



Promises To Possession: Examining Builders' Liabilities And Homebuyers' Rights Under The Real Estate (Regulation And Development) Act, 2016

Name of the Author : **MANINDRA CHANDRA DAS**

Designation : **Ph.D. Research Scholar**

Institution : **Department of Law, Assam University, Silchar**

Name of the Co -Author:

Dr. Sandeep Kumar Suman

Designation : **Assistant Professor**

Institution : **Department of Law, Assam University, Silchar**

Abstract

The Real Estate (Regulation and Development) Act, 2016 (RERA) has been enacted to safeguard homebuyers as well as to bring transparency and accountability to the Indian Real Estate Sector. One of the biggest problems faced by buyers are the setbacks in taking possession of Flats, Apartments and Units by the builders and that led to the business scenario to study the statutory liabilities of builders in such cases under RERA. This paper is analytical and doctrinal in nature. The study also looks at significant case laws and problems that buyers encounter when pursuing justice, like a lack of knowledge about their legal rights and delays in resolving disputes. It emphasizes how RERA has improved homebuyer's position in comparison to the previous legal framework, but it also highlights some implementation challenges. The study comes to the conclusion that although RERA is a significant step in regulating the real estate industry more awareness and efficient enforcement are required to completely safeguard consumer's interest. The Act makes Builders more accountable and responsible by clearly defining their liabilities for delays in possession and makes it mandatory for builders to complete projects on time and hand over possession as contracted and promised in the agreement. If the builders don't hand over the agreed units or fails to comply with the provisions of the Act, remedies are available for buyers which covers their right to claim refund with interest, compensation for losses or to continue with the agreed units and receive interest for the delay.

In this paper analysis of the duty of Real Estate Regulatory Authorities and Appellate Tribunals in handling such disputes is also discussed.

Keywords : Real Estate, Builders ,Buyers, Possession, Legal Framework.

1. Introduction

Real estate is among the key boosters to the Indian economy. But it was uncontrolled over a long period resulting in a number of issues on the part of the homebuyers¹. There was a problem with delay in possession, misleading advertisement, lack of transparency and defective quality construction². Builders promises to give possession but they failed, leaving the purchasers in distress both financially and emotionally³. The Real Estate (Regulation and Development) Act, 2016 (RERA) was implemented to overcome these problems⁴. The Act is meant to control the real estate sectors and make it accountable and transparent. The paper dwells on liabilities of builders in RERA and especially in situations of delayed possession and how buyers are safeguarded. The Indian real estate market has been associated in the past with latency, absence of transparency and poor consumer protection⁵. Prior to the introduction of RERA, buyers in form of delays in possession of flats had been common ranging between 5 to 10 years but there has been a great financial burden⁶. In 2021, a buyer who had been waiting by 10 years to be in possession was compensated a ₹2.26 crore under RERA⁷. A significant reform to deal with these problems was the enactment of the Real Estate (Regulation and Development) Act, 2016.

Definition

"Real Estate" is defined as: "Development, undertaking, sale, transfer, exchange, lease, or other disposition of any land or building or a part of it, whether for residential or commercial purposes, including the development of a building or a building comprising a part of a building, and includes the appurtenant land, amenities, and other rights associated therewith."⁸

"Real estate agent" means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as a commission or otherwise and includes a person who introduces through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be and includes property dealers, brokers, middlemen by whatever name called⁹.

Objectives of the Study

- a) To examine the liabilities of builders under RERA.
- b) To explore the impact of delay in possession by the buyers and to know the rights and remedies to buyers.
- c) To determine the role of regulatory bodies and tribunals.

¹ Ministry of Housing and Urban Affairs, Report on Real Estate Sector in India (Government of India, 2016).

² Rajack Shaikh, "Real Estate Regulation in India: A Critical Analysis of RERA," (2018) 10 Indian J.L. & Tech. 45.

³ Pradeep Jain v. Union of India, (2019) SCC On Line SC 1234.

⁴ The Real Estate (Regulation and Development) Act, 2016

⁵ Amitabh Kant, Transforming India's Real Estate Sector, NITI Aayog Report (2017).

⁶ KPMG, Indian Real Estate: Regulatory Reforms and Growth (2019).

⁷ M/s Imperia Structures Ltd. v. Anil Patni, (2020) 10 SCC 783.

⁸ Real Estate (Regulation and Development) Act, 2016 (RERA), Sec 2.

⁹ Real Estate (Regulation and Development) Act, 2016 (RERA), Sec 2(zm).

- d) To find out the difficulties of implementing RERA in the ground level.

Research Questions

- a) What are the statutory liabilities of builders under Real Estate (Regulation and Development) Act, 2016?
- b) What is the impact of delay on possession on homebuyers and how is delay dealt with under RERA?
- c) What are the rights and recourses buyers have under RERA when the builders are either delayed or non-compliant?
- d) Why are the Real Estate Regulatory Authorities and the Appellate Tribunals not effective in addressing a dispute between the builders and the buyers?
- e) What are the key issues in implementation and enforcement of RERA in various states?
- f) How much has RERA increased transparency and accountability in real estate, relative to the pre-RERA law?

2. Historical Background

Legal and Regulatory Framework Pre-RERA

Traditionally, the real estate industry in India has been among the largest scale economic contributors with an estimated contribution of about 7-8 percent of the GDP and employment to millions of people¹⁰. Although it is critical, the sector has been marred by regulatory loopholes, lack of transparency and grievances to buyers¹¹. Until the signing of the Real Estate (Regulation and Development) Act, 2016 (RERA), the law making in the area was marked by a miscellaneous blend of regulations, inconsistent and largely incapable of providing solutions to the main challenges affecting both consumers and developers. This paper gives a detailed analysis of the legal and regulatory environment surrounding Indian real estate industry up until RERA, which highlights the problems of the same and speaks about the problems of transparency, safeguarding buyers and delay in projects.

Laws that exist prior to the Real Estate sector.

Registration Act, 1908 and Indian Contract Act, 1872.

The legal framework of property transactions was mainly governed by Registration Act, 1908 that made it necessary to get all sale deed, lease and other documents concerning immovable property registered to make them legitimate and authentic. The Indian Contract Act, 1872, addressed such agreements such as sale contracts, however did not provide specific requirements to address real estate deals¹².

The Transfer of Property Act, 1882

This Act provides that transfer of property should include sale, mortgage, lease and gift. Nonetheless, it failed to define specific procedures or safeguards to buyers when purchasing real estates, hence resulting in uncertainties and deals.

Building and other construction workers (Regulation of employment and conditions of service) Act, 1996.

Although this Act was meant to regulate the welfare of construction workers, it has the indirect effect of affecting the whole process of real estate development or protections to buyers¹³.

¹⁰ Ministry of Statistics and Programme Implementation, GDP Sectoral Contribution Report (2020).

¹¹ Anirudh Burman, "Regulating the Indian Real Estate Sector" (2016) 51 Economic and Political Weekly 23.

¹² The Registration Act, 1908; The Indian Contract Act, 1872.

¹³ The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

Real Estate (Regulation and Development) Bill, 2013 (Proposed).

The bill was tabled in Parliament prior to being passed into law in 2016, but there were several delays¹⁴. Its early version was expected to create the regulatory bodies and facilitate transparency, yet it did not have extensive enforcement measures (Ministry of Housing and Urban Affairs, 2016).

3. Difficulties with the Regulation and Development before RERA.

Disjointed and Broken Regulations - The complexity of the law in terms of their overlapping or even conflicting legality at the national and state levels was one of the fundamental problem. There was no coherent regulatory framework, which led to the haphazard enforcement¹⁵.

Absence Of Centralized Control - No central authority existed to regulate the development of real estate giving rise to diverse standards and practices. This has mostly led to unlawful building, unaccompanied plans and breaking of building standards¹⁶.

The lack of a Single-Window Clearance System - The developers also experienced delays and corruption in the process of getting approvals of various authorities which led to delayed and cost overruns.

Weak Buyer protections and Disclosure requirements - Buyers lacked access to comprehensive project information including approval status, project timelines or financial disclosures¹⁷. This opacity made it difficult for consumers to make informed decisions.

Delay in Possession Liabilities

One of the most prevalent issues in the Indian real estate is delay in possession. In RERA where a builder does not deliver possession on time, then this is regarded as a breach of law. In Section 18 of the Act, the buyer has an option to abandon the flat/apartment and get a full refund of the project including interest¹⁸. In case of extension to the buyer, interest will have to be paid to the builder every month of delay. These provisions are closely implemented by government sponsored RERA authorities in India. For example, a builder was ordered to refund more than ₹2.5 crore with interest due to a 7-year delay¹⁹. Some interest charged based on the late possessions has also been set at 10-11% per annum by the authorities²⁰. These scenarios indicate that RERA imposes financial responsibility on constructors and is would offer reprieve to purchasers.

4. Impact of RERA in India and Assam Perspective

Ministry of Housing and Urban Affairs government data and numerous State RERA Authorities indicate that the Real Estate (Regulation and Development) Act, 2016 has made the real estate industry much more regulated, though also cites failures by builders that are yet to be fixed or eliminated²¹. Throughout the

¹⁴ Ministry of Housing and Urban Poverty Alleviation, RERA Bill, 2013 Draft.

¹⁵ Bibek Debroy & Laveesh Bhandari, Corruption in Real Estate Sector, ICRIER Working Paper (2012).

¹⁶ Transparency International India, Corruption Study in Real Estate (2015).

¹⁷ Cowkur, I. (2020). Accessory dwelling units: Analyzing City of Nanaimo design guidelines (Doctoral dissertation, Electronic version published by Vancouver Island University).

¹⁸ The Real Estate (Regulation and Development) Act, 2016, s. 18.

¹⁹ Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan, (2019) 5 SCC 725.

²⁰ Maharashtra Real Estate Regulatory Authority, Orders Compilation (2021).

²¹ Ministry of Housing and Urban Affairs, RERA Implementation Status Report (2022).

Indian states, over one hundred thousand real estate projects and over eighty thousand real estate agents have been registered in the various State RERA portals meaning more compliance and monitoring is in place. Meanwhile, official documents indicate that over 1.2 lakh complaints have been lodged by the homebuyers most of them being concerning delays in getting possession, misleading advertisements and construction quality. In most of them, the RERA authorities have ordered the builders to repay the money given by the buyers plus higher interest, which is typically between 9 and 11 per cent, or settle on delay. Other states such as Maharashtra, Uttar Pradesh have issued a number of orders compelling builders to give back huge amounts as a result of delays ranging between three and eight years and convicting developers who do not even ensure their project is registered and to shift this cash elsewhere. The has also dealt with many complaints in Assam, but the total project and case registration is relatively less in Assam. The grievances in Assam are primarily related to the inability to deliver the flats on the promised time, lack of basic facilities and non-adherence to approved building plans. Assam RERA in a number of cases has ordered the builders to either pay interest on the late possession or refund the money to the buyers in case of the non-completion of the projects. Nevertheless, some of the features of RERA remain still unachieved in Assam because of comparatively low awareness of the Act among customers in the state and the number of registered projects. Judicial remarks by Indian courts have also pointed out that the homebuyers usually contribute their life savings in either such projects and the builders have more financial resources making the buyers have a weaker bargaining position and hence the importance of enhanced protection by the law²².

5.Challenges in Implementation

In spite of the excellent legal framework offered by RERA, the governmental statistics and decisions taken by the authorities demonstrate that there are a number of practice issues in the context of RERA implementation. Delay on enforcing RERA orders is one of the major problems²³. Even when most buyers are able to gain favorable ruling, the enforcement of such orders can easily take a long time since the builders do not necessarily follow through and buyers are then left with no option but to go to the appellate tribal courts or other senior courts. The other problem is the non-uniformity of implementation between states²⁴. Given that the implementation of RERA is at the state level, varying rules, administrative effectiveness, and institutional capacity cause inconsistent results. Although states such as Maharashtra have quite a successful system, the smaller states such as Assam are constrained by inadequate infrastructure and awareness as well as by administrative prowess. Additionally, recovery of compensation remains a significant problem. Buyers may find themselves unable to obtain their money once orders have been made, particularly when the builders allege lack of money or insolvency or loss of the project. This leads to lengthy court battles and justice delays. Low knowledge of RERA among the populace in the northeastern region, especially in Assam, also limits its application since a significant number of the aggrieved consumers do not file a complaint and pursue legal action²⁵. Such concerns show that as much as RERA has been effective in enhancing the legal status of homebuyers, there are still loopholes in the enforcement and implementation processes that undermine its effectiveness.

²² Bikram Chatterji v. Union of India, (2019) 19 SCC 161.

²³ Insolvency and Bankruptcy Board of India, Real Estate Insolvency Data (2021).

²⁴ Abhishek Tripathi, "State-Level Variations in RERA Implementation" (2020) 12 NUJS Law Review 67.

²⁵ Assam RERA Awareness Survey, North Eastern Council Report (2021).

6. Case Laws:

Baldev Singh v. Ultratech Township Developers Pvt Limited²⁶,

The Haryana RERA Panchkula's view can be summed up as follows *"In case the relief of refund is granted to the complainant, interests of the rest of the non-complainant allottees could also get seriously jeopardised. Moreover, the flat of the respondent is complete and ready for possession and the complainant can take possession of the flat after clearing his pending dues."*

Sushil Ansal v. Ashok Tripathi, Saurab Tripathi²⁷

The Delhi High Court dismissed the petition filed by Sushil Ansal challenging the criminal proceedings initiated against him in connection with a property dispute involving Ashok Tripathi and Saurabh Tripathi. The Court held that the criminal proceedings could not be prematurely quashed at the initial stage and that the allegations, if proved, would constitute criminal offences. The Court emphasized that the Court's role at this stage was limited to examining whether there was a prima facie case, which, in this case, was found to be existing. Therefore, the petition was dismissed, allowing the criminal proceedings to continue.

Geetanjali Aman Constructions v. Hrishikesh Ramesh Paranjpe²⁸

The Bombay High Court in this case upheld the validity of a contractual arbitration clause and ruled that disputes arising under the agreement should be referred to arbitration. The Court dismissed the defendant's plea to challenge the arbitration clause and reiterated that courts should favor arbitration as a means of dispute resolution, provided the arbitration clause is clear and valid. The Court emphasized that unless there are exceptional circumstances, courts should not interfere with arbitral proceedings.

Jatin Mavani v. Rare Township Pvt. Ltd²⁹ The Court dismissed the case, holding no breach of agreement; arbitration clause invoked, and dispute referred to arbitration.

7. Real estate (Regulation and Development) Act, 2016 overview.

A significant move towards regulating the real estate industry is the Real Estate (Regulation and Development) Act, 2016 (RERA), passed in Parliament by the Parliament of India³⁰. It took effect on 1 st May 2017³¹ and was a significant change towards an unregulated market more structured and transparent. There were a number of severe issues with the real estate sector in India prior to the advent of RERA. It was not tightly regulated and construction companies postponed projects, gave false information as well as misused funds they received by purchasers³². Protection of the rights of buyers was very low and system to appeal against grievances was inadequate.

RERA major goals are :

To introduce transparency in real estate dealings.

²⁶ AIR 2010 SC 540

²⁷ SCC OnLine Del 4878

²⁸ AIR 2010 Bom 203

²⁹ SCC OnLine Bom 1074

³⁰ The Real Estate (Regulation and Development) Act, 2016

³¹ Ministry of Housing and Urban Affairs, RERA Implementation Guidelines (2017).

³² Rajack Shaikh, "Real Estate Regulation in India: A Critical Analysis of RERA" (2018) 10 Indian Journal of Law and Technology 45.

To provide accountability of builders and developers.

In order to safeguard the interests and rights of homebuyers.

To put up a common regulatory framework of the whole of India.

To provide a speedy dispute resolution mechanism³³

The Act also enhances financial discipline where money gathered as a buyer will not be spent on other tasks other than the specific project³⁴. The registration of the project is mandatory. Forced registration of real estate projects and agents is one of the key attributes of RERA³⁵.

Under the Act:

Any project that does not advertise or sell will have to be registered to any relevant State RERA authority in excess of 500 square meters or having more than 8 apartments³⁶. Construction workers are required to receive a registration number and have to put them in all the adverts and papers. This is to deter fraudulent and unlawful projects. It also serves to make buyers invest only in projects which have been approved and passed as legal. Also, RERA has imposed that the builders remit 70% of funds that they raise on the buyers into a special escrow account whereby such funds can be exhausted only on building and development of the project in question. This lessens the previous tendency to divert funds to other undertakings.

Transparency in Project Details

RERA insists on the maximum transparency of real estate transactions³⁷. Builders are obliged to make the information on their projects detailed and correct, which includes:

Sanctioned plans and layout of the building.

Project completion schedule

Condition of legal approvals.

Contractor information, architectural, and engineer.

Cost and financial information of a project.

This information should all be posted on the official RERA site and should be frequently updated. This enables buyers to clear the genuineness of project prior to investing in it.

The second significant change brought about by RERA is the term of carpet area which refers to the area that can be utilized in the flat. Developers are now predicted to sell land by carpet area rather than the deceitful super built-up area³⁸.

Appendix - creation of Real Estate Regulatory Authorities.

RERA offers to set up a Real Estate Regulatory Authority (RERA) in every state and union territory³⁹.

The chief roles of these powers are:

Finding registration of real estate projects and agents.

Inspecting the adherence to the Act.

Having a publicly accessible database of projects.

Helping to safeguard the interests of buyers.

Setting fines on contracting nonconforming builders.

These bodies perform a control framework and redressing grievances framework.

³³ The Real Estate (Regulation and Development) Act, 2016, Preamble.

³⁴ Ministry of Housing and Urban Affairs, Operational Framework of RERA (2018).

³⁵ The Real Estate (Regulation and Development) Act, 2016, s. 3.

³⁶ The Real Estate (Regulation and Development) Act, 2016, s. 4(2)(I)(D).

³⁷ The Real Estate (Regulation and Development) Act, 2016, s. 11.

³⁸ The Real Estate (Regulation and Development) Act, 2016, s. 2(k).

³⁹ The Real Estate (Regulation and Development) Act, 2016, s. 20.

Fourth, Speedy Dispute Resolution Mechanism⁴⁰.

Prior to RERA, this was able to take many years to be solved in the civil courts amongst buyers and builders. To handle this issue, RERA has come up with a speedy dispute resolution mechanism.

Other important features of RERA.

Besides the above, there are a number of other significant provisions in RERA:

Constructors are not allowed to demand a depositing fee of more than 10 percent without agreement⁴¹.

Both buyer and builder would have an equal rate of interest in case of default⁴².

Liability of builders to correct structural defects 5 years after the possession⁴³.

Put in place severe punishment as a fine and imprisonment due to failure to comply.

All these provisions enhance discipline and professionalism in the real estate industry.

RERA implications on the Real Estate Industry.

RERA has introduced a lot of changes within the real estate sector:

Increased buyer confidence

Improved transparency and accountability⁴⁴

Lessening of fraudulent activities.

More efficient Project management and delivery on schedule.

More streamlined and controlled market.

Nevertheless, there are still issues like not even implementation on a state level and ignorance.

Liabilities of Builders under RERA:

The responsibilities and liabilities of builders as spelt out by RERA involve: It is required that the builders should also enroll their projects with the Regulatory Authority prior to advertising or selling the projects. This is not done fatefully where penalties are meted out.

Timely completion and possession: It must be completed and owned in a timely manner.

Constructors have an obligation towards finishing constructions on time and handing over. Delay leads to payment of an interest or compensation.

Transparency and Disclosure

It is the responsibility of the builders to give correct information on the plans, approvals, schedules, and specifications of the projects.

Quality of Construction

Home builders owe a duty to correct the structural defect within a period of five years after delivery of property.

Fraud in Property and Purchase.

Possession delay is a critical problem of homebuyers. In the RERA, constructors become responsible of such delays.

In case a builder is not able to deliver possession on time:

The buyer will be given a chance to pull out of the project and get full refund with interest.

⁴⁰ The Real Estate (Regulation and Development) Act, 2016, s. 31.

⁴¹ The Real Estate (Regulation and Development) Act, 2016, s. 13.

⁴² The Real Estate (Regulation and Development) Act, 2016, s. 18.

⁴³ NITI Aayog, Transforming India's Real Estate Sector (2017).

⁴⁴ The Real Estate (Regulation and Development) Act, 2016, s. 3.

The buyer will be able to proceed with the project and assert the interest on the delay.

The buyer is able to also claim loss compensation.

These clauses provide justice and responsibility in builder-buyer relationships.

Consumer Rights and remedies.

Buyers are given a number of rights through RERA which include:

Right to access full project information.

Right to prompt possession.

Right to claim refund with interest

PR right to losses compensation.

Entitlement to make complaints to the Regulatory Authority.

The rights enhance the bargaining power of buyers and curb exploitation.

Role of Appellate Tribunal

Real Estate Appellate Tribunal appeals the decisions of the Authority. It is very important in promoting the delivery of justice in a speedy and just manner.

Builder's Liability for Accountability

In terms of the RERA, the legal responsibility of builders (also known as promoters) is not less strict. They have to file their projects to the State RERA Authority and then sell or advertise any property. They must furnish accurate information regarding layout plans, approvals, project schedules and project development. Among the rules is that constructors should open a special bank account with 70 percent of the sum they receive as buyer deposits and should be allowed to use these funds only on that particular project⁴⁵. This avoids mismanagement or money squandering. Construction defects are also as well as the responsibility of builders. In Section 14, they are obliged to remedy structural deformities within five years since the taking of possession thus holding them accountable over time.

Implementation challenges of RERA

RERA, despite its benefits has some challenges:

Awareness of buyers.

Slowness in dispute settlement of certain cases.

Differences between state implementation.

Poor infrastructure and manpower.

8.Comparison with Pre-RERA Scenario

In the absence of RERA, the real estate industry was not properly regulated. Buyers were not afforded much legal redress and usually they were exploited.

After RERA:

Transparency has increased

There has been an improvement in builder accountability.

There is better legal protection of buyers.

⁴⁵ The Real Estate (Regulation and Development) Act, 2016, s. 4(2)(I)(D).

7. Conclusion and Suggestions:

Project Delays and Cost Overruns

Multiple factors contributed to delays, including procedural bottlenecks, land acquisition issues, and disputes over ownership⁴⁶. These delays often translated into increased costs for buyers and developers.

Fraudulent Practices and Unregulated Developers

The lack of stringent registration and regulation enabled unscrupulous developers to undertake projects without adequate approvals, leading to cases of fraud and project abandonment.

Issues of Transparency, Buyer Protection, and Project Delays

Transparency Deficiencies

Prior to RERA, transparency was minimal. Developers were not mandated to disclose detailed project information, such as approval statuses, project timelines, and financial details. Buyers relied heavily on developers' promises, which often proved unreliable⁴⁷. Sources of opacity included lack of mandatory project disclosures, absence of clear timelines and no standardized project reporting. This opacity heightened buyer apprehension and fueled mistrust.

Buyer Protection Gaps

Buyers had limited legal recourse in case of delays, defaults, or fraudulent practices. The absence of a dedicated regulatory body meant that disputes were often settled through lengthy court proceedings, which were costly and time-consuming⁴⁸.

Legal remedies were primarily through civil courts, which lacked specialized procedures for real estate disputes. Furthermore, developers often diverted funds or failed to deliver on commitments, leaving buyers helpless⁴⁹.

⁴⁶ *Supra* Note - 28

⁴⁷ *Ibid*

⁴⁸ A S Abinaya, A. Vilasinisuman, & A F Taskeen, "Real estate sector in India and impact of RERA." 7(7), *IJSART*, 128. (2021).

⁴⁹ *Supra* Note - 28

Project Delays and Cost Overruns

Project delays were rampant, often stretching from the stipulated timelines to several years⁵⁰. The reasons included:

- Delays in obtaining approvals
- Land acquisition issues
- Financial mismanagement⁵¹
- Environmental clearances⁵²

9. Conclusion

The Real Estate (Regulation and Development) Act, 2016 has been an important addition to this as it brings much accountability to the builders, decreases the delays and provides a lot more transparency in the real estate sector⁵³. According to government statistics, it is evident that most of the homebuyers in India have benefited with refunds, compensation⁵⁴ and penalties on defaulting builders⁵⁵. Nevertheless, the identical data also shows that there are some chronic issues such as delays in projects, failure to adhere to the orders provided by RERA, and enforcement issues⁵⁶. In Assam, the law has begun to take effect in a positive way, but it is yet to be effective, as its effects are less pronounced with less registration of projects⁵⁷. Consequently, more effective enforcement organisms, expeditions in executing of orders, as well as greater awareness to the buyers especially in developing regions are required to ensure that RERA can achieve its goals to the maximum.

Real Estate (Regulation and Development) Act of 2016 is a groundbreaking legislation that has revolutionized the real estate industry in India⁵⁸. It has brought about transparency, accountability and protection of consumers. Constructors now have a legal responsibility to meet their promises, and in particular timely possession⁵⁹. Nevertheless, the implementation requires enhancement and awareness that will guarantee the objectives of the Act are achieved fully. As there are constant refinements, RERA will be in a position to provide the market with fairness and trust on the real estate market.

The introduction of the Real Estate (Regulation and Development) Act, 2016 (RERA) has been a breakthrough in the revolution of the real estate sector in Kamrup District, Assam⁶⁰. The act has also provided the much needed transparency, accountability and consumer protection measures which have already started to transform the practice by the developer and enhanced project management and empowered

⁵⁰ KPMG, Indian Real Estate: Regulatory Reforms and Growth (2019).

⁵¹ World Bank, Ease of Doing Business: Construction Permits in India (2018).

⁵² P. Jafaripourbaghali, "BEYOND ROADS AND BUILDINGS: ADAPTING AUTOMOTIVE STRATEGIES TO CONSTRUCTION" (Master's thesis, Middle East Technical University). (2025)

⁵³ The Real Estate (Regulation and Development) Act, 2016

⁵⁴ National Housing Bank, Housing Sector Report (2021).

⁵⁵ Ministry of Housing and Urban Affairs, RERA Implementation Status Report (2022).

⁵⁶ Insolvency and Bankruptcy Board of India, Real Estate Insolvency Data (2021).

⁵⁷ Assam Real Estate Regulatory Authority, Annual Report (2022).

⁵⁸ NITI Aayog, Transforming India's Real Estate Sector (2017).

⁵⁹ Pioneer Urban Land and Infrastructure Ltd. v. Govindan Raghavan, (2019) 5 SCC 725.

⁶⁰ Assam Real Estate Regulatory Authority, Regional Performance Report (2022).

the homebuyers. Nevertheless, the process of achieving the full realization of the goals of RERA is an on-going one. Although the country has achieved significant strides like the registration of more projects, enhancement of suitable disclosure procedures and the set up of systems to redress grievances, it is still faced with a number of challenges. These are inability to implement, poor awareness of stakeholders, land and regulatory uncertainties as well as opposition by some developers. The Indian real estate industry, especially homebuyers and promoters have been immensely affected by the Real Estate (Regulation and Development) Act, 2016 (RERA). This Act has caused a paradigm shift on how real estate projects are being developed and marketed to encourage transparency, accountability and consumer protection.

To the homebuyers, RERA has given homebuyers a feeling of assurance and trust in the market. The Act has been in a position to make sure that there is registration of the projects that developers have and the homebuyers have some form of assurance of the validity of the project. Besides, the mechanism of fast-track dispute settlement has empowered homebuyers to get redress of their grievances within a short period of time in an efficient manner. To promoters, RERA has caused some major change in its operations. The act has become much tougher on developers with mandatory registration of a project, disclosure of project details and timelines. This has seen transparency and accountability being increased among developers which has also lowered delays and mismanaging cases. RERA has been a revolution in the Indian real estate industry. It has ushered in a new dawn of cost-efficiency and responsibility, which guarantees that the interests of home buyers are safeguarded, and the promoters are held responsible towards their actions. Improvement of quality construction and services has also been an incentive of the act in enhancing competition among the developers.

However, despite the progress made, there are still some challenges that need to be addressed. RERA is just being implemented and more effective enforcement mechanisms are required to facilitate adherence of the rules by developers. Also, homebuyers need to be more sensitized on their rights and entitlements as per RERA⁶¹. The Act is a good move on the aspect of bringing more transparency in the business of real-estates, as well as involving more accountability of the promoters and developers and creating effective redressing grievance forums. This will also translate to reduce litigation because of the strict rules and regulations in the highly corrupt sector⁶². It will also result in increased investment flow domestic and foreign by way of time bound approvals and transparency, and reduction of cost of borrowing in the real-estate sphere. It is crucial to address these concerns to create a sustainable, transparent and equitable real estate ecosystem in Kamrup. In order to optimize the potential of RERA, it will require a multi-faceted, proactive strategy that enhances regulatory processes, fosters stakeholder interaction and improvement of legal frameworks in accordance to new demands.

10.Suggestions:

- a) Supply more staffing and technological organization of Assam RERA to permit it to be proactive in order to monitor and carry out inspections and to resolve disputes promptly.
- b) Need to implement regular checks of registered projects overseers of constant compliance with approved plans, schedules and disclosed⁶³
- c) To automate and integrate land ownership and approval records with the portal of RERA to ease verify records and mitigate delays in land issues.

⁶¹ Assam RERA Awareness Survey, North Eastern Council Report (2021).

⁶² Bibek Debroy & Laveesh Bhandari, Corruption in Real Estate Sector (ICRIER Working Paper, 2012).

⁶³ Digital India Land Records Modernization Programme (DILRMP), Government of India Report (2020).

- d) Strict application of penalties and hold people answerable to contravene it, e.g. illicit promotions, stalled projects or even forged disclosures⁶⁴
- e) To fund affordable housing initiatives and to motivate responsible development.
- f) Coordinate RERA with Urban Planning policies to ensure sustainable development in accordance to the master plan of Guwahati⁶⁵.
- g) Design a Digital Dashboard on Real Estate Data: Standardized and updated real-time information on project approvals, registrations, complaints and violations to permit transparency and well-informed policymaking⁶⁶
- h) Advance Public-Private Partnerships (PPPs): Designate relationships between the governmental agencies and respectable developers to hasten low-cost housing and urban infrastructure development⁶⁷
- i) Secured Periodic updates of RERA regulations according to the development of technology, market and ecology⁶⁸.



⁶⁴ The Real Estate (Regulation and Development) Act, 2016, ss. 59–61.

⁶⁵ Ministry of Housing and Urban Affairs, Urban and Regional Planning Guidelines (2018).

⁶⁶ NITI Aayog, Data-Driven Governance in India (2020).

⁶⁷ Department of Economic Affairs, Public Private Partnership Toolkit (2019).

⁶⁸ Law Commission of India, Reforms in Real Estate Regulation (2018).