

RERA: An Elixir for Real Estate Sector

RERA has been conceptualised with the aim of bringing transparency, having a monitoring mechanism and protecting the interest of the home buyer

by **SUNIL KUMAR GUPTA**

ON December 8, 2014, home buyers in the NCR (National Capital Region) staged a massive rally at Jantar Mantar, New Delhi against majority of builders operating in the NCR region. Since then there have been multiple protests, petitions and pleas against the realtors or home builders. The main concerns raised by the home buyers while protesting or filing petition are delay in possession, quality of construction, huge difference between promised infrastructure and delivered, diversion of funds to other projects and many more. In addition, the administration also realised that the real estate sector was abuzz with fraudulent builders, promoters who did not have land and were fleecing buyers with pre-launch offers and many more. All this has resulted in confidence of the home buyers reaching abysmal levels. There is huge ready inventory lying vacant with developers.

To overcome these issues, the Central government drafted a Real Estate Bill almost a decade ago. In March 2016, the bill was unanimously passed by Rajya Sabha and the Real Estate Regulation and Development ACT (RERA) came into effect.

As a business and finance expert

with an indepth knowledge of this subject, I feel indebted to share my understanding of this subject with my voracious readers who are eager to know:

- What is the importance of Real estate sector to the Indian economy
- What is RERA?
- What are the various provisions of RERA?
- Who all are eligible to register and exempted from RERA?
- What are the advantages of RERA to the buyers and developers?
- How will the Appellate tribunal work?

To understand the need for RERA Act in India, we must first understand the importance of Real Estate sector in India from socio-economic perspective. As per estimates, nearly 2,400 to 4,400 projects were launched between the period 2011 and 2015 in 27 cities of India. These approximately 17,000 projects had a net worth investments of 14 lakh crore. This is a huge amount not only for Indian economy but also for states as tax collected from property is one of the biggest source of revenue. Apart from this, the real estate sector in India :

- Supports more than 100 other industries directly or indirectly
- Contributes 5-6 per cent to the

India's Gross Domestic Product (GDP). By 2020 it is expected to contribute 15 per cent of the total GDP.

- Forms the second largest employer after agriculture sector and expected to employ 7.5 crore people by 2022, which is approximately 13 per cent of total employment base of India.
- Will form the key to Central government's Prime Minister Awas Yojana initiative under which 50 million houses will be built in India by 2022.
- Projected to consume up to 25 per cent of total electricity produced in India.

On May 1, 2017, all the 92 sections of RERA came into effect. Since real estate regulation falls under the purview of State government, each state was asked draft its own rules and regulations taking cues from the framework set by the Centre, setup their regulatory body and notify the Central government before April 31, 2017. In all 18 States and Union Territories have notified the Centre about their individual regulations on real estate governance.

RERA has been conceptualised with the sole aim of bringing transparency, having a monitoring



mechanism, enforcing stricter norms and protecting the interest of the home buyer from malpractices of real estate developers. Under the RERA framework, the key provisions are:

- Any project being developed above 500 metres will have to be registered with the RERA regulatory authority (State-level) before its launch.
 - The regulator of each state will have its own separate website, where all the information of the builder along with the details of the project such as land allotment, project master plan, layout plans detailing the carpet area, super covered area, built up area; timelines, cost and sale agreement, approval of number of flats received, land use approval, etc., will be published for the potential buyers to view in public domain
- before booking. This is a major step and will bring the much needed transactional transparency in the sector. All these documents will be uploaded on the regulator's website as well.
- To register a project under RERA, a builder will have to provide the following details with application:
 - Past five-year history of development
 - Details of the ownership of land including purchase, title, land use
 - Approved master plan and maps of the project, including approval of number of plots and flats to built
 - Layout plan of each flat or plot including carpet area, built up area, super cover area, common area for the community, any commercial establishment proposed within the project.
 - Provide the format of buyer-builder agreement, which in turn will be approved by the regulatory authority.
 - A builder will not be allowed to advertise or collect money for any project without registering with RERA. After registering, the builders will have to display their RERA registration number on every marketing collateral. Builders have been given till July 31 to register their ongoing projects.
 - If the builder fails to register the project, this can lead to legal implications to the tune of maximum 3 years of imprisonment for the builder, upto 1 year for the agent or fine up to 10 per cent of total cost of the project.
 - There are three categories of exemptions under RERA:
 - All the builders who are constructing their project in an

area less than 500 meters or are making less than 8 flats.

- All the builders who have received their completion certificate of their project before 1st May 2016.
- If the building is being renovated, repaired, or re-developed.
- Builders will be required to deposit 70 per cent of the money collected in a 'Separate' bank account which will be monitored by the RERA regulator so that money is spent properly and not diverted by the builder to other projects.
 - While registering any project under RERA, builders will have to provide an affidavit with an undertaking of the Separate account.
 - During the execution of project, developer will have to provide a quarterly report on the progress of project and expenditure incurred.
 - To withdraw the money from the Separate account, builder will have to get approval from a chartered accountant by producing evidence of percentage completion.
- Every state will setup a Real Estate Appellate Tribunal to address complaints and concerns of both the buyers and builders.
- The Tribunal will be able to address concerns and complaint of both the buyers and builders.
 - Buyers can appeal against any shortcomings before and after the possession
 - Builders can appeal against non-payment of dues by a buyer or against the complaint/s filed by the buyer.
- Any change made by the builder to the sanctioned plan will have to be approved by the buyers.
- Any shortcoming reported in the

quality of construction by the home buyer/s, within five years of possession, will have to be rectified by the builder within 30 days without levying any extra charge to the buyer.

- If the project is delayed, the builder will have to pay the interest incurred by the buyer on the home loan.
- In case of delay in the project, the home buyer can file for refund of all the money deposited along with 10.9 per cent interest per year. The builder will have to honour the refund request within 45 days of receiving the application for cancellation.

RERA will have a far reaching positive effect on the real estate sector in the long term. The advantages that RERA will bring are:

Benefits for Home Buyers:

- It will bring the much needed transparency into the real estate transaction. A buyer will be able to view all the land related documents of each builder on the regulator's website. The buyer can view layout plan along with details of carpet area, built up area, super covered area of the flats, plots that s/he wishes to purchase.
- Buyer will now only have to pay 10 per cent as the booking amount to sign an agreement with the builder/ developer.
- A Separate bank account in which 70 per cent of the collected money will be deposited by the developer will ensure timely completion of project as the money can be withdrawn only for construction purpose.
- Buyer can report any shortcoming



of the project within five years of possession to the Appellate, and the developer will have to fulfil the shortcomings at their own expense.

- No one-sided clause can be incorporated by the developer in the builder-buyer agreement.
- Monitor the progress of the project and expenditure periodically on the regulator's website.

Benefits for Developers:

- Boost sales of the registered projects
- Boost the confidence level of buyers and investors towards the builders and sector as a whole as the buyer can view all the details of the project on regulator's website before deciding on booking. In addition, the buyers will feel safe



(RERA). Following the clarification, many developers cannot do business as they are not registered. At the same time, they cannot register because state governments are not ready with the rules and authority to register. As on May 31, 2017, RERA rules have so far been notified by 18 States and Union Territories. Draft rules have been prepared by 10 states and Union Territories. Permanent regulatory authorities have been set up by only two States so far and these are Madhya Pradesh and Maharashtra. An interim authority is in place in 12 states and Union Territories. As many as 19 states and Union Territories are in the advanced stages of appointing an authority. Only six states and Union Territories have set up an interim tribunal.

It's been two months approximately since the RERA become effective. Developers and real estate agents now have only one month to get their ongoing projects registered with RERA, that is by July 31, 2017. But as of now, 16 States and Union Territories, including Haryana, Karnataka, Kerala, Himachal Pradesh and Goa, have not notified rules. Except Maharashtra, Madhya Pradesh and Rajasthan, no other States have developed websites to enable developers to register online.

After recent clarification, developers cannot market their projects and consumers are also in the same position as before the implementation of RERA and this create a frustrated situation for both. Many States are not ready with infrastructure like RERA rules, regulators and websites to register the project online. Now, all the stakeholders have to do some collective efforts towards the effective implementation of this Act. **g**

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with regulator in check with the progress of project.

- Provide a platform to appeal against non-payment of dues by the buyer.
- It will help make the real estate sector organised and regulated. So far the sector has been unregulated and has maligned the reputation of all developers including the ones who are doing good work.
- Help in discovery of real price for a property rather than an inflated traded price.

The real estate sector is going through a very tough phase and facing a lot of challenge with lack of buyers and investors due low confidence on the part of buyers. To bring back the sheen into this sector, RERA will act as an elixir. It is a landmark ACT which will bring about a paradigm

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shift in the real estate sector. However, the real success of this ACT will be determined on how well it is adapted and implemented by the states.

According to the recent clarification, Developers cannot market their projects without registering them with Real Estate Regulatory Authority