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Impact of Real Estate Regulation (Rera)Act - 2016

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ABSTRACT

An act 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 form the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental. Hence this article has attempted to offer a clear understanding to the various stakeholders and to the various states governments and it may be eye opener to the various government officials.
Key Words: Real Estate (Regulation and development) Act 2016 RERA, REAT, RWA(Resident Welfare Association), Completion Certificate (CC), Occupancy Certificate (OC).

INTRODUCTION

In recent decades there is rapid increase in conversion of agricultural lands into real estate plots and layouts by the real estate industries in India. Which lead to decrease in agricultural output and scarcity of food crops. In addition to this the real estate transaction were heavily favor to the real estate owners not to home buyers. In order to eradicate these two major problems the government of India has implemented a separate Authority and development Act to e protects agriculture and home buyers in India. Real Estate (Regulation and development) Act 2016 was implemented. An act 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 form the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental.

OBJECTIVE OF THE STUDY

- To study an introduction of Real Estate Regulation Act 2016
- To identify the impact of RERA towards various stakeholders.
- To study how RERA implemented in varicose states in India.

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Vol-8-Issue-12-December-2019

SOURCES OF DATA

The source of data collected to this below paper is secondary data. Secondary data is known as the data which are collected from already published in book, bulletins, papers etc.

MEANING OF RERA

Real Estate (Regulation and development) Act which was passed by the Indian Parliament in the 2016. The RERA bill was passed in Rajiya Sabhaon 10.3.2016,followed by the LokSabha on 15.3.2016 and finally RERA came into force on 01.05.2016. On May 1st 2016 out of 92 sections 59 sections were notified and the remaining provisions came into force from May 1st2017. Under this act the central and state governments are required to notify their own rules under the act within sixmonths,on the basis of the modern rules framed by the central Act. This act enacted by Parliament in the Sixty – seventh Year of the Republic of India. It extends to the whole of India except the State of Jammu and Kashmir. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

OBJECTIVES OF RERA

- To protect home buyers form the single sided transactions and heavily favor to developers.
- To create government's model code, aim to create a more equitable and fair transaction between the seller and the buyer of properties, especially in the primary market.
- To simplify the real estate purchase, by bringing in better accountability and transparency provided that states do not dilute the provisions and the spirit of the central act.
- To regulate real estate industry.
- To mandatory for each state and union territory, to form its own regulator and frame the rules that will govern the functioning of the regulator.

IMPACT OF REAL ESTATE REGULATION ACT 2016 TOWARDS VARIOUS STAKEHOLDERS

The government of India has implemented the Real Estate (Regulation and Development) Act in the year 2016. It has created more impact towards various stake holders.

HOME BUYERS

A person who purchase a house or flats as a place to live.

- Informing allottees about any minor addition or alteration.
- Consent of 2/3rd allottees about any other addition or alteration.
- No launch or advertisement before registration with RERA
- Consent of 2/3rd allottees for transferring majority rights to 3rd party.
- Sharing information project plan, layout, government approvals, land title status, subcontractors.
- Increased assertion on the timely completion of projects and delivery to the consumer.
- An increase in the quality of construction due to a defect liability period of five years.

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Vol-8-Issue-12-December-2019

- Formation of RWA(Resident Welfare Association) within specified time or 3 months after majority of units have been sold.

REAL ESTATE INDUSTRY

Real estate is: Property consisting of landed buildings on it along with natural resources such as crops, mineral or water's immovable properties of its nature as interest vested in this an item of real property buildings are housings in general.

Initial backlog.

Increased project cost.

Tight liquidity.

Rise in cost of capital.

Consolidation.

Increase in project launch time.

Initially, a lot of work is to be done to get the existing and new project registered. Details such as status of each project executed in last 5 years, promoter details, detailed execution plans, etc., needs to be prepared.

INSURANCE COST FOR CONSTRUCTION AND LAND TITLE

Land and approval costs to be meted out of internal accruals as prelaunch concept may end. It may lead to a shift in equity financing from debt financing prevailing currently. The cost of capital may go up as developers may now have to fund the land and approval cost through equity. With frequent delay in obtaining approvals, debt funding may not be an ideal route for developers. With entry in the sector made difficult, the sector may witness consolidation. Strong financial and execution capability is required to launch a project. The development model/agreement may gain prominence. The project launch time may increase since a lot of time will be involved in finalizing finer details before launching a project.

REAL ESTATE AGENTS

- Under the Real Estate (Regulation and Development) Act (RERA), real estate agents will need to register themselves, to be able to facilitate a transaction. The broker segment in India, is estimated to be a USD 4 billion industry, with an estimated 5, 00,000 to 9, 00,000 brokers. However, it has traditionally been unorganized and unregulated.
- "It will bring a lot of accountability in the industry and the one who believe in professional and transparent business, will reap all the benefits. Now, the agents will have a much larger and responsible role to perform, as they will have to disclose all the appropriate information

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to the customer and even help them choose a RERA-compliant developer," says Sam Chopra, founder and chairman of RE/MAX India.

- With RERA in force, brokers cannot promise any amenities or services that are not mentioned in the documents. Moreover, they will have to provide all information and documents to the home buyers, at the time of booking. Consequently, RERA is likely to

filter out the inexperienced, unprofessional, fly-by-night operators, as brokers not following the guidelines will face heavy penalty or jail or both.

HIGHLIGHTS OF THE RERA

ESTABLISHMENT OF THE REGULATORY AUTHORITY

The absence of a proper regulator (like the Securities Exchange Board of India for the capital markets) in the real estate sector was long felt. The Act establishes Real Estate Regulatory Authority in each state and union territory. Its functions include protection of the interests of the stakeholders, accumulating data at a designated repository and creating a robust grievance redressal system. To prevent time lags, the authority has been mandated to dispose applications within a maximum period of 60 days; and the same may be extended only if a reason is recorded for the delay. Further, the Real Estate Appellate Authority (REAT) shall be the appropriate forum for appeals.

COMPULSORY REGISTRATION

According to the central act, every real estate project (where the total area to be developed exceeds 500 sqmtrs or more than 8 apartments is proposed to be developed in any phase), must be registered with its respective state's RERA. Existing projects where the completion certificate (CC) or occupancy certificate (OC) has not been issued are also required to comply with the registration requirements under the Act. While applying for registration, promoters are required to provide detailed information on the project e.g. land status, details of the promoter, approvals, schedule of completion, etc. Only when registration is completed and other approvals (construction related) are in place, can the project be marketed.

RESERVE ACCOUNT

One of the primary reasons for delay of projects was that funds collected from one project, would invariably be diverted to fund new, different projects. To prevent such a diversion, promoters are now required to park 70% of all project receivables into a separate reserve account. The proceeds of such account can only be used towards land and construction expenses and will be required to be certified by a professional.

CONTINUAL DISCLOSURES BY PROMOTERS

After the implementation of the Act, home buyers will be able to monitor the progress of the project on the RERA website since promoters will be required to make periodic submissions to the regulator regarding the progress of the project.

TITLE REPRESENTATION

Promoters are now required to make a positive warranty on his right title and interest on the land, which can be used later against him by the home buyer, should any title defect be discovered. Additionally, they are required to obtain insurance against the title and construction of the projects, proceeds of which shall go to the allottee upon execution of the agreement of sale.

ISSN:2277-2995
Vol-8-Issue-12-December-2019

STANDARDIZATION OF SALE AGREEMENT

The Act prescribes a standard model sale agreement to be entered into between promoters and homebuyers. Typically, promoters insert punitive clauses against home buyers which penalized them for any default while similar defaults by the promoter attracted negligible or no penalty. Such Penal clauses could well be a thing of the past and home buyers can look forward to more balanced agreements in the future.

IMPLEMENTATION OF REAL ESTATE (REGULATION AND DEVELOPMENT ACT 2016 (RERA) IN VARIOUS STATES

RERA was implemented in INDIA even though it was established in different states according their ministries in their states.

- MAHARASTHRA
- UTRAPRADESH
- KARNATAKHA
- TAMIL NADU
- HARAYANA
- RAJASTHANA
- DELHI
- TELEGANA
- WEST BENGAL

As on July 31, 2017, 23 states and union territories (UTs) have either established their permanent or interim regulatory authorities. Under the RERA, every state and UT must have its own regulator. Developers will not be able to market their ongoing or upcoming projects, till they register either with the permanent or interim regulator in states. For ongoing projects, where completion or occupancy certificate has not been given, the deadline for registration ended on July 31, 2017.Only four states – Gujarat, Maharashtra, Madhya Pradesh and Punjab – have established their permanent Real Estate Regulatory Authority, while 19 states/UTs have established interim authorities, an official with the Housing and Urban Affairs Ministry said. Only 23 States/UTs have notified the rules under the Act, while six states have drafted the rules but have not yet notified. A total of nine states/UTs have appointed interim Appellate Tribunals under the Real Estate Act, while only seven states have started the online registration under the Act.

RERA IN THE STATE OF MAHARASHTRA

The Maharashtra Real Estate Regulatory Authority (MahaRERA) came into existence on May 1, 2017. Builders and real estate agents have been given a 90-day window, to register their new and ongoing projects, with the real estate authority, which ends on July 31, 2017.

RERA IN THE STATE OF UTTAR PRADESH

The Uttar Pradesh RERA Rules, have been notified and the state's RERA website was launched on July 26, 2017.

RERA IN THE STATE OF KARNATAKA

The Karnataka RERA Rules, 2016, was approved by the cabinet on July 5, 2017.

ISSN:2277-2995
Vol-8-Issue-12-December-2019

RERA IN THE STATE OF TAMIL NADU

The Tamil Nadu RERA Rules were notified on June 22, 2017. Exclusion/inclusion of projects for registration will depend on whether they lie within the Chennai Metropolitan Area (CMA) or outside the CMA, among other factors.

RERA IN THE STATE OF HARYANA

The state's cabinet approved the final Haryana RERA Rules on July 25, 2017.

RERA IN THE STATE OF RAJASTHAN

The Rajasthan RERA Rules have been notified and the website was launched on Launched on June 1, 2017. The state has designated the additional chief secretary of the Urban Development and Housing Department as the interim regulatory authority and the Food Safety Appellate Tribunal as the interim appellate tribunal.

RERA IN THE STATE OF DELHI

The Delhi RERA Rules have been notified. The vice-chairman of the Delhi Development Authority (DDA) has been designated as the regulatory authority for the National Capital Territory of Delhi, under the RERA.

RERA IN THE STATE OF TELANGANA

The Telangana government notified its RERA rules on July 31, 2017. The state's rules will be called the Telangana State Real Estate (Regulation and Development) Rules, 2017. They are applicable to all real estate projects, whose building permissions are approved on or after January 1, 2017, by the competent authorities.

RERA IN THE STATE OF WEST BENGAL

The West Bengal Housing Industry Regulation Bill 2017 was passed by the state assembly, on August 16, 2017. Once notified by the West Bengal government, all housing projects above 500 sqmetres or eight apartments need to be registered with the state regulator, the Housing Industry Regulatory Authority (HIRA). The bill proposes to bring the HIRA in place, over the next 60 days.

CONCLUSION

The government of India has implemented a separate Authority and development Act to protect agriculture and home buyers in India. In recent decades there is rapid increase in conversion of agricultural lands into real estate plots and layouts by the real estate industries in India. Which lead to decrease in agricultural output and scarcity of food crops. In addition to this the real estate transaction were heavily favor to the real estate owners not to home buyers. The RERA contributes much to regulate and promote 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 protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy. In this regard the government should ensure that the all states in India implemented without lacuna.

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Vol-8-Issue-12-December-2019

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