Status of Financial Creditors to Home Buyers

The Supreme Court has confirmed the constitutional validity of the **Insolvency and Bankruptcy Code (Second Amendment) Act** of August 2018, which gave **home buyers the status of "financial creditors"** with power to vote in the Committee of Creditors.

- The Amendment Act allowed home buyers, as financial creditors, to trigger bankruptcy proceedings under the **Insolvency and Bankruptcy Code (IBC) of 2016** and have their "rightful place" on the Committee of Creditors (CoC).
    - The CoC, by voting, makes important decisions on the future of a bankrupt builder. These calls include what to do with his assets and who should finish the pending housing projects.
- As per the amendment, home buyers can initiate bankruptcy proceedings against errant real estate builders under section 7 of the IBC.
- Before the Amendment Act of 2018 came into existence, the assets of the bankrupt builder were divided among his employees, creditor banks and other operational creditors. Home buyers had hardly figured, despite they finance from 50% to even 100% of a housing project.
- Homebuyers now have the option to avail legal remedies before a consumer court, Real Estate Regulatory Authorities (RERA), as well as bankruptcy courts.

Source: TH

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