coordination mechanisms among homebuyers and increasing judicial and regulatory capacity to oversee project completion are equally vital.

In conclusion, safeguarding homebuyers in corporate insolvency is not solely a matter of creditor classification. It demands a comprehensive approach combining insolvency participation rights with robust consumer protection tools. Aligning India's insolvency process with international best practices, emphasizing accountability, project completion guarantees, and dedicated regulatory oversight, will serve to balance the economic imperatives of creditor recovery with the social need for housing security. Such alignment will ultimately foster a resilient insolvency framework that upholds homebuyers' rights, preserves their investments, and strengthens market trust in India's real estate sector.

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