

FEATURES, BENEFITS, IMPACT, AND KEY PROVISIONS OF REAL ESTATE REGULATORY AUTHORITY (RERA) ACT 2016

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ABSTRACT

RERA which stands for Real Estate Regulatory Authority was created under the Real Estate (Regulation and Development) Act, 2016 to protect home buyers and also to increase investment in real estate. This Parliament of India Bill was passed by the Upper House (Rajya Sabha) on 10 March 2016. The RERA Act came into force on 1 May 2016. At that time only 52 of the 92 sections were notified. All other provisions were effective from 1 May 2017. The Real Estate (Regulation and Development) Act 2016 under Section 84, it assumes that within six months from the date of its commencement, the State Governments shall lay down rules for the implementation of the provisions related to the Act. On 31 October 2016, the Center through the Ministry of HUPA (Housing & Urban Poverty Alleviation) issued the Real Estate (Regulation and Development) Act General Rules, 2016. All these rules are applicable to Union Territories like Chandigarh, Lakshadweep, Daman & Diu, Dadra & Nagar Haveli and Andaman & Nicobar Islands. This paper reviews features, benefits, impact, and key provisions of Real Estate Regulatory Authority (RERA) Act 2016.

Keywords: RERA, Features, Benefits, Impact, Carpet Area

Introduction

The Real Estate (Regulation and Development) Act, 2016 (RERA) is a landmark legislation brought into force by the India Government. The RERA has twin objectives. While on one hand it seeks to protect the interests of home buyers at the same time it also has an objective to boost investments in the real estate sector. RERA which stands for Real Estate Regulatory Authority was created under the Real Estate (Regulation and Development) Act, 2016 to protect home buyers and also to increase investment in real estate. This Parliament of India Bill was passed by the Upper House (Rajya Sabha) on 10 March 2016. The RERA Act came into force on 1 May 2016. At that time only 52 of the 92 sections were notified. All other provisions were effective from 1 May 2017. The Real Estate (Regulation and Development) Act 2016 under Section 84, it assumes that within six months from the date of its commencement, the State Governments shall lay down rules for the implementation of the provisions related to the Act. On 31 October 2016, the Center through the Ministry of HUPA (Housing & Urban Poverty Alleviation) issued the Real Estate (Regulation and Development) Act General Rules, 2016. All these rules are applicable to Union Territories like Chandigarh, Lakshadweep, Daman & Diu, Dadra & Nagar Haveli and Andaman & Nicobar Islands.

This paper reviews features, benefits, impact, and key provisions of Real Estate Regulatory Authority (RERA) Act 2016.

Literature review

1. Thakkar (2018) has written that examples of the RERA government have shown that there was no real estate controller who would bind the builders / developers, thus making them careless in their consumer responsibilities. Quality was compromised, finances were diverted and delays were uncontrollable and above all consumers did not have specific areas to which to go to resolve their grievances.
2. Rab (2016) has stated that The Real Estate Regulation and Development Act, 2016 has brought happiness and hope among consumers who have struggled for years against construction companies and builders. The housing sector has become one of major sources of black money and fraudulent transactions.
3. Maske and Valunekar (2020) have stated that construction is a series of interdependent activities and is often characterized by delays in gripping, budget breaches and problems in maintaining proper quality. Every construction company whether big or small faces the problem of construction management skills. The Indian construction industry has been changing over time due to demonetization,

- GST, new government laws (RERA Act 2016).
4. Pathak (2020) in an article, intends to review applicable laws, regulations and laws relating to the ownership of real estate in countries such as India, United States (“US”), United Kingdom (“UK”) and the United Arab Emirates (“UAE”). In addition, while developing specific laws in the following countries, this article will provide similar comparative analysis.
 5. Vashisth and Menda (2019) provides a system of disciplinary action between the tax sector and the export market and the impact they have on each other. The purpose of this paper is to learn the basics of GST & RERA, to look at the current state of real estate in India.
 6. Singh et al. (2018) have written that implementation of RERA in July 2017 has been a hindrance in a number of ways in the Indian real estate market, the availability of reliable data for the building under construction and new projects are one of them. As per the RERA regulations, all construction or new commercial projects must be officially registered with the relevant RERA Authority of its state and project information to RERA in the prescribed format that will be publicly available. This regulatory requirement results in a large amount of reliable data for all state RERAs that have not yet been evaluated.
 7. Chawla and Kumar (2020) have written that the state of the previously uncontrolled urban housing market began to change with new announced law, that is, the Indian Real Estate Act (Regulation and Development) 2016. The allegations are that the Act has been saving property buyers from exploitation in the form of evasive and aggressive promoters and has had an impact on the economy and society.
 8. Mughulkhod (2019) has written that the Real Estate Regulation & Development Act, 2016 passed in March 2016 and all their sections will come into effect from 1 May 2017 in India. This Act is particularly applicable to the Housing Business Development Plan.
 9. Parashar et al. (2020) have written that the provision of housing is a major challenge in many developing countries and to facilitate housing development, Government has repeatedly intervened in housing development policies, especially in urban areas. This paper focuses on global policies and how they affect the housing market by learning about the case of Noida - an emerging urban center in the suburbs of Delhi, the capital of India.

RERA came along with two other major developments in the Indian economy, namely, demonetization in 2016, and Goods and Services Tax (GST) Act in 2017. So some authors have tried to assess the impact of all these developments together on the real estate sector. Comprehensive studies taking into account awareness, impact, and problems of RERA are very few.

Act Review Highlights

Security: As per RERA Act, at least 70% of the money of buyers and investors will be kept in a separate account. This money will then be allocated to builders only for costs associated with construction and land. Developers and builders cannot demand more than 10% of the property price as a deposit before signing the sales contract.

Transparency: Builders are expected to submit original documents for all projects they implement. Builders may not make any changes to the plans without the buyer's consent.

Fairness: RERA has now directed developers to sell properties on the basis of carpet area and not super built-up area. In case the project is delayed, buyers are entitled to a full refund of the invested amount, or they can choose to invest and receive monthly investments from their money.

Quality: The builder must fix any problem faced by the buyer within 5 years of purchase. This problem must be corrected within 30 days of the complaint.

Eligibility: The regulator cannot advertise, sell, build, invest or reserve land without registering with the regulator. After registration, all investment advertisement should carry a unique project registration number provided by RERA.

Features

- Establishment of Real Estate Regulatory Authority in each state of India to monitor as well as adjudicate and adjudicate any disputes relating to real estate projects in the respective state.
- Establishing an expedited dispute resolution mechanism. This will be done through the Court of Appeal and specialist arbitrators.
- All real estate projects must be registered with RERA so that the competent authority has jurisdiction over them. The registration of a specific project may be rejected by the authority if the instructions have not been followed.
- In case the promoter wishes to transfer or assign most of your rights and obligations in the real estate project to a third party, the written consent of two-thirds of the allottees will be required in addition to the written consent of RERA.
- If there is any default on the part of the buyer or the organizer, both will be liable to pay the same interest rate.
- If the promoter causes any loss to the buyer due to other persons claiming the property (defective title to the land) which is under construction or has been built, the promoter will have to compensate the buyer. No law currently places any limitation on the amount of compensation.
- If a person has issues with the violation of the provisions or rules of this Act by the promoter, buyer or representative, he can file a complaint with RERA.
- While the inquiry is in progress, RERA can prevent the agent, promoter or buyer from continuing any activity against which the complaint has been made.
- If any of the decisions of RERA regarding the complaint is not satisfactory, the aggrieved party can file an appeal in the Appellate Tribunal.
- If the promoter fails to comply with the RERA orders, he will have to pay a fine. This amount can be up to 5% of the estimated price of the property.
- If the orders of the Court of Appeal are not complied with, a fine will have to be paid. It can be either imprisonment for up to 3

years or a fine (up to 10% of the approximate cost of the project) or both.

- If a company commits an offense under this ACT, any person who was in charge of the business and the company at the time of the commission of the offense shall be found guilty and punished.
- No civil court shall have any jurisdiction in respect of any matter falling within the jurisdiction of RERA or the Appellate Tribunal. As such, no court can issue an injunction against any action taken by RERA or the Tribunal.

Benefits

RERA has a number of benefits for the buyer, promoter and real estate agent. These include:

- Standardization of carpet area: Before RERA, the way a builder calculated the cost of a project was not defined. However, with RERA, there is now a standard formula that is used to calculate the carpet area. This way promoters cannot provide inflated carpet areas to increase prices.
- Reducing the risk of builder insolvency: Most promoters and developers tend to have multiple projects under development at the same time. Previously, developers were allowed to move funds received from one project to another. This is not possible with RERA as 70% of the funds raised need to be deposited in a separate bank account. These funds can only be withdrawn after certification by an engineer, chartered accountant and architect.
- Advance payment: As per the rules, the builder cannot take more than 10% of the project cost from the buyer as advance or application fees. Thus, the buyer does not have to quickly raise funds and pay a large amount.
- Buyer's rights in case of any defects: Within 5 years of ownership, if there are any structural defects or quality problems, the builder must repair these defects within 30 days at no cost to the buyer.
- Interest to be paid in case of delay: Before RERA, if the promoter delayed possession of the property, the interest payable to the buyer was much lower than if the buyer delayed payments to the promoter. This has

changed with RERA and both parties have to pay the same amount of interest.

- Buyer's rights in case of false promises: If there is a discrepancy between what the builder promised and what was delivered, the buyer is entitled to a refund of the full amount paid as a deposit. Sometimes the builder may be required to provide interest on the amount as well.
- In the event of a defect in title: If the buyer discovers during possession that there is a defect in the title to the property, the buyer may request compensation from the promoter. This amount is not limited.
- Right to information: The buyer has the right to know all information about the project. This includes plans regarding layout, execution and state of completion.
- Grievance Redressal: If the buyer, promoter or representative has any grievances regarding the project, they can lodge a complaint with RERA. If they are not satisfied with the decision of RERA, a complaint can also be filed with the Appellate Tribunal.

Impact

After the enforcement of the Real Estate (Regulation and Development) Act, 2016, the registration of the project unit purchase agreement cannot be done at the office of the sub-registrar without obtaining Clearance Certificates or Completion Certificates.

Unchecked unit registrations are currently underway. This occurs without obtaining a certificate of occupancy or a certificate of completion. Nobody is worried about the legal consequences. The Stamps and Registrations Department is aware of the implications of RERA but has not taken necessary steps to stop illegal registrations of such properties. Below are some of the impacts:

- Fewer projects will be launched as promoters and builders take time to understand the impact of the Real Estate (Regulation and Development) Act, 2016. However, honest promoters / builders / developers will benefit from this scenario as they will face less competition. .
- The rogue builders will disappear as they will not be able to sustain themselves in the market after the implementation of RERA.
- The 32 sections that have been added to the Real Estate (Regulation and Development) Act, 2016 will promote financial discipline in the sector.
- After the implementation of the law, developers will have to complete several formalities if they want to make certain changes in the project after its commencement. There may be short-term chaos in the real estate industry, but in the long run, it will boost customer confidence and make them invest more.

Penalties

These are summarized in Table 1:

Table 1: Penalties under RERA

Offence	Applicable Section	Applicable penalties
<ul style="list-style-type: none"> • Breach of terms for which registration is obtained • Securing registration through fraud or misrepresentation 	Section 9 (7)	Cancellation of registration number of the agent.
Violation of orders of Appellate tribunal	Section 66	Jail term of up to 1 year or with fine up to 10 percent of cost of unit sold.
Violation of Section 9 and 10 of the RERA Act	Section 62	Fine of Rs.10,000 per day during which the default continues extending up to 5 percent of cost of unit sold.
Violation of orders of RERA authorities	Section 65	Fine up to 5 percent of the cost of unit sold.

Conclusion

The industry that generates the most money is real estate and it is the most unstable industry. In the real estate industry, where builders could not keep their claims of quality and delivery, the job was done in a riskier manner. The consumer used to have a number of problems as a result. The RERA bill was created by the Indian government, which imposes a few restrictions and assesses all segment stockholders. For the purpose of regulating and promoting the real estate sector, the State established MahaRERA (Maharashtra Real

Estate Regulatory Authority) in March 2017. All active commercial and residential developments must be registered with the real estate regulator because MahaRERA applies to the entire State. If a developer or promoter is not registered with MahaRERA and in compliance, they are not permitted to sell, book, or advertise their projects in the State. Maharashtra has established a regulatory body that would address developer disclosures, register projects and agents, and address complaints from buyer.

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