



# ENFORCEMENT OF SECURITY RIGHT

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# Purpose

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- Clear, simple and efficient method for enforcement after default
- Maximisation of realisation by enforcement
- Expeditious judicial and non-judicial methods for enforcement



# What is Enforcement?

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- Taking possession of secured assets and selling them to realise the debt
- If such possession and sale requires intervention of Courts the process is Judicial
- Such Judicial process has to be expeditious to maximise realisation



# Extra Judicial Enforcement

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- If enforcement is without intervention of Courts it is extra-judicial and following conditions apply
  - ❖ grantor has consented to such rights in the security agreement
  - ❖ Notice of default and proposed take-over of possession
  - ❖ Peaceful handing over of possession without objections from the grantor or any person in possession



# Safeguards for Debtors

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- Notice before taking possession
- Duty to act in good faith and in commercially reasonable manner
- Debtor or any other aggrieved person can approach Court or other authority for relief if the Secured Creditor fails to comply with its obligations
- Notice of sale

# Impact of Insolvency



- Stay of all proceedings on commencement of Insolvency
- Stay for secured creditors should be for 30 to 60 days
- If no reorganisation scheme is worked out or asset is diminishing in value the Court can permit sale of secured assets



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THANK YOU