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Banks cannot assume role of builders to complete unfinished real estate projects: Delhi High Court

The court was hearing a suo motu PIL plea based on a letter which sought directions to the Centre to draft and implement a comprehensive scheme to address the grievances of home buyers availing home loans.

By: **Express News Service**

New Delhi | March 15, 2023 11:05 IST



1

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The court observed that banks have to maintain a schedule for disbursement and loan recovery, and if a home buyer fails to repay the loan, they have to take steps to recover the loan from the defaulting buyer. (File)

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The Delhi High Court recently observed that banks cannot be converted into builders or authorities to ensure that a real estate project is completed.

A division bench of Chief Justice Satish Chandra Sharma and Justice Subramonium Prasad was hearing a suo motu PIL plea based on a letter which sought directions to the Centre to draft and implement a comprehensive scheme to address the grievances of home buyers availing home loans, including those who don't have possession of their flats but are still paying monthly EMI instalments, and is unable to claim tax benefits on the payment of such monthly interest amounts.

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The complainant's letter alleged that the banks, government and builders operate as part of a nexus and operate against the public interest. The complainant prayed that banks should be held responsible for the inordinate delay in real estate projects, inasmuch as banks only sanction loans for projects that are verified as genuine, after proper scrutiny.

The high court, in its March 13 decision, however, observed that when a project remains incomplete, it is always open for the banks to approach the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 to get an insolvency and resolution professional (IRP) appointed and to take measures to ensure that project is revived and the project is completed because the banks are also anxious to recover their money.

“The entire problem that has been projected by the Complainant has to be looked into to safeguard the interests of the home buyers and also the banks who deal with public money, and the banks cannot be converted into developers and builders or an authority on whom the responsibility is loaded to ensure that the project is completed. Other than the remedies in the Insolvency and Bankruptcy Code, 2016,

it is always open for the home buyers to approach the Real Estate Regulatory Authority (RERA) to ensure that the project is completed”, the high court, said disposing of the plea.

The high court also perused the Reserve Bank of India’s response as well as a 2015 master circular (on loans and advances and housing finance) to observe that a well-structured regimen has been created, including guidelines to various banks on the issue of advancing loans to home buyers.

“The master circular also advises that the quantum of loans which are to be granted by the banks for housing finance and also to maintain loan to value ratio in case of individual housing loans,” the court said.

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It further observed that RBI can only guide the banks to frame their loan policies with the approval of their boards and banks are expected to conduct basic due diligence at the time of approval/sanction/disbursement/renewal of the loans.

The court also observed that banks have to maintain a schedule for disbursal and loan recovery, and if a home buyer fails to repay the loan, they have to take steps to recover the loan (as it is public money) from the defaulting buyer.

“The guidelines specify that the housing loans sanctioned to individuals who invest in housing projects are linked to the stages of construction of housing projects. However, it cannot be said that it is the banks’ responsibility to get the project

completed and the bank cannot assume the role of the builder to complete the project,” the high court said.

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It was further observed that banks can only flag a borrower for misutilisation of loans and it is for the lenders to take appropriate legal action by approaching the civil forum to ensure that the project is completed within time.

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1

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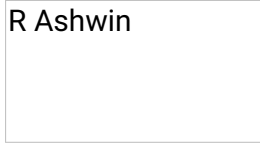
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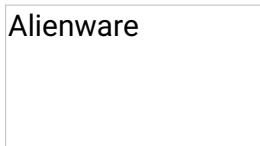
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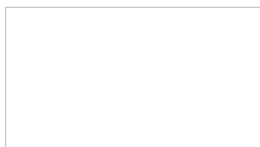
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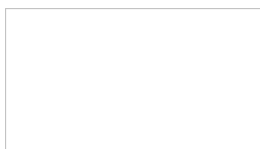
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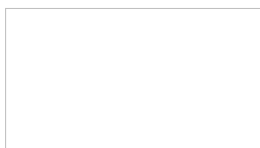
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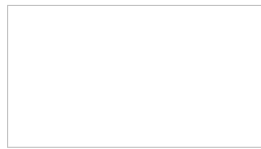
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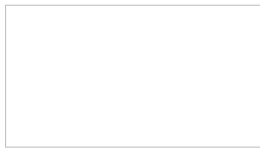


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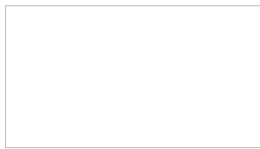
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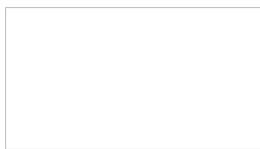


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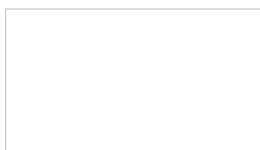


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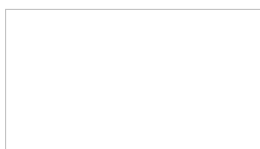
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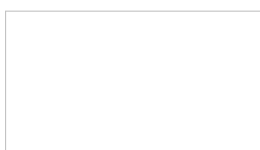
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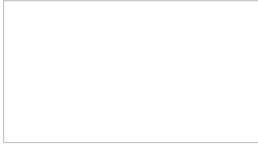


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