

# Impact of Real Estate Regulation and Development Act (RERA) on India's Real Estate Sector

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## ABSTRACT

Real estate Regulation and development act 2016 is a Revolutionary act in the history of construction industry. This act is useful for consumers as well as for builders for making transparency between them. As this act has various impacts on construction industry. So in this paper the scope of the real estate Regulation and development act is covered. Also the impact on the new projects and also on the ongoing projects is also discussed in this paper because RERA involves ongoing projects. This paper also covers the impact of the RERA ongoing projects is also discussed because mostly builders have to change their design and estimates and other services which he is going to provide. So it is very important matter of concern for the builders. Overall this paper covers impact of RERA on consumer builder real estate agents buyers.

**Keywords :** - RERA, Impact

## I. INTRODUCTION

The real estate Regulation and development act (RERA) 2016 is a revolutionary act in the history of Indian real estate sector. It was introduced in the year of 2013, but due to objections raised in the parliament, it came into effect only in May 2016. Furthermore, it was introduced to protect home buyers interest and the investment in real estate sector. The act aims to improve transparency and encourage fair practices in the sector.

Indian real estate sector has been facing slumps since 2012. This is due to factors like unemployment, inventory pile-up, recession, low rental yield, unclear taxes and arbitration. However, the property prices have not stabilized accordingly. As a result demand for property has decreased further. This reduced demand is causing a slowdown in recovery of investment for builders. The major issue facing the sector is lack of transparency. The system until recently was opaque with regards to price, construction delay, construction quality, ownership and litigations. Of these, the biggest issue is delay in delivery of property to buyers. During the last two decades the number of under construction properties rose to an all-time high. Particularly in major cities

many builders have flouted norms by failing to keep up with project deadlines. For a homebuyer investing his life savings in the property, indefinite delays are a cause for worry.

Property agents or brokers took advantage of prospective homebuyers by misinforming them about quality of construction and completion. They misled homebuyers regarding amenities of the property. They would give assurances orally regarding property documents which were often missing or incomplete. Furthermore, the agents would hide the status of properties under litigation from prospective buyers.

## II. NEED OF STUDY

1. Real Estate is an important part of the economy.
2. It is accountable for an extensive part of its development investment, advancement of the nation's infrastructure stand & major originators of trade and industry activity.
3. RERA being a new act needs to be studied thoroughly so that the real estate sector prospers.
4. The interest of customers in the real estate sector needs to be maintained.

## OBJECTIVES OF STUDY

1. To establish the Real Estate Regulatory Authority for regulation and promotion of the real Estate sector.
2. To analyze the RERA act at the centralized level.
3. To explore the MahaRERA broadly.
4. Advantages and Disadvantages of RERA.

## III. SCOPE OF RERA

The Act applies to under-construction as well as new projects. Residential and commercial projects are included in its ambit. Real estate agents or brokers too are included in the purview of the Bill. The scope of the Bill covers all parties to a real estate transaction. The purpose is to ensure greater accountability and transparency in the system.

RERA requires all states in India to set up an Appellate Tribunal to address homebuyers' grievances. The Act requires all builders to register their projects with the Tribunal before initiation. The registration process requires them to detail the design and state the deadline for completion. If the deadline is not met they are liable to compensate the buyers and face penalties and or criminal charges. Moreover, until recently most of them were diverting the funds to launch other new projects without completing ongoing ones. This used to cause a delay in ongoing projects due to lack of funds. Under the Act, builders are required to set aside 70% of the initial funds in escrow account for construction of the property. This will ensure that projects are not held up due to lack of funds.

### IMPACT OF RERA ON NEW PROJECTS

Any project with over 8 apartments or size of over 500 sq. mt. is required to be registered under RERA. The developers have to register each stage of construction independently with the state Tribunal. Since builders have to register their new projects, big players cannot pre-launch a project. Pre-launches used to be the major source for raising the capital. It means the developers now have to borrow capitals at higher rates which will be ultimately bore by the consumers. Also there is a cap on the amount of deposit builders can accept from buyers. Under RERA a builder cannot take more than 10%

as initial deposit. Advertising a project without registering it first is also banned. The Act also addresses two major issues faced by buyers.

- ✓ Delay in construction and quality of construction.

In both cases if a builder flouts on the RERA norms, he or she will be liable to compensate the buyer for the loss. The compensation is decided in the initial agreement signed between the parties. It also specifies the amount of interest payable by the builder in case of construction delay

### IMPACT OF RERA ON ONGOING PROJECTS

The developers who still has under construction projects may face difficulty due to RERA. As per the Act, all the ongoing projects have to now register first with the regulatory authority before moving further in completing the project. They are also prohibited from advertising or promoting the property before registration. These steps are likely to delay construction and sale of existing property greatly. RERA also mandates builders to issue occupation or completion certificate before handing over possession to the buyer. As of today there are lakhs of flats in all major cities of India like Mumbai and Bangalore who have failed to do so. The further step to regularise such properties remains unclear. Another concern for these developers is whether they will get the certificates on time or not. Lastly, in cases where developers seek an extension the amount of time granted for project completion would depend upon the authority

### IMPACT OF RERA ON BUILDERS

Under RERA builders are mandated to register critical information regarding the project. This includes

- Layout
- Promoter details
- Land title status
- Statutory approval status
- Agreements
- Details of the brokers
- Architects and contractors

Failure to register this information will lead them to penalties. They are bound by a five year agreement with the buyer for quality assurance. This means that within five years of selling a property, if construction quality issues arise they will have to repair it. Moreover, they have to ensure formation of Residents' Welfare Association within three months of the project completion. RERA clause that buyers can claim a refund in case of delay or dissatisfaction with property puts developers in a fix. In case many of them claim refund in one go, it will affect developers badly as liquidity in construction and real estate is very low.

Apart from disclosing critical information mentioned above to buyers, they also have to state the exact size (carpet area) of the property. They can no longer state super-built up area (i.e. common area, verandah, etc.) as size of the property. Due to this they can no longer charge buyer the amount for super built up area. Therefore these charges will be passed on to the buyer as increased carpet area price. Also, it is expected that cost for developers will increase as they can start selling only after getting the approval. There will be consolidation in the market and thus, only few players may exist. Currently, developers are postponing their new launches in order to understand the impact of RERA act and focus more on completing the existing projects. It means there will be fewer launches due to uncertainty. There were 73% less launches in the second half of 2016 as compared to the same period of 2015.

### **IMPACT OF RERA ON THE BUYERS**

RERA has been introduced mainly to protect the interest of property buyers. In order to increase transparency regarding project completion status, it mandates developers to disclose the construction status on the Authority website. This has to be done on quarterly basis. In case of any misdoing by the developer, the buyer can file a complaint with the Authority. Their complaints are mandated to be resolved within 120 days. Finally, builders cannot change any aspect of the structure without prior approval from all the buyers. All these measures, in addition to those mentioned the above section, are expected to boost investor confidence. The amount of unsold inventory in cities is likely to go down with RERA implementation.

### **IMPACT OF RERA ON AGENTS AND BROKERS**

Traditionally, the Indian real estate agents have been an unorganized segment of this sector. However, the new legislation makes it mandatory for the brokers to register themselves to facilitate a transaction. According to an estimate, there are 5,00,000-9,00,000 agents in India which has unorganized and unregulated affair. Under RERA, brokers will no longer be able to sell properties unregistered with the Authority. They will also be penalized in case of wrong information given to buyers regarding the property. However, the fear among industry players is that many unorganized brokers will find themselves out of work. Agents need to pay a fee in order to register themselves. Moreover, in case of builders flouting on their promises, agents will be penalized. Citing issues of lack of faith on builders and lack of benefits for agents under RERA, many agents will choose to shut shop.

### **MACRO-ECONOMIC IMPACT OF RERA**

The RERA move coupled with Goods and Services Tax implementation is seen as a positive move for the sector. The main issues plaguing real estate in India were transparency and accountability, which have been tackled now. Such has been the impact of RERA that when the website was launched in Uttar Pradesh state, 15000 complaints were registered in a single day from Noida region alone. However the response in some states to RERA has been dissatisfactory. In Haryana, buyers have complained that they are excluded from RERA if they have already moved in to the property. Thus, they cannot file a complaint for lack of services or amenities provided by the builder. The full effect of RERA will come only after a year since each state is setting up its independent legislation and a standardized measure for success will take time to build.

### **ADVANTAGES OF RERA (REAL ESTATE DEVELOPMENT AND REGULATION ACT)**

**1. Timely delivery of flats :** Developers often make false promises about the completion date of the project, but hardly ever deliver. As per the bill, strict regulations will be enforced on builders to ensure that construction runs on time and flats are delivered on schedule to the buyer. If the builder is not able to deliver the flats on

time, he/she will have to refund the purchaser with interest.

**2. Furnishing of accurate project details:** In the construction stage, builders promote their projects defining the various amenities and features that will be part of the project. But not everything goes as per plan, with several features missing. As per this bill, there can't be any changes to a plan. And if a builder is found guilty of this, he/she will be penalized 10% of the project's costs or face jail time of up to three years.

**3. Specifying carpet area:** Generally, builders sell flats on the basis of built-in area, which includes a common passage area, stairs and other spaces which are 20-30% more than the actual flat's area. But, not all buyers are aware of the concept of carpet area. With this bill it will become mandatory to declare the actual carpet area.

**4. All clearances are mandatory before beginning a project:** Builders often attract buyers with huge discounts and pre-launch offers. And, the buyer, enticed by the offers, does not bother about the clearance. But, due to delays in getting clearance, the buyer does not get the flat on time. This bill ensures that developers get all the clearances before selling flats.

**5. Each project should have a separate bank account:** Developers raise funds through pre-launch offers and use them to purchase some other land or invest it in other projects. This bill will make it compulsory that a separate bank account be maintained for each project. Each transaction will have to be recorded, and diversion to another project will not be entertained.

**6. After sales service:** As per an interesting clause in the bill, if the buyer finds any structural deficiency in the development of the building, the buyer can contact the builder for after sales service. But, the buyer should approach the builder within a year of purchase to rectify such defects without further charges.

#### **DISADVANTAGES OF RERA (REAL ESTATE DEVELOPMENT AND REGULATION ACT)**

**1. 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.

**2. 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.

**3. 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.

**4. 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.

#### **IV. CONCLUSION**

The Act is a positive change in terms of increasing transparency in the real-estate sector, increasing accountability of the promoters and developers and establishing efficient forums for grievance redress. This will consequently lead to lower litigation due to stringent rules and regulations in the highly corrupt sector.

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