



RERA: A BALANCE BETWEEN BUYERS AND BUILDERS

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ABSTRACT

Property comprised of land, building and all the natural resources on it is called Real Estate which is further divided into three broad categories based on its use i.e., residential (houses, town homes etc.) , commercial (warehouse, office buildings etc.) and industrial (factories, mines farms etc.). The Real Estate sector in India has flourished in the recent years. However, it was unregulated. There were no preventive laws with respect to consumer protection, which affected the growth of the sector. The Real Estate (Regulation and Development) Act was enacted in 2016 with the aim to establish a Real Estate Regulatory Authority, in order to promote proper regulation of the Real Estate Sector, in a transparent and efficient manner and to protect the interest of the Consumers by providing a speedy disposal of the disputes arising in the real estate sector. Through a recent notification of the Government passed on 1 May 2017, the said Act was set into full force, thereby providing preventive measures for implementation of the said Act. The present paper provides a critical analysis of The Real Estate (Regulation and Development) Act, 2016 and the impact of the Act on property markets. We have also covered various provisions which directly affect the consumer as

well as the Promoter. Such as, Registration of Real Estate projects and Real Estate Agents, Duties of Promoters and Allottees, Real Estate Regulatory Authority(RERA), Central Advisory Council and Appellate Tribunal(REAT) and Offences, Penalties and Adjudication in RERA.

INTRODUCTION

Although the real estate sector has flourished in the last two decades, data collected by Liases Foras, a real estate research agency shows that in eight major cities over 80% of the 25 lakh-odd residential projects launched over the last 10 years have been delayed. Quarter of these were delayed by more than 4 years over the promised date of delivery. Home buyers suffer from over charging and other fraudulent practices of real estate developers. The only remedy they had was the long and delayed process of consumer courts as there was no preventive law in place. Different states had varied definitions for important terms such as carpet area, common areas, car parking etc. making it easier for developers to manipulate their way out of the case. The new law provides various safeguards for speedy redressal of such situations and also to pre-empt them.

The Real Estate (Regulation and Development) Act, 2016, was passed by the Parliament in March 2016, and a part of it came into effect on May 1, 2016. However, certain legislations such as registration of ongoing projects, penalties for non-compliance etc. were not notified. This was because these required an institutional framework to be in place



first. States were given a year to set up this framework i.e. the Regulatory Authority and the Appellate Tribunal. From May 1, 2017, the Act has come into force in its entirety. At state level, the Regulatory Authority and Appellate Tribunal must dispose of cases within 60 days. Appeals to the High court can be made within 60 days.

The law attempts to end the non-transparency that characterises transactions, where agreements are often tilted in favour of developers. Builders of both new and ongoing projects (ones that have not received completion certificate) must mandatorily register their project with the Authority in the next 3 months. Real estate agents too have to register themselves with the Authority within 3 months.¹ It also holds the promoters accountable for providing insufficient information regarding their project. In addition to the promoter and allottees, the Bill also brings real estate brokers who facilitate the sale and purchase of units in a project within its ambit. This holds the key to the future growth of the Indian real estate sector. Because it has the potential to clean up the sector at all levels and help further open up the Indian housing sector to foreign investments.

REGISTRATION OF REAL ESTATE PROJECTS²:

Under RERA both ongoing/ incomplete projects and future projects are required

to be registered, within three months from the date of commencement of this Act by the Promoter, with the Real Estate Regulatory Authority established under this Act. The promoter can advertise his project for sale after the project has been registered with the Regulatory Authority.

Exemptions:

As per section 3(2), the following projects do not require to be registered under the RERA Real Estate Bill:

- (a) where the area of land proposed to be developed does not exceed 500 Sq. meters and the number of apartments proposed to be developed does not exceed 18 inclusive of all phases;
- (b) where the promoter has already received completion certificate for a real estate project prior to commencement of this Act;
- (c) projects for the purpose of renovation or repair or re-development and do not involve marketing, advertising, selling or new allotment of any apartment, plot or building, as the case may be, are not required to be registered.³

Registration process:

- Promoter shall make an application to the Real Estate Regulatory Authority for registration in such form, manner, as may be specified by the regulations made by the Authority; A web based online system has been made

¹<http://indianexpress.com/article/explained/rera-real-estate-regulation-what-it-is-how-itll-affect-builders-buyers-agents-4636119/>

²

<https://www.taxmanagementindia.com/visitor/de>

tail_article.asp?ArticleID=6908&kw=registration-real-estate-projects-regulation-development-act-2016

³ <https://chennai dreamhomes.com/rera-real-estate-bill-2017-part-2/>



operationalised for submitting such applications.

- On receipt of the application the Authority, within a period 30 days grant registration providing a registration number, including a Login Id and password to the applicant for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project or reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of the Act or the rules or regulations there under after giving him a reasonable opportunity.

Registration granted shall be valid for a period declared by the promoter for completion of the project or phase thereof.

Deemed Registration and Extension of Registration⁴

If the Authority fails to grant the registration or reject the application, the project shall be deemed to have been registered and the Authority shall within a period of 7 days of the expiry of the said period of 30 days, provide a register number and a long id and password to the promoter for acceding the website of the Authority and to fill therein the details of the proposed project.

Revocation of Registration

As per section 7 of the RERA Real Estate Bill, the Authority has the powers to

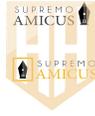
revoke registration of a project, for violations specified under the said section. However, revocation of registration of a project is envisaged as a last resort and can only be done after providing a reasonable opportunity of being heard.

Effect of revocation

Section 7(4) provides that the Authority, upon revocation of the registration-

- shall debar the promoter from accessing its website in relation to that project and specify his name in the list of defaulters and display his photographs on its website and also inform the other Real Estate Regulatory Authority in other States and UTs about such revocation or registration;
- shall facilitate the remaining development works to be carried out in accordance with the provisions of Section 8;
- shall direct the banking to freeze the account and thereafter take such necessary actions, including consequent de-freezing of the said account, towards facilitating the remaining development works in accordance with Section 8;
- may, issue such directions as it may deem necessary.

⁴<http://www.onlinefilings.co.in/registration-of-real-estate-projects-under-the-real-estate-regulation-and-development-act-2016/>



Registration of Real Estate Agents⁵:

In order to render their services, all agents have to be registered with the authority and the developer. While registering their projects, the developers are also liable to disclose the name and other details of the authorized agents who are allowed to deal in particular projects of the developer. The real estate agent will be provided with a registration number by the regulator, which they have to mention in each sale they make.

The agents are required to maintain books of account, records and documents related to every transaction done by them. They are also to restrain from making any false representation—whether written, orally or by visual representation. Also, agents are required to share all the information and documents about the project with the buyers, which they are entitled to at the time of booking a property.

Once a regulator is in place, and agents get registered, it would become difficult for the agents to mislead the homebuyers. Sometimes, in order to convince homebuyers to buy a property, agents may manipulate information. For instance, they may say that very few units of a project are left for sale, or that the developer would raise the price in a few days; to pressurise the buyer into making a decision in a hurry. Pushed into rushing, some buyers could forego basic due diligence on their part. However, once the regulator is in place, homebuyers will be

able to cross-check most of this information on the regulator's website.

The Regulator will also maintain a list of the authorized agents on its website, along with details of projects that they can deal in. Agents who are found to be in violation of the rules, will get removed from this list.

DUTIES OF PROMOTERS:

As per section 11 of the Act, the promoter is required to update all project information as furnished at the time of application on the website of the Authority. Section 4 and section 11 provide for a detailed list of disclosures on the website of the Authority by the promoter for public viewing, to be specified in the rules.

➤ **Advertisement or prospectus**

As per section 12, the promoter is responsible for the veracity of all information contained in the advertisement and the prospectus. In case of any loss sustained by any person due to false information contained therein, the promoter is liable to make good the loss sustained due to the same.

➤ **Accepting deposits**

Section 13 (1) provides that a promoter shall not accept a sum more than 10% of the cost of the apartment, plot or building as an advance payment or an application fee from a person without first entering into a written agreement for sale with such person and register the said agreement for sale.

⁵<http://www.livemint.com/Money/a6JheUfEvwEdFi6vCuv90K/Real-estate-agents-and-underconstruction-projects-need-to-r.html>



➤ **Agreement for sale**

Agreement for sale shall specify the particulars of development of the project along with the specifications and internal development works and external development works, the dates and manner by which payments towards of the apartment etc., are to be made by the allottees and the date on which the possession of the department etc., is to be handed over, the rates of interest payable by the promoter to the allotter and the allottee to the promoter in case of default and other such other particulars as may be prescribed.

➤ **Adherence**

Section 14 provides that the project shall be developed and completed in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities. The promoter may make such minor additions or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorized architect or Engineer after proper declaration and intimation to the allottee.

➤ **Rectification of defects**

In case any structural defect or any other defects in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale, such development is brought to the notice of the promoter within a period of 5 years by the allottee from the date of handing over possession and to rectify such defects without further charge, within 30 days and in the event of promoter's failure

the aggrieved allottees shall be entitled to receive compensation.

➤ **Transfer to third party**

Section 15 provides that the promoter shall not transfer or assign his majority rights and liabilities to a third party without obtaining prior written consent of two thirds of allottees, except the promoter and without the prior written approval of the Authority.

➤ **Insurance of real estate**

Section 16 provides that the promoter shall obtain all such insurances as may be notified by the appropriate Government, including but not limited to insurance in respect of title of the land and building as a part of the real estate project; and construction of the real estate project. (TITLE AND INHERENT DEFECTS)

➤ **Transfer of title**

Section 17 provides that the promoter shall execute a registered conveyance deed in favour of allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority and hand over the physical possession of the plot etc., to the allottee and common areas to the association of allottees or the competent authority.

➤ **Return of amount and compensation**

Section 18 provides that if the promoter fails to complete or is unable to give possession of an apartment etc., in accordance with the terms of the agreement for sale or due to discontinuance of his business as developer on account of suspension or revocation of the registration he shall be liable on demand to the allottees, to return the amount received by him in



respect of that apartment etc., with interest at such rate as may be prescribed in this behalf including compensation in the manner provided .

RIGHTS AND DUTIES OF ALLOTTEES/ BUYERS:

Section 19 specifies various rights which the allottees have against the promoters and Section 20 provides for the various duties of the allottees.

- The allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made there under or the agreement for sale signed with the promoter.
- The allottee shall be entitled to know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale.
- The allottee shall be entitled to claim the possession of apartment, plot or building, as the case may be, and the association of allottees shall be entitled to claim the possession of the common areas, as per the declaration given by the promoter.
- The allottee shall be entitled to claim the refund of amount paid along with interest at such rate as may be prescribed and compensation in the manner as provided, from the promoter,

if the promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement for sale or due to discontinuance of his business as a developer on account of suspension or revocation of his registration under the provisions of this Act or the rules or regulations made there under.

- The allottee shall be entitled to have the necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building as the case may be, by the promoter.
- Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.
- The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6).
- The obligations of the allottee under sub-section (6) and the liability towards interest under sub-section (7) may be reduced when mutually agreed to between the promoter and such allottee.
- Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperative



society of the allottees, or a federation of the same.

- Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be.
- Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building, as the case may be.

OFFENCES AND PENALTIES

The Real Estate Act intends to ensure accountability of the promoter, real estate agent and the allottee and imposes certain responsibilities on promoter and allottees and in case of any default or contravention on their part, enforces stringent penalties, thereby making itself a preventive law.

Promoter’s liability:

1. For non-registration of real estate project with the Real Estate Regulatory Authority, the promoter is liable to imprisonment which may extend to three years and with a fine upto 10% of the estimated cost of the real estate project.
2. If the promoter fails to make an application to the Authority for registration of the real estate project, or contravenes any provisions or the rules and regulations made therein, promoter shall be liable to a penalty of 5% of the estimated cost of the real estate project.
3. In case of continuation of the default, the promoter shall be liable for a penalty, which may extend to 5% of the

estimated cost of real estate project, for every day during which the default continues.

Real Estate Agent’s Liability:

1. If a Real estate Agent facilitates the sale or purchase of a real estate property, without obtaining registration, or
2. Fails to maintain books of account, records and documents, or
3. Involves himself in any unfair trade practices, or
4. Does not provide the necessary information to the allottee, as when required

Shall be liable to a penalty of rupees ten thousand every day during which such default continues, which may extend to a cumulative of 5% of the cost of the real estate project.

For any contravention of the directions and orders of the Authority, the Real Estate Agent shall be liable for a penalty which may extend to 5% of the cost of the real estate project.

For any contravention of the directions of the Appellate Tribunal, he shall be liable for imprisonment for a term up to one year and with fine, for every day during which the default continues, up to a cumulative of 10% of the estimated cost of the real estate project.

Allottees’ Liability:

1. For any contravention of the direction or order of the Regulatory Authority, shall be liable with fine, which may cumulatively extend upto 5% of the estimates cost of the real estate project.



2. For any contravention of the direction and order of the Appellate Tribunal, shall be liable for imprisonment for a term up to one year and with fine, for every day during which the default continues, up to a cumulative of 10% of the estimated cost of the real estate project.

15 years in urban development, housing, real estate development, infrastructure, economics, and so on respectively, who shall hold the office for a term not exceeding 5 years or after attaining the age of sixty-five years, whichever is earlier.

Offences by Companies:

In cases of offences committed by the Companies, person who at the time of the commission of the offence, was responsible for the conduct of the business of the Company shall be liable for the said offence unless he proves that the offence was committed without his knowledge or due diligence was taken by him to prevent such commission.

The Chairperson or the member can vacate his office, by giving in writing three months prior notice to the appropriate Government. Appropriate Government can remove the Chairperson or the member from his office, after an inquiry being made by the judge of the High court having the jurisdiction, on the following grounds:

1. Person is declared insolvent,
2. Has been convicted of an offence or moral turpitude,
3. Has become physically and mentally incapable,
4. Has acquired financial interest, which affects prejudicially his functions, and
5. Has abused his position

Offences mentioned above are compoundable, on terms and conditions as prescribed by the appropriate Government.

ADJUDICATION

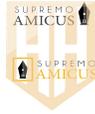
The Act provides for fast-track dispute resolution mechanism and promotes good governance in the real estate sector which in turn creates investor confidence.

All the questions of dispute shall be put up in front of the quorum, which shall dispose of such query within a period of 60 days from the receipt of such application and on failure to do so shall record such reasons in writing.

Real Estate Regulatory Authority

The Appropriate Government shall establish the Real Estate Regulatory Authority, within one year from the date of coming into force of the said Act, which shall be a body corporate and consisting of a Chairperson and two whole time members, having professional experience of 21 years and

In case of any contravention of the provisions of the said Act, an aggrieved person can file a complaint with the Regulatory authority or the Adjudicating Officer against the promoter, allottee or the Real Estate Agent, as the case maybe.



The Regulatory Authority has the power to make recommendations to the Appropriate Government, to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector.⁶

The Regulatory Authority is required to give its advice on any reference made to it by the Appropriate Government, while formulating any policy on real estate sector, within 60 days of the receipt of such reference. However, such advice shall not be binding on the Appropriate Government. A wide range of functions and powers is provided to the Regulatory Authority such as to register and regulate the real estate projects, to maintain an online database of all the records, to fix a standard fee, to ensure compliance of the obligations, to call for information, impose penalty, Conduct investigation and so on for the efficient functioning of the real estate sector.

Adjudicating Officer

The Regulatory Authority is to appoint, in consultation with the appropriate government, one or more Judicial Officers, who is or has been a District Judge, as it deems fit, to act as an Adjudicating Officer, to adjudge the compensation to be paid by the promoter and to hold an inquiry with regards to the same.

The Adjudicating Officer shall take into consideration the following grounds,

while computing the compensation by the defaulter:

1. The amount of profit earned by the defaulter (if quantifiable),
2. The amount of loss caused,
3. The repetitive nature of the offence,
4. Such other factors, required for implementation of justice.

Central Authority Council

Central Government shall appoint a Central Advisory Council and the Minister to the Central government dealing with housing shall act as the ex-officio Chairperson of the Council.

The members of the council shall be selected by rotation. Five representatives shall be from the Regulatory authority and five representatives of the State Government, to be from the Ministry of Finance, Ministry of Industry and Commerce, Ministry of Urban Development, Ministry of Consumer Affairs, Ministry of Corporate Affairs, Ministry of Law and Justice, Niti Aayog, National Housing Bank, Housing and Urban Development Corporation.

The Council shall advice and recommend the Central Government on all the matters concerning the implementation of the Act, policy formation and protection of consumer interest, in order to foster the growth and development of the real estate sector.

⁶ www.lawgupshup.com/2017/09/the-real-estate-regulatory-authority-rera



Real Estate Appellate Tribunal

The Appropriate Government shall establish a Real Estate Appellate Tribunal, within a period of one year from the commencement of this Act, for their respective States and each bench of the Appellate Tribunal shall consist of one Chairperson and two whole time members out of which, one shall be a Judicial Member and other one to be an Administrative Member or Technical member.

The Chairperson and the Members of the bench shall hold the office for a period not exceeding 5 years. Where, the Chairperson so appointed, was a judge, he shall not hold the office after attaining the age of sixty-seven years or for a period of five years, whichever is earlier. No Member of the Tribunal shall hold the office after attaining the age of sixty-five years.

The chairperson or the Member of the Tribunal can relinquish his office or can be removed from the service on the same grounds as those of a Chairperson and Member of the Real Estate Regulatory Authority.

The Chairperson and the Members of the Tribunal are restricted from employment after their cessation of the office on the same grounds as those of the Regulatory Authority.

Any person aggrieved by the decision or order, made by the Regulatory Authority, can approach the Appellate Tribunal within 60 days from the date of such decision or order, who shall dispose of

the appeal within 60 days of its receipt and shall be deemed to be a Civil Court and the orders passed by the Tribunal shall be executed as a decree of the Civil court.

After giving an opportunity to both the parties of being heard, the tribunal shall pass its orders and pass a copy of such orders to the parties as well as to the Regulatory authority or the Adjudicating Officer, as the case may be.

An appeal from the order of the Real Estate Appellate Tribunal shall lie to the respective jurisdictional High Court within a period of 60 days, from the decision or order of the Appellate Tribunal.

Thus, the Act intends to increase transparency and accountability and provide a strict mechanism for the selling and purchase of the real estate projects and focuses on their timely consumption.

WHAT HURDLES DID THE LEGISLATION FACE?

Attempts to stall or water down the Act were made from its inception, and state-level rules are yet to be issued in many cases. But many attempted dilutions were forestalled or reversed, thanks largely to constant vigil by consumer groups and nationwide homebuyers' collectives such as Fight for RERA.

But the law was, indeed, diluted in some ways. For instance, to prevent the widely prevalent practice of developers diverting the bulk of sales proceeds to buy more land, the Bill had originally wanted builders to deposit 70% of the collections



in a separate account, to be used solely for the purpose of construction. But before the Bill was placed in Parliament, the clause was tweaked to cover both land and construction costs.

Intense lobbying by the realty sector has resulted in several states issuing RERA Rules that in some cases effectively favour developers over homebuyers. Maharashtra's Rules, for example, allow builders to sell open areas within a project as parking lots, a practice the Supreme Court had struck down.

Both Maharashtra and Madhya Pradesh allow builders of ongoing projects to submit details of only their last sanctioned plan, giving them scope to not reveal details of changes or delays with respect to the original plan and promise.

Rules issued by Gujarat exempt projects launched before November 2016 from the purview of the Act. Similar tinkering has been evident in Delhi (which comes under the union Urban Development Ministry), Uttar Pradesh, Haryana and Karnataka. Some of these were found to be in clear violation of the Act, leading to Union Housing Minister [Venkaiah Naidu](#) calling an urgent meeting of state housing secretaries and chief secretaries and directing them to issue Rules that are true to the spirit of the central Act.

IMPACT ON DEVELOPERS⁷

1. Major impact of RERA will be on on-going projects if they are included.

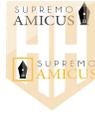
⁷ <http://www.financialexpress.com/money/real-estate-5-ways-how-rera-will-impact-the-developers/649200/>

There will be a lot of confusion which will not only delay projects but will also lead to creation of lot of issues. Any law should be applied prospectively and not retrospectively. Too many projects at various stages will be impacted and there could be a major upheaval in the market if not addressed appropriately. The law should rather state a corrective course of action rather than penalise on-going developments which seem to have deviated from the new law. Also, too many projects will delay the registration process which in-turn will delay project deliveries.

The major delays and cost escalations are created not by developers but by various governmental authorities who sanction requisite projects and monitor during the course of development. Unless, this is not addressed in toto, there are bound to be hiccups in projects.

Cost for developers will increase as sales can only happen post registration which is possible only post approvals. With higher holding costs, these increases would eventually be transferred to consumers and hence prices are bound to increase.

4. All the money is pumped into construction and in case of cancelations, there should be a re-allotment clause and not strict 60 day guideline for refund as it will be impossible for developers to do so in such circumstances. If several buyers seek to cancel at one go, it may



jeopardise the entire project. Say, if there are 100 units sold in a project and out of 100, 40 buyers do not make payments on time and hence are subject to interest. But due to the delay from 40 buyers, the entire project gets affected and hence developer will have to compensate the other 60 buyers with interest and hence this is unjustified.

5. With RERA, there will be a consolidation in the market and hence only fewer players may exist. This is not good for market as prices for consumers are bound to increase with decrease in competition. Competition already keeps prices in check and small developers who were able to offer that additional buck might cease to exist and buyers will have limited choices to choose out of.

TRANSPARENCY IN REAL ESTATE MARKET

The RERA will make the real estate market more transparent in the following ways⁸:

- The RERA will make the quoting of price by property developers more transparent. Currently, developers sell property to customers based on built-up area. This also includes wall loading and other common amenities. Hence the customer does not exactly get a clear picture of what he is paying for. Under the RERA, builders will have to now quote based on the carpet area,

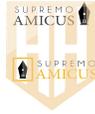
which is the actual interior area that a person gets to live in. This will make the quote more realistic and transparent. The standardization also makes comparison easier.

- Parking charges is another bone of contention between the builder and the customer. When a builder develops an apartment, the parking charges are charged separately and vary, depending on the property. The RERA requires that the parking charge be transparently mentioned as part of the sale agreement.

RERA also contains specific provisions pertaining to timely completion of projects by builders. Delay in completion of projects will make the developer liable to monetary penalty as well as imprisonment up to 3 years. In addition, RERA also contains a provision that if there is delay in delivering the project or if the buyer is not satisfied with the property in way then a refund can be claimed within 15 days of buying it.

- Onus is put on the builder of making a full and transparent disclosure about Title report of the land, any legal cases outstanding, any likely encumbrances, intention of the promoter of using the FSI (floor

⁸ <http://www.angelbroking.com/blog/how-rera-will-impact-real-estate-market-india>



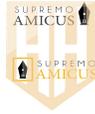
space index), use of construction technology, design standards etc. This will mean more transparency for the buyer.

- The real estate broker will be permitted to sell only those properties that are registered under the RERA pool and have met with all the conditions of an eligible property. Brokers who sell properties outside this list will be liable for penalties. This will ensure that brokers only push projects that meet up all the conditions prescribed by the RERA.
- The RERA brings much smaller projects also under the overall ambit of regulation. Currently, only projects with a 1000 square metre area come under the purview of regulation. That has been brought down to 500 square metres or a minimum of 8 flats.
- In a big move for protection of consumer interest, according to the Act, it is mandatory for the promoter to deposit 70% of the amounts realised from the allottees from time to time in a separate bank account maintained with a scheduled bank in order to cover the construction cost and the land cost.

- Under the RERA, the builder will be accountable for structural defects in the construction of the property up to a period of 5 years. The builder will have to ensure that the land title is insured to prevent cases where consumers run into trouble due to uncertain land titles, where legacy issues are quite common.
- A state level regulatory body will be formed which will act as the nodal agency to address all such real estate complaints, disputes and related issues. The primary focus will be to address the grievances of real estate customers and will comprise of the Chief Justice of the High Court, the law secretary of the state and the housing secretary of the state.

DISADVANTAGES OF THE BILL⁹:

- **Past real estate projects not included in the bill:** Only new projects are covered by the bill. Projects that are ongoing, completed or stuck due to clearance or financial issues, don't come under this. Hence, many buyers will not be benefitted by it.
- **Delay from government agencies:** There can be delays caused by the government, which sometimes takes a lot of time to clear a project. It



is up to government bodies to follow strict time frames to approve projects, so that developers can launch, complete and deliver them on time.

- **No compulsory regulation for projects less than 1000 square meter:** Registration with the regulator will not be mandatory for projects less than 1000 square meter. So, small developers will not be bound to register.
- **New project launches expected to be delayed:** Because a project will not be allowed to launch without the requisite clearances from the government (which generally takes two to three years), projects will automatically get delayed.

It still leaves room open for unforeseen problems of the kind we have witnessed this year in the floods that have ravaged Chennai.¹⁰

CONCLUSION

With the advent of RERA, specialised forums such as the State Real Estate Regulatory Authority and the Real Estate Appellate Tribunal, are established for the resolution of disputes pertaining to home buying and the aggrieved party has no recourse to other consumer forums and civil courts, on such matters. While RERA sets the groundwork for fast-tracking dispute resolution, the litmus test for its success, will depend on the timely setting up of these new dispute resolution bodies and how these disputes are

resolved expeditiously with a degree of finality.

“It will bring a lot of accountability in the industry and the ones who believe in professional and transparent business, will reap all the benefits. Now, the agents will have a much larger and responsible role to perform, as they will have to disclose all the appropriate information to the customer and even help them chose a RERA-compliant developer,” says Sam Chopra, founder and chairman of RE/MAX India.

With RERA in force, brokers cannot promise any amenities or services that are not mentioned in the documents. Moreover, they will have to provide all information and documents to the home buyers, at the time of booking. Consequently, RERA is likely to filter out the inexperienced, unprofessional, fly-by-night operators, as brokers not following the guidelines will face hefty penalty or jail or both.

¹⁰www.hindustantimes.com/india/the-pros-and-cons-of-the-real-estate-regulation-bill/story-GIocvfKJrJazrTVI2642fK.html