

A Estates Pvt. Ltd. vs Kher Nagar Sukhsadan Co-operative Housing Society

Citation: 2025 INSC 1366

Facts of the case:

The housing society at Kher Nagar had an old, unsafe building and gave redevelopment rights to A Estates Pvt Ltd. In 2005. Even after many years, the developer did not start the actual construction. Members complained about delays, lack of progress, and non-payment of rent. The project remained stuck for over a decade; as a result, the society terminated the developer's contract in 2019 and later selected a new developer in 2023. Meanwhile, in 2022, insolvency proceedings, Corporate Insolvency Resolution Process (CIRP) began against the old developer, A Estates. Due to this, authorities refused to approve new development plan. The society went to high court, which allowed them to continue with the new developer. The old developer challenged this decision before the supreme court, claiming their development rights were still protected.

Issues before the court:

1. Whether the Housing society was legally allowed to terminate the redevelopment agreement with A Estates after years of delay.
2. Whether the developer (A Estates) could claim redevelopment rights even though the project had not started for more than a decade.
3. Whether the insolvency process (CIRP) protects the developer's rights, or if those rights had already ended before CIRP began
4. Whether the society could appoint a new developer and continue redevelopment despite the old developer being under CIRP.

Arguments:

Appellant (A Estates Pvt. Ltd.)

The developer argued that the housing society was not justified in terminating the redevelopment agreement. They claimed that they had already taken steps like getting permissions and paying charges, so the development rights should still belong to them. They also said that once CIRP started, a moratorium came into effect, which means no legal action could be taken against them. Therefore, the society could not appoint a new developer or move forward with redevelopment. They insisted that their contractual rights were still valid and protected under insolvency law.

Respondent (The Housing society)

The housing society argued that the developer had completely failed to start the project for many years and members suffered because of long delays, unsafe conditions, and lack of rent payments. They said they legally terminated the agreement in 2019, long before CIRP began, and the developer never challenged that termination at the proper time. Since the Contract was already ended, the developer had no rights left when CIRP started. They also argued that the building was old and dangerous, and they could not keep waiting, so selecting a new developer was necessary for the safety of the residents.

Judgement:

The Supreme Court held that the Housing Society was right to terminate the redevelopment agreement with A Estates due to long delays and defaults. Since the contract ended before insolvency proceedings (CIRP) began, the developer had no rights protected under the Insolvency and Bankruptcy Code (IBC), 2016 moratorium. The society was free to appoint a new developer and continue the project for the safety of its members. The Supreme court upheld the High Court's decision and confirmed that the Housing Society could go ahead with redevelopment with the new developer.

Conclusion:

The Supreme Court concluded that the Housing Society was justified in terminating the old redevelopment agreement. Since the developer had not performed for many years, and the contract ended before insolvency proceedings; and the developer had no enforceable rights. The Society was free to appoint a new developer and continue the project.

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