

“Real Estate (Regulation and Development) Act, 2016”

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ABSTRACT

Housing sector is one of the top contributors to country's GDP and employment creation. Surprisingly, in spite of being such an important part of the economy, the real estate sector has remained by and large unregulated. The Real Estate sector is, to a limited extent, controlled and regulated at the local government's level with every state government having its own set of rules and regulations for real estate development. Taking benefit of country's abysmal judicial system, the developers have been taking property buyers for a ride, and putting real estate sector on the bottom of customer protection and satisfaction pyramid. With the things getting bad to worse, it has led to big hue and cry, making urgent need for a unified regulatory legal framework to protect customers' interest.

Key words: Rera Act, Buyers, Agents, Builder, Real Estate.

INTRODUCTION

The Real Estate (Regulation and Development) Act, 2016 is an Act of the Parliament of India which seeks to protect home-buyers as well as help boost investments in the real estate industry. The Act establishes a Real Estate Regulatory Authority (RERA) in each state for regulation of the real estate sector and also acts as an adjudicating body for speedy dispute resolution. The bill was passed by the *Rajya Sabha* on 10 March 2016 and by the *Lok Sabha* on 15 March 2016. The Act came into force on 1 May 2016 with 59 of 92 sections notified. Remaining provisions came into force on 1 May 2017. The Central and state governments are liable to notify the Rules under the Act within a statutory period of six months. The act was assented on 25 March, 2016. The citation of bill is number 16 of 2016.

Key words: Rajya sabha, Lok sabha, Parliament of India.

HISTORY

Real Estate Regulatory Authority (**RERA**) Bill was introduced by the UPA 2 government in 2013. In December 2015, the Union Cabinet of India had approved 20 major amendments to the bill based on the recommendations of a Rajya Sabha committee that examined the bill. The Bill had been referred to a selection committee, which had given its report in July 2015. However, Congress, Left and AIADMK had expressed their reservations on the report through dissent notes. The bill got approval of the *Rajya Sabha* on 10 March 2016 and by the *Lok Sabha* on 15 March 2016.

Key words: Union Cabinet of India, Bill.

Scope of RERA

The scope of RERA is very wide in respect to the Real Estate Sector. It covers all the new as well as ongoing projects that is under construction projects and it also includes both the residential and commercial buildings. It covers all the parties included in a Real Estate projects. Even the Real Estate brokers and agents also fall under the ambit of this Act. The main motive of RERA is to provide ease and comfort for the homebuyers that is why every state is required to set up an Appellate Tribunal for addressing the grievances of the homebuyers.

All the builders are required to register the projects with the Tribunal before the initiation of those projects. The registration mandates them to express the details of the project and the deadline for the completion of the project and if the deadline is not met, the builders have to face the penalties and criminal charges. They also have to compensate the home buyer for the delay in the project. Before the existence of the RERA Act, the builders used to divert the funds of the ongoing project to start a new project because of which delay occurred in the completion of individual project. Now, the builders have to deposit the 70% of the fund in a separate bank account so that the fund is not diverted and is used in the project for which it was sanctioned.

Key words: Builders, individual project , registration.

Objective of RERA

The main object of the RERA is to replenish the faith of the buyers in the Real Estate sector and to bring transparency in the Real Estate transactions. RERA aims to protect the rights of the buyers by establishing the Real Estate Regulatory Authority (RERA) which will provide grievance system in Real Estate sector. It also aims to increase the credibility of the Promoters, Real Estate brokers and agents which would aid in preventing the unnecessary delay in the completion and delivery of the projects. The RERA Act provides for establishment of Appellant System for Grievance Redressal and to prescribe the penalties and charges for the defaulters.

Key words: Real estate sector, transparency, penalties, defaulters.

Why is RERA (Real Estate Regulatory Authority) needed?

As per the RERA Act, RERA committees have been set up across India to promote uniformity and transparency, as well as to regulate the real estate sector. To know more you can look up RERA Karnataka, RERA Delhi, RERA West Bengal, RERA UP, RERA Punjab, RERA Goa and so on.

With RERA in place, every builder or developer is required to inform homebuyers of the progress of construction, offer them keys to their property by the mentioned date, and abide by every rule outlined by RERA, to ensure accountability.

Key words :Uniformity, homebuyers, mentioned date, accountability.

Benefits offered by RERA

RERA has brought about a positive change in every facet of the real estate sector. Here's how.

- 1.RERA aims to reduce project delays and mis-selling. In order to do so, authorities have made it mandatory for all builders/developers to carry out RERA registration before they start a project.
- 2.RERA has been sub-divided into smaller regulatory bodies, each of which look after the real estate development in a single state or union territory in India.
- 3.RERA rules are applicable to both residential and commercial properties.
- 4.The standardisation brought about by RERA aims to protect the interests of buyers and developers alike.
- 5.The RERA Act has brought about more accountability and transparency within the real estate industry.

Key words: Standardisation, regulatory bodies, residential, commercial properties.

Disadvantages:

- 1) The timelines of approvals by regulatory authorities have not been defined. Any delay in approvals from regulatory authorities could impact buyers as well.
- 2)The Bill may lead to slightly higher prices of properties due to the reduced competition.
- 3) New project launches might be limited as developers may not be able to launch without obtaining approvals, which could take two to three years.

Key words: Higher prices, approvals.

How will RERA Impact Real Estate Agents?

With RERA coming into effect, builders and developers have to be more transparent. Here are the ways in which RERA impact the real estate.

- 1.All proposed projects exceeding an area of 500 sq. mt. or more than 8 apartments must be registered with the respective state RERA.
- 2.It is mandatory for builders to deposit 70% of the project money collected from homebuyers in bank accounts through cheques. This means builders can no longer engage in fraudulent transactions or money laundering. Every rupee spent and gained has to be accounted for.
- 3.There will be one model sale agreement between all builders and homebuyers.

Key words: Proposed , exceeding , cheque , fraudulent .

Penalties under RERA?

As a homebuyer, you can register a complaint with RERA or the Appellate Tribunal. Based on the offence you mention, the developer or promoter is charged a penalty. Here is a list of penalties applicable in case they are found guilty.

- 1.Promoters have to pay 10% of the project's estimated cost if they do not register under RERA. Moreover, they are charged 5% of the project's estimated cost if they are found giving out false information related to the project.
- 2.For promoters, violation of laws can lead to imprisonment for up to 3 years or cost them 10% of the project's estimated cost.
- 3.Agents are charged Rs.10,000 per day up to 5% of the cost of the project, in case they are found conducting construction and sales on their project sans RERA registration.
- 4.Severe non-compliance with RERA will require developers to pay a daily penalty of up to 5% of the project's probable value.
- 5.In case of non-compliance with the Appellate Tribunal, the penalty is imprisonment for up to 1 year, or 10% of the project's probable cost, or both.

Moreover, buyers too have to abide by RERA. If you're found guilty of non-compliance, you will have to pay a daily penalty of up to 5% of the approximate cost of the project. On the other hand, non-compliance with the Appellate Tribunal can lead to imprisonment for up to 1 year, or 10% of the project's probable cost, or both.

Key words: Non-compliance, approximate cost, violation.

The Present Scenario

Even though the RERA was established quite some time ago, the operational status of it still varies in most states. Out of all the states in the country (excluding Jammu and Kashmir), 15 states have still not set up websites with information regarding the status of real estate projects. It came to light, after a poll was conducted by Magicbricks, that about 74% of buyers are not even aware that, under the regulations they are required to check if the project has been registered with the RERA or not. While in states like Maharashtra the websites have already been set up and are functioning efficiently, in many more states like Harayana, builders have to physically go to the RERA offices to verify their registration and the status (completed or not) of their projects. However, even with all these drawbacks it is very evident that the act has brought into the notice of both the builders and the buyers, the relevant aspects of the laws regulating real estate.

Key words: Magicbricks, efficiently, drawbacks, states.

Conclusion

RERA came as a comforting breeze for the home buyers because bad construction quality, delay in delivery of projects not following the sanctioned plans were common problems before the commencement of this Act. The existence of RERA is not only protecting the interests of the home buyers but also benefiting the builders because of the greater transparency. The concept of RERA is flawless if implemented as it is but because of the non-compliance of the rules by some of the states and the developers, it becomes very difficult to fulfill the exact purpose of RERA. The introduction of RERA Act is a huge step forward that is why the state Regulatory Authority needs to frame the rules according to the Act.

Key words: Quality, frame the rules, difficulty, regulatory authority.

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