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RERA – THE REAL ESTATE SECTOR PROTECTS THE INTEREST OF BUYERS IN INDIA

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Abstract: In India the second largest income came from the Real Estate sector. Now – a – day's real estate sector is exponentially growth in our country. In earlier days there was no proper regulation and protection to interest of Buyers in the real estate sector. The more fraudulent and cheating activities were happened in real estate sector very frequently. The buyer faced more issues from the promoter / developer before implementation of the RERA. To regulate the promoters, agents and protect the buyers the Real Estate (Regulation and Development) Act 2016 was introduced in India. The RERA is a game changer in the real estate sector. In this study the researcher interpret about how the Real Estate (Regulation and Development) Act, 2016 protect the interest of buyers from the promoters / Agents in the real estate projects..

Index Terms - Promoters, Agents, Buyers, RERA, Game Changer

I. INTRODUCTION

The Real Estate (Regulation and Development) Act, 2016 was introduced by our Indian government with various provisions. The bill was passed by Rajya Sabha on 10th March 2016 and by the Lok Sabha on 15th March 2016. The Real Estate (Regulation and Development) Act, 2016 was come into force on 1st May 2016 with 59 out of 92 sections notified. Remaining sections are come into force on 1st May 2017. According to the provisions of RERA each state and Union Territories have its own regulation authority called Real Estate Regulatory Authority, Real Estate sector is one of the most prominent industry in India. But there were no proper regulations under this sector. So, Indian government took decision to implement the RERA act with various provisions to regulate the Promoters and give protection to the Buyers Investments. RERA act introduced speedy dispute redressal called as an Appellate Tribunal. Each state has separate regulatory inclusive of Union Territory. This act major aim is to protect the buyer's investment and regulate the promoters and agents. A real estate sector gives higher percentage of income in India. RERA is a game changer since the promoters should not give advertisement without registration their projects under the RERA act. Real Estate Regulatory Authority plays vital role for each state and union territory in India. The real estate sector is an empirical sector in India.

II. OBJECTIVES OF THE ACT FOCUS ON BUYERS

1. To study interest of buyers is protected with reference to
 - a) Project delivery
 - b) Property pricing
 - c) Quality of Constructions.
2. To ensure sale of plot, Building, Apartment, sale of real estate project in an efficient accountability and transparent manner.
3. To establish adjudication mechanism for speedy dispute redressal.

III. REVIEW OF LITERATURE

Antoine Ginnetti, (2021) this paper relates the documented smoothness of housing repeat-sale indices growth to time-varying changes in local economic conditions. Empirically, a metro economic condition index serves as a moderator variable in a dynamic partial equilibrium model that connects price appreciation to innovations in trading volume. The estimated moderation effect substantially dampens the long-run response to shocks in volume. Overall, the empirical findings are consistent with theoretical models that hypothesize that sellers' reservation prices change counter-cyclically, thus smoothing repeat-sale index price appreciation.

IV. RESEARCH METHODOLOGY

To overview the objectives, this study based on secondary data which collected from various websites, TN RERA website and other published articles and Journals.

V. EXEMPTED PROJECT UNDER THE RERA

1. RERA has exempted projects with land area of ≤ 500 sq. meter.
2. No. of apartments proposed to be developed ≤ 8 including all phases.
3. For Renovation and Rework projects are not comes under this RERA

VI. ADVANTAGE OF RERA

There are more advantages under the Real Estate (Regulation and Development) Act, 2016. The vital advantages are as follows,



Figure: 1

VII. BENEFITS AND PROTECT THE BUYERS UNDER THE RERA ACT

An Indian government enforced the Real Estate (Regulation and Development) Act – 2016 for help the buyer to protect their investments. However this act provided the “Real Estate Regulation Authority “establishment to regulate the real estate sector. This act ensures the sale of Plot, apartment or building must be in accountability and transparent manner. The buyers are faced more issues like delay in project, lacking of transparency, improper pricing, lack of quality constructions. There is no requisite protection provided to the buyers before the implementation of the act. The government establishes an effective mechanism for fair transactions between the promoters / agents and Buyers of the real estate project.

The concern state government need to be established the Real Estate Regulatory Authority for exercising the performing and power the functions under the RERA Act. Before RERA the real estate project was not registered under any authorities. But after RERA the promoters / developers must registered their real estate project under the RERA. The developers must adherence to the definition of carpet area is uniform across India after introduce the RERA Act.

The promoters get advance amount from the buyer for the commercial or residential property not exceeding 10% of total cost of project. When there is delay in delivering the possession of property to the buyers, the promoters must pay the same interest rate as the buyer should pay for any delay in paying the amount. The promoters must register their projects under the Real Estate (Regulation and Development) Act, 2016 through online. Escrow account must open by the promoters for the protection of buyer’s investment on their projects.

The promoters should start the project after getting commencement certificate from the authority under RERA. The promoters / developers are responsible for any damages in property after the possession also. If any damages in the property after the promoters / developers must be liable and the defects should be rectified before 5 years from handling over possession without any cost. Where there were a mismatch in the property promised by the promoters / developers and its delivery the buyer can recover the complete refund of the advanced paid by him / her.

The buyers have a right to claim compensation from the developers / promoters if any discover a defect in the title at the time of possession. In addition, the buyers have a right to file a complaint with the Real Estate Regulation Authority regarding any defect of real estate project. The buyer can appeal to Appellate Tribunal.

Under the Real Estate (Regulation and Development) Act, 2016 protects the buyers in multidimensional ways. RERA reap the fraudulent activities occurred in the real estate sector. RERA is a game changer for real estate sector. All the buyers should aware about the RERA and they can invest their money in real estate sector. Then the buyers must be benefited in this act. The real estate agents and promoters are regulated under the Real Estate (Regulation and Development) Act, 2016. In India the RERA act exponentially spread over and regulates the promoters and protects the buyers. So, the building buyers are requisite their desire residential home with security of their Investment.

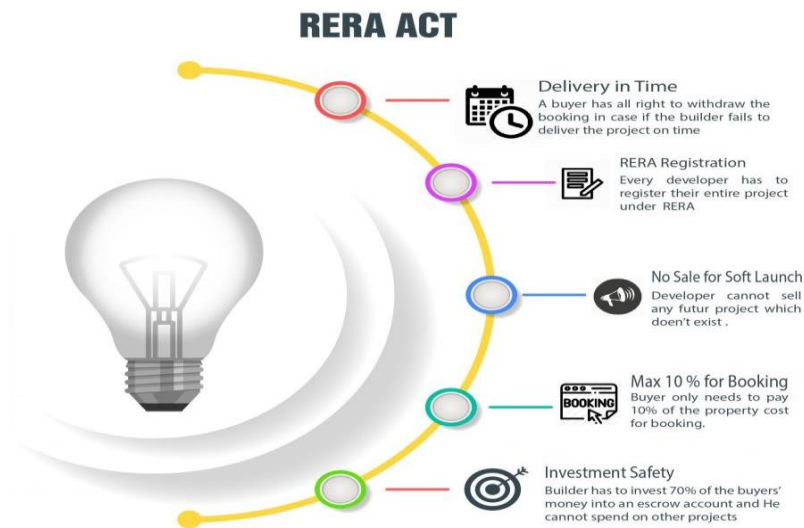


Figure – 2

VIII. MAJOR SECTIONS AND PROVISION FOR PROTECTS THE BUYERS / ALLOTTEES UNDER THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016

Real Estate (Regulation and Development) Act, 2016 amendment under Ministry Of Law and Justice (Legislative Department), here the researcher should highlighted major sections under this act.

Table - 1

SECTION	PARTICULARS
Section – 3	Without registration of RERA promoters are not allow to advertise, Market , book sell (or) Offer for sale any plot/ apartment / buildings of introduced projects
Section – 4 Application for Registration	<ul style="list-style-type: none"> ✓ The promoters should submit their details ✓ Details of Projects ✓ Authenticated of approval certificates All documents are submitted through online
Section – 5 Grant Registration	<ul style="list-style-type: none"> ✓ The authority has to accept or reject the application within 30days form the receipt of application of promoters ✓ If the authority accept the application , then the RERA provide the User Id, Password to the promoters for access the website
Section – 6 Extension of Registration	<ul style="list-style-type: none"> ✓ If the promoters applied for the extension of registration the authority will allow for certain reasons like flood, earthquake, war and other calamity caused.
Section – 7 Revocation of registration	<ul style="list-style-type: none"> ✓ The regulatory authority may revoke the registration under following ways, <ol style="list-style-type: none"> a) Suo – Motto b) Receipt of a complaint c) On the recommendation of the competent authority. ✓ Why the revocation is made? <ol style="list-style-type: none"> a) Promoter should not complete any activities mentioned under this act. b) Promoters violate any terms and conditions given by competent authority. c) The promoters involved any kind of unfair practices ✓ For revocation 30days of notice issued by RERA to the Promoters.
Section – 9 Registration of Real Estate Agents	<ul style="list-style-type: none"> ✓ Application Filing - Form –G ✓ Registration / Confirmation - Form – H ✓ Rejection - Form – I ✓ Renewal U/s 6 - Form - J
Section – 10 Functions of Real Estate Agent	<ul style="list-style-type: none"> ✓ The agent along with the other functions prescribed in the act maintains proper books of accounts and records, restricts the sale or purchase of any unregistered planning area, avoids unfair trade practices and

	provides all documents/information to the allottee required at the time of booking
Section – 11 Functions and duties of Promoters	<p>a. Has to provide all the details of the project in the web site provided by RERA along with details of advertisement/prospectus issues etc.</p> <p>b. Has to provide sanctioned plans, layout plans with specifications of approval of the competent authority, stage wise schedule of completion of the project etc. at the time of booking and issuing of allotment letter.</p> <p>c. Responsible for all obligations until the conveyance of the apartment/plot has been made available to the allottee</p> <p>d. Has to obtain completion certificate or occupancy certificate, complete lease certificate and make it available to the allottee e. Has to execute a registered conveyance deed of the apartment, plot or building in favour of the allottee along with undivided proportionate title in the common areas to the association of allottees or competent authority as the case may be</p> <p>f. Has to pay all outgoing until it transfers the physical possession of the project to the allottee.</p> <p>g. Has the right to cancel allotment, but on the terms of agreement of sale, however, allottee could approach the authority on cancellation</p>
Section – 12 Incorrect or False information in promotion	<p>✓ Appropriate compensation would be paid by the promoters to the person who makes a payment on the basis of false or incorrect information in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be done by the promoters.</p> <p>✓ Upon the prove of false/incorrect information, if, the person who invested any amount cancels his/her booking, then the promoter has to return all his investment amount along with interest and compensation</p>
Section-13	Upto 10% Deposit or Advance without Agreement for Sale
Section-14	Adherence to Sanctioned Plans and Liability to Rectify the Defects
Section-15	Transfer of Rights and Liabilities in Project to Third-Party
Section - 16	Insurance of Real Estate
Section-17	Transfer of Title of the apartment/Plot
Section-18	Compensation Policy in case of Failure to Complete the Project
Section-43	Establishment of the Real Estate Appellate Tribunal
Section-44	Settlement of Disputes and Appeals
Section-45	Composition of Appellate Tribunal
Section-53	Power of the Tribunal
Section-54	Administrative Power of the Chairperson
Section-56	Right to Legal Representation
Section-57	Orders Passed by Tribunal to be Executed as Decree
Section-58	Appeal to High Court
Section-59	Punishment of Non-registration Under section-3
Section-60	Penalty for Contravention of Section-4 (Application of Registration)
Section-61	Penalty for Contravention of Other Provisions
Section-62	Penalty for Agents Under Section- 9 & 10
Section-63	Penalty for Failure to Comply with Orders of Authority
Section-64	Penalty for Failure to Comply with Orders of Tribunal
Section-65	Penalty to Agents for Failure to Comply with Orders of Authority
Section-66	Penalty to Agent for Failure to Comply with Orders of Tribunal
Section-67	Penalty to Allottee for Failure to Comply with Orders of Authority
Section-68	Penalty to Allottees for Failure to Comply with Orders of Tribunal

Section-69	Offences by Companies
Section-70	Compounding of Offences

Source: Compiled from the Gazette of India, No-17, Ministry of Law and Justice

Interpretation:

Table 1, represented the major provisions with sections to protect the buyers or allottees under Real Estate (Regulation and Development) Act, 2016. The above mentioned sections are implemented by the government of India to regulate the promoters and agents.

IX. IMPLEMENTATED RERA TO STATES AND UNION TERRITORIES IN INDIA

TABLE – 2

NAME OF THE STATE	WEBSITES
GUJARAT	http://gujrera.gujarat.gov.in/
UTTAR PRADESH	www.uprera.in
CHANDIGARH	http://rera.chbonline.in
DADRA AND NAGAR HAVELI	http://maharera.mahaonline.gov.in/
ANDAMAN AND NICOBAR ISLANDS	http://www.tnrera.in/
LAKSHADWEEP	http://www.tnrera.in/
DAMAN AND DIU	http://maharera.mahaonline.gov.in/
MADHYA PRADESH	http://rera.mp.gov.in/
DELHI	http://dda.org.in/rera/index.aspx
MAHARASHTRA	https://maharera.mahaonline.gov.in/
ANDHRA PRADESH	https://www.rera.ap.gov.in
ODISHA	http://orera.in/
BIHAR	https://rera.bihar.gov.in/
RAJASTHAN	http://rera.rajasthan.gov.in/
JHARKHAND	http://rera.jharkhand.gov.in/
UTTARAKHAND	http://www.uhuda.org.in/real estate act/
TAMIL NADU	http://www.tnrera.in/index.php
KARNATAKA	https://rera.karnataka.gov.in/
PUNJAB	https://rera.karnataka.gov.in/
CHATTISGARH	https://rera.cgstate.gov.in/
HARYANA	http://www.harera.in/
ASSAM	http://apnarera.com/rera assam
TELANGANA	http://rera.telangana.gov.in/
HIMACHAL PRADESH	http://www.hprrera.in/
GOA	https://rera.goa.gov.in/
TRIPURA	https://udd.tripura.gov.in/acsnrules
PUDUCHERRY	http://apnarera.com/rera
KERALA	https://rera.kerala.gov.in/
MANIPUR	http://apnarera.com/rera
MIZORAM	http://udpamizoram.nic.in/RERA.HTML

Source: Ministry of Housing and Urban Affairs

Interpretation:

Table 2, represented the major individual state websites under Real Estate (Regulation and Development) Act, 2016. The above mentioned websites are introduced by the government of India for the stakeholders and Public.

X. THE BUYERS CAN FILE A COMPLAINT UNDER RERA ACT

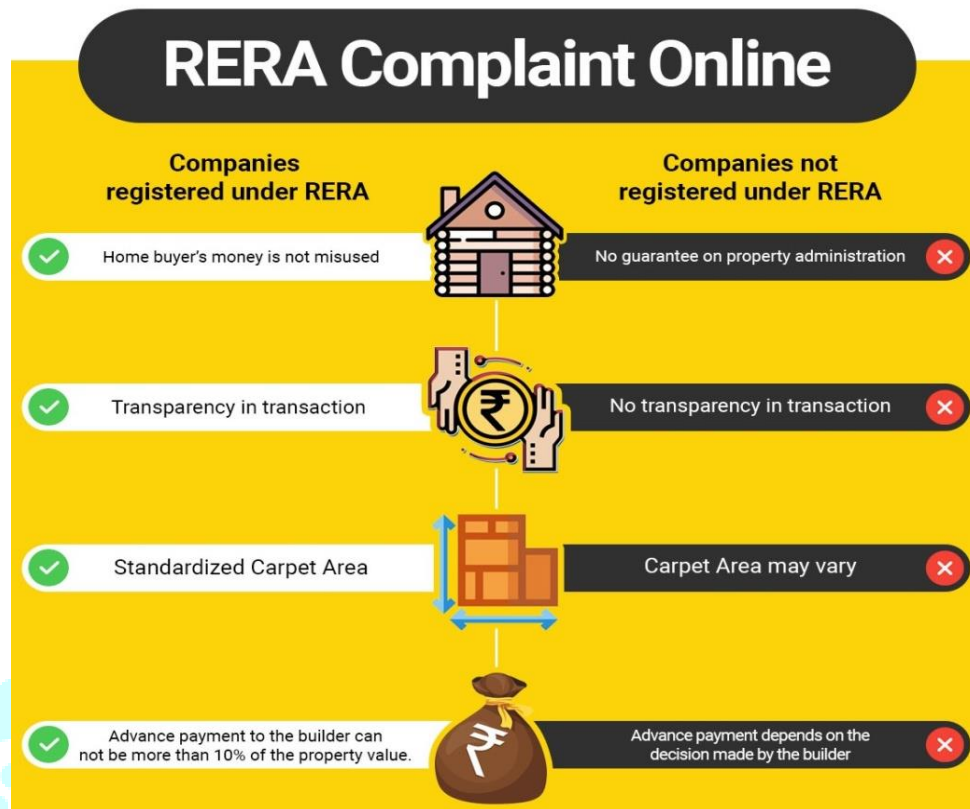
Real Estate Regulatory Authority aims to transparency in real estate industry. The main objective of the RERA is to eradicate the existing discrepancies and problems within the sector. In some cases of delay projects that are not registered under RERA, the Buyer may file a complaint with the Real Estate Regulatory Authority or adjudicating officer appointed under the legislation as per section 31 of RERA. There are projects for which RERA registration had expired in July, and we did not see **any action against these**. Even after RERA registration, if the promoter does not complete the project on time, the next course of action need to be initiated as per Section 7 of the Act. Only reach out to RERA authority in the State but other legal bodies as well.

CASE FOR NON REGISTERED PROJECT

Aparna Constructions director Rakesh Reddy avers the Buyers can approach RERA over defects in completed units even if the project has not been registered. RERA states that the Promoters / Builders are responsible for the work and structural defects in a project for up to 5 years. According to Clause 14 (3) of the Real Estate Act, a promoters / Builders are liable to repair or fix any damages brought to his notice by a Buyer within 5 years from the date of possession, without demanding any further charges from the Buyers. The issue needs to be redressed within 30 days of being brought into the notice of the Promoters / Builders. However, in case the Promoter / Builder is fail to rectify the issue or refuses to comply, the Buyer is entitled to receive compensation under the Act.

RERA is the major game changer in India for the Real Estate sector. The buyer may feel secure after implementation of RERA since RERA destroy the fraudulent activities done by the Promoters / Builders. An Appellate Tribunal will take a complaint from the buyer against default Promoter. The compliances of the act says that, all proceedings before the Appellate Tribunal shall be

deemed to be judicial proceedings within the meaning of sections 193,219 and 228 for the purpose of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.



XI .CONCLUSION

RERA is a beneficiary act for the Buyers community. This Act regulates the promoters and gives protection to the buyer's investments. The promoters / Builders / agents should adherence the rules and regulations insist by Real Estate (Regulation and Development) Act, 2016. The major benefit of this act is if any grievances arises between the Promoters / Builders / Developers and Buyers should be redressed quickly by the Appellate Tribunal. Each every states and Union Territories have its separate regulatory. All Promoters must be registered their projects under Real Estate (Regulation and Development) Act, 2016. But in present scenario major limitation the researcher find that, some of the projects are not registered under RERA. So, Buyer can face the difficulties. The researcher's opinion of this study refers the government need to push the promoters should register their projects. In this act the penalty and imprisonment also available when the default occurs by the Promoters. But government should have more concentration towards the non registered promoters / Builders /Developers.

XII. REFERENCES

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5. <https://mohua.gov.in/>