

Regulating Real Estate Sector

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RERA is an effort by legislature to regulate the unregulated but important Real Estate Sector of India which not only contributes significantly to Indian's GDP but also provides jobs to millions of people. RERA will help to bring more transparency and accountability on the part of Real Estate companies and ensure safety of purchaser of real estate from any frauds or misrepresentations

A bill seeking to regulate the real estate sector, bring in transparency and help protect consumer interests was passed by Parliament last year. This Act is called the Real Estate (Regulation and Development) Act, 2016. It extends to the whole of India except the State of Jammu and Kashmir. It has been implemented in India with effect from May 1, 2017. The object of the Act is to regulate and promote the Real Estate Sector by forming Regulatory and Adjudicating Authority and thus ensure transparency and purchaser welfare.

Prior to the coming of Real Estate Act, purchasers of real estate were being treated like a consumer within the meaning of Consumer Protection Act 1986 or he had an option to move his application under civil court. Painting all by same brush is always against the law of natural justice. Thus, by treating buyer or prospective buyer of real estate as a consumer within the meaning of Consumer Protection Act only brought hardship for them to get justice or resolve their issue speedily and appropriately.

RERA - an Overview

The real estate sector comprises four sub sectors - Housing, Retail, Hospitality, and Commercial. The growth of this sector is well

complemented by the growth of the corporate environment and the demand for office space as well as urban and semi-urban accommodations.

The Government has a vision of Housing for All by 2022. Improvement in economic conditions has the potential to drive demand for real estate, as housing continues to be a favoured investment asset among Indian households. Overall urban housing demand in India is expected to grow by nearly 15 million units by the end of 2019. As per Cushman Wakefield report the top eight cities will contribute 3.4 million units to this overall demand. Within the top eight cities, Delhi NCR will chip in with a quarter of the share of the top eight cities — 872,000 units in absolute terms. This will spread across NCT, Gurgaon, Noida, Ghaziabad and Faridabad. Within the top eight cities, the Middle Income Group (MIG) will be the primary demand driver accounting for a 41 per cent or 1.4 million units in absolute terms by the end of 2019. Close on the heels of the MIG category will be the LIG category which will contribute 1.3 million units in the top eight cities during the same period.

Real estate is a critical sector for India's economy due to its large potential for employment generation,

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capital attraction and revenue generation for the Government. It is one of the fastest growing sectors contributing about 9.5 percent of India's GDP. Real estate sector is set to become the prime employment generator in India, registering the maximum rise in human resource requirement from 2013-2022, according to National Skill Development Corporation (NSDC).

The Indian real estate sector, with backward and forward linkages to approximately 265 ancillary industries, has been making rapid strides in recent times and has emerged as one of the most important contributors to the Indian economy. The sector continues its metamorphosis from being largely fragmented and unorganized to become as structured and organized as its peers in developed economies across the globe. The growing prominence of India in the global scenario has had a positive impact leading to increased expectations and responsibilities on this sector.

The Central government has identified 305 cities and towns under the Housing for All Mission, also called the Pradhan Mantri Awas Yojana, which has targeted to build 2 crore homes for urban poor by the year 2022. The criteria for low cost / affordable housing has been changed from built-up area of 30 / 60 sq mtrs to carpet area of 30/60 sq mtrs, thus making the low cost – affordable housing segment more lucrative for the builders and also making the segment more attractive for the buyers. With the change in criteria from built-up area to carpet area, the purchasers get more spacious homes and the builder is able to market the property to a larger segment of buyers. The 30 sqm limit will apply only in case of municipal limits of 4 metropolitan cities while for the rest of the country including the peripheral areas of metros, limit of 60 sqm will apply.

Of the cities and towns identified, 74 are in Madhya Pradesh, 42 in Odisha, 40 in Rajasthan, 36 in Chhattisgarh, 30 in Gujarat, 34 in Telangana, 19 in Jammu and Kashmir



and 15 each in Kerala and Jharkhand. The other states that have signed the MoA include Andhra Pradesh, Bihar, Manipur, Mizoram, Nagaland, Uttarakhand. This Mission is expected to need 38 million workforce by 2030 from 29 million at present, predicted to be the key job creator.

On this back drop, The Real Estate (Regulation & Development) Act, 2016, the landmark realty law was brought out by Government of India from May 1, 2017 to protect home buyers from unscrupulous developers. RERA was needed in order to revive confidence in our country's extremely important real estate sector. Real Estate sector is one of the leading revenue generators in our country and it needed some regulatory authority or some transparent government authority to keep a check on developers. RERA will provide a common ground for both buyers and developers and will reduce the risks which were faced by the people earlier. It is expected that RERA will bring new hope for home buyers, make the sector transparent and boost the confidence of investors to invest in Indian Real Estate Market.

Key features of the RERA are as follows:-

- It regulates both commercial and residential real estate projects.
- Bill seeks to set up Real Estate Regulatory Authority in states and union territories to oversee real estate transactions.
- Bill makes registration of real estate projects and real estate agents with the authority mandatory.
- It makes mandatory disclosure of details of all registered projects, including those about the promoter, project, layout plan, land status, approvals, agreements along with details of real estate agents, contractors, architect, structural engineer etc.
- No pre-launch will be allowed without getting all approvals from the local authorities and without obtaining registration from the regulator. All incomplete projects are to come under the regulation.
- The bill covers any project that is more than 500 sq meters or has more than eight apartments (states can lower this requirement further).
- The authority can even order "compensation" to consumers in case of misleading advertisements.
- Developers will have to provide brief details of projects launched in the past five years, both completed or under-construction, and the current status of the projects. These may be made available on the regulator's website so buyers can take an informed decision.
- Disclosure of carpet area is a must as per the Bill.
- The Real Estate Bill has also made it compulsory for builders to deposit 70 per cent of the amount raised from buyers into an escrow

account in a scheduled bank within a period of 15 days to cover the construction cost of the project for timely completion of the project.

- It seeks to establish fast track dispute resolution mechanisms for settlement of disputes through adjudicating officers and Appellate Tribunal.
- The bill bars civil courts from taking up matters defined in it. However, consumer courts are allowed to hear real estate matters. There are 644 consumer courts in the country. The more avenues for grievance redressal would mean lower litigation costs for the buyers.
- Promoters are barred from changing plans and design without consent of 2/3 buyers of the project.
- If the promoter does not register his property, he will have to pay up to 10 per cent of the project cost as penalty. If he dodges order issued by the RERA (Real Estate Regulatory Authority), he faces imprisonment for up to three years, and/or an additional fine of 10 per cent of the estimated cost of the project. In case the builder violates any other provision of the act, he will have to pay up to 5 per cent of the estimate cost of the project. The fine for the agents is Rs 10,000 per day during the period of violation of provisions. It also includes one year jail term for real estate agents and buyers if they violate the orders of the appellate tribunals.
- The permission to approach consumer courts is a major relief for the buyers as there are 644 consumer courts in the country. It will offer more avenues for grievance redressal on lower costs for the buyers.
- Another key feature of the bill is the proposal to charge equal rate of interest for promoters and buyers in case of default or delays. The provision was earlier tilted in favour of the builders.



- The Bill has made it mandatory to set up an allottees association within three months of the allotment of major units/properties so that the residents can manage common facilities like a library and a common hall. Also, if the buyer finds any structural deficiency in the property then he/she can contact the developer for after-sales service within one year of possession.

With the implementation of the Bill the property buyers will be able to check details about a project online. They can also monitor progress of construction and lodge a complaint if it is not completed on schedule. The Bill facilitates setting up real estate regulators at the state level. Only projects registered with the regulator can be sold, both residential and commercial. However, the fraternity of developers say that projects can be completed on time only if the entire system, including civic departments that give approvals and build basic infrastructure around a project, are made equally accountable.

To conclude, most experts believe that the bill will bring in much-needed transparency in the sector. This will help increase fund flow into the projects. The 23 states that have so far notified the rules include Uttar Pradesh; Gujarat; Odisha; Andhra Pradesh; Maharashtra; Madhya Pradesh; Bihar; Chhattisgarh; Rajasthan; Uttarakhand; Assam; Jharkhand; Punjab; Tamil Nadu; Karnataka; NCT of Delhi (by Mo/UD); Andaman and Nicobar

Islands; Chandigarh; Dadra and Nagar Haveli; Daman and Diu; Lakshadweep, Puducherry and Haryana.

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Moreover, huge funds are needed from the private sector to invest in Government Mission –Housing for All by 2022. The Real Estate Sector is struggling to get funds for projects as companies are straddled with huge debts. This is a step in the right direction. It will go in favour of consumers as well as developers who do clean business. Even taking a clue from markets around the world such as UK and Australia, they attract huge FDI in housing as there is transparency in the sector. The real estate industry has also welcomed the Bill. However, they feel that the government authorities sanctioning the projects are not made part of this law and hence it may delay the approval process. Finally, the real estate sector will witness the beginnings of a fresh uptrend, driven by improving consumer sentiment in anticipation of higher transparency and efficiency, renewed confidence in the economy, and lower home loan rates. □

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