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Protecting Homebuyers over Authority Profits: Supreme Court Rules NOIDA Cannot Demand Delay Penalties in Insolvency

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The Supreme Court of India delivered a landmark judgment reaffirming the primary objective of local development authorities as public welfare, striking down penalty claims that threaten the completion of stalled housing projects. Presided over by a bench of Justice J.B. Pardiwala and Justice K. Vinod Chandran, the apex court in *Authorised Representative for Granite Gate Properties Private Limited v. New Okhla Industrial Development Authority and Ors.* held that state authorities cannot impose penal "time extension charges" on homebuyers or new developers during corporate insolvency proceedings.

The decision resolves a prolonged legal tug-of-war between victimised homebuyers and state administrative bodies, establishing that statutory authorities cannot penalise new stakeholders for the "past sins" of a bankrupt real estate developer.

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Background and the Genesis of the Dispute

The case revolves around two major high-rise residential housing projects in Uttar Pradesh namely "Lotus Boulevard" in Sector 100 and "Lotus Panache" in Sector 110, developed by M/s Granite Gate Properties Private Limited on land acquired on perpetual lease from the New Okhla Industrial Development Authority (NOIDA). Thousands of homebuyers invested their life savings into these complexes, drawn by promises of modern amenities and timely delivery.

The project ran into severe financial distress, leaving the construction unfinished and pushing the developer into the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC). Formed into a class of financial creditors, the homebuyers constituted the Committee of Creditors (CoC) and actively kept the project afloat by pooling their own resources under a "Pool and Build" model. Subsequently, a Successful Resolution Applicant (SRA), M/s SMV Agencies Private Limited, submitted a resolution plan to complete the long-overdue apartments, which received approval from the CoC.

The Conflict Over Time Extension Charges

Under the terms of its original lease deeds and subsequent policy orders, NOIDA levied heavy financial penalties known as "time extension charges" whenever a developer failed to complete construction within the stipulated timelines. These fees scaled upward based on a percentage of the total land premium and extended up to a decade under NOIDA's policy framework.

When Granite Gate Properties went into insolvency, NOIDA asserted that these accumulated delay penalties must be classified as Corporate Insolvency Resolution Process (CIRP) costs, requiring full payment before the project could proceed. NOIDA went as far as sealing three residential towers in Lotus Panache to force recovery of these dues.

The National Company Law Appellate Tribunal (NCLAT) partially allowed NOIDA's stance, directing that time extension charges for a maximum period of three years be treated as CIRP costs. Unhappy with this outcome, the homebuyers appealed to the Supreme Court to eliminate the charges entirely, while NOIDA filed a cross-appeal demanding delay fees stretching beyond three years up to the tenth year.

Supreme Court Analysis: Public Welfare versus Commercial Motives

The Supreme Court rejected NOIDA's appeal and ruled entirely in favor of the homebuyers. Examining the nature of land allotment by municipal authorities, the bench noted that NOIDA acquires land under statutory powers to foster urban infrastructure, commercial growth, and residential housing. While local authorities engage in commercial leasing to generate revenue, their fundamental mandate remains anchored in public welfare and urban development, rather than pure profit extraction.

The Court analysed the true nature of time extension charges, characterising them strictly as penal provisions designed to deter defaulting builders from missing construction schedules. The judges pointed out that forcing homebuyers or an incoming resolution applicant to clear these penalties misapplies a punitive measure. Punishing homebuyers who had already endured a

decade-long wait and contributed their own funds to finish construction, for the defaults of a corporate debtor defeats the core purpose of public housing development.

The Final Verdict and Legal Implications

Setting aside the NCLAT order, the Supreme Court held that time extension charges imposed by NOIDA cannot be categorized as CIRP costs. The Court directed NOIDA to waive these penalty charges in the peculiar facts and circumstances of the case, ensuring that neither the homebuyers nor the SRA are burdened with pre-insolvency delay penalties.

This ruling sets a critical precedent for real estate insolvency across India. By establishing that state development authorities cannot prioritize penalty claims over the revival of stalled housing projects, the judgment ensures that resolution plans under the IBC remain viable and that innocent allottees receive their homes without facing extortionate administrative penalties

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