

Real Estate Regulation Act (RERA), 2016: Implementation and Issues

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ABSTRACT

This research paper aims to study implementation and related issues about the Real Estate Regulation Act. The Real Estate sector is of prime importance from individual as well as national importance and to regulate the sector and to reduce the ambiguity to the customers, RERA (Real Estate Regulation Act) was implemented in the year 2017. The act provides various provisions, which focuses on various issues of promoters, builders, real estate agents and customers as well. The act is a remarkable change in improving the efficiency of the government in regulating the Real Estate Sector. This focus on transparency, safety, imposes penalties on errant builders and follows the regulatory mechanism in the field. The current issues from the metro cities like New Delhi and Mumbai are also described in this paper.

Keywords: Real estate, housing sector, regulatory mechanism.

INTRODUCTION:

It is a well-known fact that housing is one of the basic needs of human. Access to adequate housing can be a precondition for the enjoyment of several human rights, including the rights to work, health, social security, vote, privacy or education. Safe, secure and adequate housing is a fundamental need of human being.

Realizing the gravity of the problem of the housing, right to housing has been recognized under international as well as regional human rights law as it is the basic right of the individual. In the line with the international human rights law, various States have also carved their legal system so as to encompass right housing as the fundamental right of the citizens. The Indian judiciary has demonstrated commendable interest towards right to housing and interpreted this right under the context of right to life provided under article 21 of the Constitution. Over the period of time it was seen that the demand of the housing has been significantly increased. To give its importance and to bring transparency, The Real Estate Regulation Act (RERA) was introduced on 1 May, 2016 and implemented on 1 May, 2017. The prime objective of this act is to bring accountability and transparency so as to make real estate transactions simple as, housing is a key input in economic, social, and civic development. Many buyers know that RERA has been implemented to protect the 'consumer rights'. RERA act mainly focuses on the consumer's major issues related to incorrect information of projects by the promoters, maltreatment of funds and delays in completing of real estate projects.

About Gujarat Real Estate Regulatory Authority:

In the state of Gujarat RERA came into the existence on 4 May, 2016 to promote the growth in the real estate sector with the healthy, transparent, efficient and competitive environment which will protect the interest of promoters, real estate agents and to the allottees. The chairman of GUJRERA is Dr. Manjula Subramaniam. The official website was launched on or around 18 July, 2017 to ensure the accountability of allottees. Gujarat ranked on number 3 of RERA registered projects.

LITERATURE REVIEW:

Aggarwal S. (2003) he emphasised on the construction industry where he said that in future developing countries will face major challenges. It is must now to work on the issues on globalization, construction activity and various cultural aspects related to environment. Most often it is considered and highlighted that the resource shortage is a major problem in the construction industry. Also the research paper argues about the issues which are considered to be relevant to the developing countries, now it is necessary to work to be done on the issues to come out from the negative environmental impacts.

Singh V. and Komal (2009) in their study they titled and explained that, "people want to invest mostly on property as it gives higher returns in future. He focused on various factors like property investment, restriction on various dealings, advantages to promoters to dealers, supply and demand of real estate as per market. He also explained the causes of India in present scenario in real estate sector.

Singh Vandana (2009) explained in her research paper with the remark that the Real Estate is a very broader concept. Real Estate in India is a very good opportunity to investment. But it is highly affected by the macro-economic factors such as per capital income, GDP, FDI, interest rates and employment in the nation. The most important factor for middle class in the case of Real Estate is to choose the location which will affect the value and returns from the Real Estate. It is a major concern while the time of rising inflation and interest rates to invest directly or indirectly in property. Also to keep legal issues in mind while investing in this sector.

Namazi Nargis (2011) she emphasised in her article which was published in Business Review saying that construction industry which is in a tremendous a boom in India growing on a 10 per cent faster pace. This industry comprises on many different components like railway tracks, highways, bridges, airports etc. The construction industry gives wide range of opportunity in investment. This sector will grow on a high level using architectural products, decorative items and electrical connections etc.

Bansal.A, Sirohi R and Jha Manish (2011) in their article they emphasised on real-estate sector where SEZ (Special Economic Zone) had played a vital role in the society to form the township. He says firmly that towns have become cities due to the fast development in this sector. Lots of problems, challenges face by this sector to adopt the "green building" concept by taking into this consideration.

Drake Mac Donald (2011) in his studies titled, "In India construction industry is emerging rapidly. In India faulty construction is a major problem recognized through different segments. People construct buildings due to the hefty greed. Builders use cheap product and quick way to build with providing lesser wages to the workers. Lack of enforcement leads unwanted activities such as bribes. This lacks India to progress.

As per Indian Express (Dec 26th, 2012) Dr. Reena Vasishta - additional secretary to the Govt. of India (26th March 2016) in her studies shed titled that this was indeed to make a call in favour of customers, buyers, promoters and agents. The reform of the act implemented due to the economic crisis, fraudulent activities happened in the Indian real estate sector this step was taken and implemented in favour of customers to stop unnecessary incidents. It has been facing a lot of problems since 2012. This could lead to decrease demand for property further. This reduced demand is causing a slowdown in recovery of investment for builders. The RERA act is initiated by the central as well as state government to spread awareness and bring transparency to maintain the real estate field safe and secure.

RESEARCH METHODOLOGY:

The main objective of this study to examine RERA issues, implementation has been put up in India to bring out the productivity in real estate sector to accomplish transparency in the system to advantage the customer. As this paper is about a new act, a secondary data has been collected through nationwide resources. A literature search has also been carried out. Hence, this research is a descriptive type research.

FINDINGS, DISCUSSION AND ANALYSIS:

Based upon the secondary data across India it was found that people are aware about their rights to be followed to bring transparency in the system. In India the RERA Act implemented so strongly to bring the accountability in transactions and keep away the customers from misleads found before the act implemented. It is a strong decision taken by the government of India which has benefited to all the stakeholders.

Important Provisions of RERA and benefits of RERA:

The main objective of RERA to relief buyers from the mistreatment of unfair builders it specifies certain norms, rules and regulations to be followed by all builders and developers to bring transparency in all the transaction of

real estate sector.

- Standardized carpet area
- Rate of interest
- Reduce the risk of builder insolvency and bankruptcy
- Right of the buyer in case of false promise
- Advance payments
- Rights in favour of buyers in case of defects after possessions, delay in possession, defect in title, buyer shall entitled to get all information related to the project, its plan out, execution, stage wise completion status and so on.
- Establishment of authority for grievance redressal.

The Real Estate Regulation Act makes it mandatory for all commercial and residential real estate projects. If the land is more than 500 square metres, or eight apartments, to register with the Real Estate Regulatory Authority (RERA) for launching a project in order to provide greater transparency in project execution and marketing. Projects either approved or rejected by RERA have to put application within 30 days and also have to go for registration within 3 months after commencement. Once the project registration is completed the log in Id and password is provided to fill up the rest necessary information about the applicant. If registration gets delayed or failed a penalty is charged 10% on the project cost or 3 years of imprisonment. This Act brings uncounted money to screeching halt from being aroused into the sector. Now 70% of the money is made compulsory to deposit in the bank accounts of the dealers through cheques. It is clearly define major benefit in the act the consumers have to pay the prices which is based on carpet area including kitchen and toilet. It ensures the timely completion of the project but in case if it gets delayed in handover in the given time framework, complaint can be registered against the dealer and it has to dispose within 60 days.

RERA helps to develop firms and promoters to maintain the escrow account for each of their projects, it provides clarity to buyers, developers to provide information about their ongoing projects and requires submitting the approval of the plans for the collected revenues from allottees. It's state regulators responsibility to put up all the details on website about registered projects to access on their ease. RERA also imparts about the quality of construction in projects to ensure consumer protection from the builder and rectify the matter within 30 days of time period only when buyer does not want to take the money back from the builder.

Advantages and disadvantages of RERA in context to Customer and Builder:

RERA has brought uniformity in real estate sector related to carpet area, common areas which will prevent malpractices like changes in layout, area, agreement, specifications, details about the broker, architect and contractor etc.

ADVANTAGES:

- 1) Transparency: It brings total clarity in favour of customers, Promoters, dealers, agents, builders it must provide accurate disclosures, registration number on the website also on the advertisement along with the allotment letters, payment modes and amount to be paid through electronic medium. It is a possible way to alter the corruption between agents and builders. Buyers can obtain the taxes with stamp duty on the form.
- 2) Mandatory registration: Builders must register with the housing regulatory projects and submit all the details of project to the state government authority. Any development of apartment or building can be judged through the mentioned details in future.
- 3) Should not have any misleading claims: A written affidavit should be given mentioning the time frame of the projects to be delivered. In case of delay in possession, return of amount and compensation, no deposit in advance any such obligation took care by this act.
- 4) Money handling: Builders have to deposit 70% of the buyer's amount in an escrow A/c to avoid diversion of money. This process is highly transparent to retain the benefits to the buyers.
- 5) Warranty: RERA will provide 5 year warranty for structural defects such as electric fittings, tap leakage etc. It helps to maintain the interiors for a time period. It reduces the ambiguity from the buyers to pay extra expenses on such issues.

LIMITATIONS:

- 1) Hike in property price: Due to various extrinsic and intrinsic factors in the sector it leads to lack of cash, builders have to look for other sources for money thus, leading to rise in the price of the property. This variation affects to demand and supply condition in this sector.
- 2) Stagnant growth: Due to 70% investment in escrow account there will be cash flow hindrances leading to delay in projects. This step is taken to stop the developer from diverting their mind repeatedly to new projects and complete the running project.
- 3) Supply-demand imbalance: Compliance to all the aspects will delay the project and as there won't be pre-selling of the property. Big builders can develop two to three project within 2 years it will lack economies imbalance due to the project duration and small builders cannot able to earn money with lack of techniques and resources.
- 4) Strong penalty: If a builder fails to fulfil any provision, he will be liable for imprisonment up to 3 years or 10% of the total cost of the project. This situation put the buyer in trouble and keep them away from their houses till the matter get solved. This creates stress in their lives and badly effect on their financial crisis.
- 5) No cover on rental: RERA doesn't include any rental agreements it totally depends upon the buyer to maintain the rental agreement which denotes the agreed and disagreed part clearly to save the property and make a proper use of it.

CURRENT RERA ISSUES IN INDIA:

MUMBAI:

The government is planning to bring tenanted or cessed buildings and tenants of such buildings under the Real Estate (Regulation & Development) Act, 2016 (RERA), providing for the first time the same protection to these consumers as those available to other home buyers. The tenanted or cessed buildings that dot the landscape of many cities, especially Mumbai, house people who have been living for several decades and paying cheap and artificially depressed prices. Known as the Pagdi system in Mumbai, tenants are not covered under the authority.

MUMBAI:

The appellate tribunal of MahaRERA has asked the secretary of the regulatory body to initiate action against an architect for issuing factually incorrect certificate to a project. While hearing an appeal, the tribunal found out that a builder during a hearing in MahaRERA had said that building has occupation certificate. However, it was found by the tribunal that the amenities, lift, staircases and other Facilities were yet to be completed.

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has asked various planning authorities in the state to act against 293 real-estate projects that are being developed without requisite permissions, said a top official of the authority. Interestingly, the regulator has gathered information about these projects through emails sent by various people on a specific email id floated to find out about projects that need registration but have not been registered.

NEW DELHI:

Magic bricks reports says Around 74 per cent home buyers in India are unaware about the online process to check a realty about the project's status under the Real Estate Regulatory Act, also respondent does not know whether the projects are registered or not on the website. Respondents lack with all the necessary information with regards to carpet area, payment modes, registration number of the builder etc. Many projects were due to register on websites also to mention flyers to Showcase the exact details of the builders.

CONCLUSION:

The past few decades have seen increasing attention given towards constructive urbanization process in the context of rapid transformative process of country. As the nation strive to enhance capacity to cope up with developmental needs through the urbanization.

In country like India, a standardized Real Estate Regulation Act is necessary to have uniform standards throughout the country and to bring transparency in transactions. The implementation of an act like RERA is a firm step in the right direction to bring awareness in terms of customers, promoters, builders etc. In future, in

the lines of RERA, modernization of land records, land acquisition and GST can also be put on priority for growth of real estate sector.

It is made compulsory for the various stake holders like builders, promoters, agents and allottees are to be complied with specification of the projects, project agreements and regulatory frameworks. It is also to be noted that the real estate entities must ensure that the properties of allottees are well maintained and that residents are satisfied with the conditions of the properties. The RERA is significant move in this regard to ensure greater accountability of the real estate builders and agents towards customers as well as government.

The RERA is committed towards the successful and effective implementation of the real estate law of the country and has taken relevant and consistent measures for the progressive development of the sector in the country. To encourage sustainable development of the RERA, along with customer friendly environment, various policy measures incorporated under the RERA would certainly bring remarkable changes in the economic and social transformation.

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