

RERA 2016- A GAME CHANGING STEP IN THE REAL ESTATE SECTOR

VASUNDHARA PATIL

Assistant Professor, National Institute of Construction Management and Research (NICMAR),
Pune, Maharashtra, India

ABSTRACT

The market value of construction sector in India is projected to expand up to INR 11954 billion by 2017. Demand for affordable housing is more likely to increase from current level of 29 million households to more than 38million households by 2030. Hence to focus on eliminating the constraints of the stake holders, Government has enacted the **Real Estate (Regulation and Development) Act2016 (RERA act 2016)**. This is forward step by the Government to usher a regulatory authority to deal with the present unorganized housing sector. A much awaited transparency and accountability of the developers towards its consumers is the major highlight. The real estate agents/ brokers have for the first time being recognized in the law, making them also accountable. This act will have its impact not only on the all stake holders i.e. the builders, developers, buyers, brokers but also will impact the construction sector. After the passing of the act, the uncompleted projects are being speedily completed and the long delay in handing over the possession of the houses to the buyers is becoming a concept of the past. A welcome change to the consumer. In this paper we intend to study all the positive effects as well as the limitations of the law. Is this law really a dragon which will punish all the wrong doers from the developer community? Will it really make the Real estate sector a transparent one as expected? Will the implantation of the new RERA law usher a new beginning in Real estate sector?

KEYWORDS: RERA 2016, Real Estate Regulator, New Real Estate Law, Impact of RERA, Housing Sector, Real Estate Brokers

INTRODUCTION

Construction sector is the largest contributor to central exchequer. Construction sector is the 2nd largest employer in the country. It creates more than 45 million jobs either directly or indirectly among various classes of individuals in the country. According to the report published by Government of India Ministry of Skill development and entrepreneurship, the market value of construction sector in India is projected to expand up to INR 11954 billion by2017 and is expected to contribute 8.2% to Indian GDP. This sector has witnessed cumulative foreign direct investments to the tune of Rs40, 399 million from 2000 till 2013 of which 91% was in real estate development. Indirectly, the sector generates 5 times higher value for the other sectors. The Indian Real Estate sector is largely unorganized and dominated by a large number of small players, with very few corporate or large players having national presence compared to the other more developed Asian and Western markets. Restrictive legislations and lack of transparency in transactions are main impediments to the growth of this sector. Lot of black money is being generated as there is no control over the registration of sale deeds with the full value of transaction. Nonpayment of income tax and reduced stamp duty are two areas which lead to substantial loss of revenue to the Governments. A thriving parallel economy is dangerous to the society in general.

In the current scenario it is observed that the projects are announced and the booking of the flats or apartment are taken by developer by charging a booking amount of 25% to 70% without even starting construction. Registration of sale agreement is not compulsory under “The Registration act of 1908”. Hence makes it difficult for the government to track any projects. Only when possession gets delayed beyond the date promised by the developer, the buyer get panicky and runs for help here and there, knocking the doors of the various forums, courts or Government departments.

To cater to the ever growing need to regulate the real estate sector and to regulate private participation for the realization of the ‘Housing for all by 2022’ agenda, Government of India has enacted the Real Estate (Regulation and Development) Act, 2016 which is also an initiative of the government for reforms in construction sector which is expected to grow at a very fast rate. The main objective of Act is establishing institutional infrastructure to ensure that functioning of the real estate sector will be in an efficient and transparent manner and will protect consumer interests. The RERA Act 2016 primarily protects the consumers and makes the developers accountable.

OBJECT OF THE ACT

The object of the RERA act 2016 is to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto. Further objects are to enhance transparency and accountability in real estate and housing transactions, to provide uniform regulatory environment to ensure speedy adjudication of disputes and orderly growth of the real estate sector, to boosting domestic and foreign investment in the Real Estate sector, to promote orderly growth through efficient project execution and standardization.

IMPORTANT PROVISIONS

The act makes it mandatory on all to register projects above 500square meters or eight apartments inclusive of all phases with RERA. For on-going projects which have not received completion certificate on the date of commencement of the Act, will have to seek registration within 3 months. It will help establish state-level Real Estate Regulatory Authorities (RERAs) to regulate transactions related to both residential and commercial projects and ensure their timely completion and handover. Appellate Tribunals will now be required to adjudicate cases in 60 days. This Act obliges the developer to park 70% of the project funds in a dedicated bank account. This law makes it mandatory for developers to post all information on issues such as project plan, layout, government approvals, land title status, sub contractors to the project, schedule for completion with the State Real Estate Regulatory Authority (RERA) and this information will be available to o the consumers. The consumer will now onwards pay the price based on the carpet area defined under the act and not super built up area. Now, the law ensures that any delay in project completion will make the developer liable to pay the same interest as the EMI being paid by the consumer to the bank back to the consumer. The buyer will also have to pay interest for the delay in payment of sale price as per the payment terms. The developer cannot make any changes to the plan that had been sold without the written consent of the buyer. The buyer can contact the developer in writing within one year of taking possession to demand after sales service if any deficiency in the project is noticed. The maximum jail term for a developer who violates the order of the appellate tribunal of the RERA is three years with or without a fine.

IMPACT ON VARIOUS STAKEHOLDERS

The Impact of the act will be that the Promoter cannot advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, in any real estate project without prior registration of the project with the RERA. Registration of real estate agents (brokers) and making them accountable is another major highlight of the RERA. The Broker will now play an important role in housing industry as his functions have now clearly stated. One the greatest impact will be seen in buying and selling of the unoccupied ready to possess flat or apartment. Developers will not be interested in holding unsold flats /units for a very long period. Developers across cities are rushing to complete the projects they promised in view of 2016 real estate regulation.

LIMITATIONS

Though the act has cast a lot of accountability of developers and the brokers, but some major issues of the developers have not been addressed by the act. The Government agencies giving various sanctions and clearances like the local bodies, municipal corporations, gram panchayats, the collector, electricity board and water supply authorities, etc. have been left out from the purview of the Act and there is no mention of project delays due to delays in obtaining completion certificates/essential connections from these agencies. As per the provisions of section 16 of the act, it is now obligatory for all the promoters to obtain insurance in respect of title of the land and buildings and construction of every project. But such insurances are not available in the country

CONCLUSIONS

A single window clearance for all sanctions should also be considered by the Government to help to develop the market further. The Act only covers new projects and the projects where completion certificate is not issued on the date when the Act is notified, but not the existing projects i.e. the projects that are ongoing as on date or where partial completion certificate has been issued, completed immediately before the Act is notified, or stuck as on date for any reason. The Act doesn't make any provision for selling flats/ apartments on carpet area basis, leaving a scope for promoters for manipulation. It is not mandatory to register projects, which are smaller than 500 square meters and 8 apartments. There will be exclusion of a large number of small housing projects wherein the buyers will continue to face the existing problems. The title insurance should be made available through Insurance companies. The developers should be given finance at lower rate of interest. The implementation of the Act poses a big challenge. However if the Regulatory authority uses its power and implements the provision of the act in letter and spirit it will certainly make the developers and estate agents a class to be trusted by the home buyers and contribute to the building of robust economy. It will also make the construction sector a more organized one.

REFERENCES

1. Bhartendu Kr, Chaturvedi, Ayush Sharma, Anticipating And Gearing up Real Estate Sector in India, International Journal of Business and Management Invention, May 2015,
2. S.Nithyamanohari, D.Ambika, Study on Influence of Real Estate Industry in National Economic Growth, International Journal of Advanced Research in Civil, Structural, Environmental and Infrastructure engineering and developing, March 2014.

3. Banga Rashmi, Impact of Government Policies and Investment Agreements on FDI inflows, working paper no.116, Indian Council for Research on International Economic Relations.
4. Anas A. Al Bakri, Review The new Trends in the Real Estate Industry in the Middle East: The impacts on Investments and performance, Herald Journal of Economics And Finance May 2013
5. JLL report March 2016, “Deciphering the legal and commercial aspects of RERA”.
6. <https://home.kpmg.com/in/en/home/insights/2016/03/real-estate-construction.html>, KMPG report, March 2016, “Real Estate Regulation and Development Bill 2016”
7. Dighe Sunil, An insight into the Real Estate (Regulation and Development) bill, 2016
8. <http://www.nsdcindia.org/sites/default/files/files/Building-Construction-Real-Estate.pdf>- Human Resource and Skill requirement in the building construction and Real estate sector (2013-17 2017-22)