

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 311 of 2018

IN THE MATTER OF:

Shreyans Realtors Private Limited & Anr.

...Appellants

Vs.

Saroj Realtors & Developers Private Limited

...Respondent

Present: For Appellants: - Mr. Chinmoy Pradip Sharma, Mr. Yadvendra Yadav and Mr. Shailesh Kumar Sinha, Advocates.

For Respondent:- Ms. Madhusmita Bora and Mr. Pawan Kishore, Advocates.

O R D E R

04.07.2018— From the record, we find that though the Appellants by its resolution dated 16th May, 2013 decided to grant unsecured loan to ‘Saroj Realtors and Developers Private Limited’ with 24% interest payable annually and for return of the principal amount along with interest on or before 31st March, 2016, but the Board of Directors of the ‘Corporate Debtor’ in their meeting held on 29th March, 2014 decided to accept the amount as ‘interest free unsecured loan’. From the aforesaid decision of the ‘Corporate Debtor’, we find that the ‘Corporate Debtor’ never accepted to take loan with 24% interest and given no undertaking to repay the amount with interest within specific period. On the basis of such evidence, the Appellants cannot claim to owe ‘financial debt’ from

Contd/-.....

the 'Corporate Debtor' and thereby cannot be claimed to be a 'Financial Creditor' as defined under Section 5(7) & (8) of the Insolvency and Bankruptcy Code, 2016.

For the reason aforesaid, we are not inclined to interfere with the findings of the Adjudicating Authority (National Company Law Tribunal) as decided by impugned order dated 1st May, 2018. The appeal is accordingly dismissed. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

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