`IBC to remain sector-agnostic'

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India's insolvency resolution framework will remain sector-agnostic as the government has assessed it is not practical to offer special dispensations to specific sectors like real estate, according to two persons informed about the government discussions.

Contrary to expectations, the amendments to the Insolvency and Bankruptcy Code (IBC) introduced in Parliament by the government in the monsoon session, currently before a House panel, did not include a project-specific insolvency regime for real estate. In 2023, an expert committee set up by the housing and urban affairs ministry to look into stalled real estate projects suggested that the registration requirement of individual projects with Real Estate Regulatory Authorities must be strictly implemented, as it will help in project-wise debt resolution.

The committee, led by India's former G20 Sherpa Amitabh Kant, also emphasised the maintenance of project-wise escrow accounts, which will help in this regard.

While more ring-fencing of specific projects could be done under Rem, project-wise debt resolution will not be pursued under IBC. "IBC is not a sector specific law. Making carve outs for specific sectors can make the statute more complex. Giving a specific dispensation for real estate is not the best thing to do," said one of the two persons quoted above. Besides, it will give rise to similar demands from other sectors.

Experts pointed out that reliance on the Real Estate Regulation and Development Act of 2016 (Rera) as the primary framework for project-level ring-fencing is both legally sound and practically sensible, as Rera already mandates separate bank accounts for each project, offers regulatory oversight on project completion and fund utilization and protects homebuyers, without amending the IBC.

Rera complements IBC by protecting project-level interests, without requiring IBC to deviate from its corporate debtor-focused framework, said Yogendra Aldak, executive partner at Lakshmikumaran and Sridharan attorneys.

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