

CONSUMER PROTECTION IN REAL ESTATE TRANSACTIONS: A CRITICAL ANALYSIS OF RERA'S EFFICACY AND IMPLEMENTATION CHALLENGES

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Abstract

Real Estate (Regulation and Development) Act, 2016 commonly known as RERA is an Indian legislation passed by the Indian Parliament. The legislation aims at protecting the interest of homebuyers and nurture transparency, accountability, and efficiency in the construction sector. Even though RERA is a comprehensive law, it has struggled against enforcement issues such as lopsided implementation in different states, capacity limitations of regulatory authorities and procedural delays in grievance redressal with respect to the builder-buyer interface. The paper examines the legislative design of RERA, intent with which it was framed and institutional mechanisms stated, followed by an assessment on how much it has been able to close the gap between policy-design and reality. The book investigates whether RERA has achieved the twin objectives of protecting consumer and developers interests along with the development of a fair, competitive and sustainable real estate market landscape. The research further underscores the judgments that have limited its enforcement and explains the logistical barriers that subsume successes. This utilitarian blend adheres comparative examples from universal land administrative systems to present a domain-wide and point by point investigation of RERA's capacity for correction. The paper concludes with suggestions to enhance enforcement, increase the information base of stakeholders and improve effectiveness of dispute resolution in turn proliferating moon-roofed RERA into an effective consumer protection tool within real estate transactions.

Keywords: RERA, Consumer Protection, Real Estate Regulation, Implementation Challenges, Homebuyers' Rights

1. Introduction

Real estate has historically been one of the largest and most influential sectors in India, contributing massively to the gross domestic product (GDP) and creating vast employment opportunities. It comes with the territory of real estate, which includes residential, commercial and infrastructural development alike, often functioning as a thermometer for economic growth and urbanization. Urban India has witnessed massive transformation in the past few decades, with growing urbanization, migration to cities, increased disposable incomes and expanding aspirations of middle class. The massive surge resulted in growth of real estate projects in the metropolitan and tier-2 and 3 cities. But despite the critical nature, the industry has been grappling with issues such as delayed possessions, project cancellations, lack of transparency in transactions, misleading advertisements and knowledge asymmetry between buyers and developers for past many years. In most cases, homebuyers who had sunk their life savings to buy a dwelling unit found themselves hostage to the whims and

fancy of builders; there was practically no legal cure and no regulatory framework existed for redressal of their rights as well.

A lack of standardization combined with unregulated practices created a breeding ground for exploitation and malpractice. Sometimes developers took money from other projects, leading to years-long delays and half-finished buildings. The longstanding legal remedies that existed under the traditional civil litigation model were slow and clunky, thereby often rendering them impractical for individual buyers to enforce. Grey areas and confusion arising due to multiplicity of state-level laws, with real estate regulation faced issues of enforcement disparity as the real estate was a concurrent subject. This structural void created a growing consensus that called for a unique judicial procedure to catalyze public accountability, transparency and fast dispute resolution.

Consumer protection in real estate therefore evolved from simply a question of fair dealing to also being essential for preserving investor confidence and economic stability. Buying a house is different from buying any other consumer good because of the high-value and long-term commitment and also emotional investment for most people; hence carelessness here could lead to very serious consequences. This entangled them in complex legal documentation, hidden costs, change in project specifications and unavailability of authentic information on approvals and licenses. This asymmetric position between developers and consumers demanded a definitive regulatory intervention.

1.1 Need and Objectives for consumer protection

The Indian Parliament accordingly passed the Real Estate (Regulation and Development) Act, 2016, popularly known as RERA, which was enforced on May 1, 2017. The act was a landmark legislation that made the regulation of the real estate sector possible, safeguarded the interest of homebuyers and brought accountability among developers as well as realtors. It provided for the compulsory registration of real estate projects above a certain threshold with the Real Estate Regulatory Authority in each state, before they could be marketed or sold. Developers had to file information about their project starting from approved plan, layout, timely completion of the project with the status of approvals. Among these key reforms was the new rule which demanded that 70% of funds raised by developers must be kept in a separate dedicated escrow account, so those monies could not be used for any other project than the one for which they were meant to.

RERA's objectives are multifaceted. Thus the Act has at its heart the need to bring in transparency in real estate transactions by making project information available to general public through state RERA portals. Intended to hold accountable those in breach of these rules (and the false promises therein) with ever stiffer penalties. One of the important objective under RERA is to have a time-bound fast track dispute settlement procedure through Real Estate Appellate Tribunal, which provides buyers an effective option unlike before where litigation was the only way out. In addition to this the RERA aims at encouraging fair contractual practices, reducing uncertainties related with project specifications, and completing the projects on time as promised. In the process, the legislation aims to remove trust deficit that individually plagued homebuyers and developers.

On a macroeconomic level, RERA helps in structuring the industry leading to organized growth and investment by institutions and healthy competition among developers working under well-defined parameters. Enforcement of RERA also complements other government campaigns such as "Housing for All" and urban

renewal missions, thereby aiding sustainable real estate growth; with a renewed focus on consumer-centricity. The Act further standardizes a regulatory structure among all states, albeit by allowing for state-specific issues to be accommodated within that framework. But, the measure of RERA's success will be in its implementation, even with clear and big objectives from both parties. Solving this path from legislative intent to outcomes is further complicated by breaking administration bottlenecks, presenting a unified front in application of the Act across different states, as well as creating consumer awareness about their rights under the Act. This editorial introduction paves the way for a comprehensive examination of how well RERA has served its purpose, the bottlenecks it faces on the ground and whether indeed it can serve as one of the foundational stones in consumer protection in India's ever-changing real estate market.

2. Legislative Framework and Provisions of RERA

The Real Estate (Regulation and Development) Act, 2016 or RERA is a revolutionary legislation in the history of India enacted to bring transparency, accountability & discipline in the real estate sector. RERA, which is enacted by Parliament and commenced each state from May 1, 2017, brings a much-needed regulation in the real estate sector and seeks to establish a regulatory body for both residential and commercial real estate projects. This was born out of frustration from buyers for years over the mistreatment of those in desperate needs to close and buyer being pushback with delays or lack of standardization during some real estate transaction. It is an enactment of far-reaching direct that likewise gives solace to home purchasers for not so much new tasks but rather even those ventures which were under development as the need would emerge where there was no CC at the time it came forcefully.

The first and foremost step of RERA is the compulsory registration of real estate projects and real estate agents. It would require developers to enter their projects larger than 500 square meters or those with more than eight apartments before advertising, marketing, or selling them. This registration process requires promoters to provide a detailed narrative about the project, its approved plan, proposed completion schedule, audited financials, and details on the legal owner of the land. The intention is to share this with the public via state-level RERA websites, so that buyers can get reliable, to access to data in real-time allowing them an empowered choice. The important financial shields brought through RERA are 70% escrow account rule. Each developer will have to open a separate bank account and use at least 70% of the money realised from sale of units for construction and land cost, as per the draft. Withdrawals have to be certified by engineers, architects and chartered accountants to make sure as many funds cannot be siphoned off from one project to finance another allowing buyers money will go into the project itself.

The Act also prescribes strict deadlines for completing a project and developers are bound by the delivery schedule that has been declared at the time of registration. Any delay invites penalties, and if found guilty builders may have to pay compensation to buyers plus there are also interest payments. This clause is pretty much aimed at addressing one of the biggest bugbears in the industry that is the never-ending possession delays. Besides, RERA disallows any unilateral amendments to project plans including the layout or structural design without two thirds of allottees agreeing thereby ensuring that developers adhere to their original commitments. RERA also attempts to close the gap on dispute resolution as it sets up the Real Estate Regulatory Authorities at the state level for addressing complaints within 60 days. For most other decisions, appeals can be taken to the Real Estate Appellate Tribunal under tighter timelines than in the past. The

mechanism, to be notified under the proposed ordinance, seems to be a replacement for long and costly litigation which was seen previously when an aggrieved homebuyer approached the courts.

The Act provides penalties and punitive actions for failure to comply. Defaulters, however, could face fines of as much as 10% of the project cost or jail. These regulations also apply to real estate agents, who are bound to work ethically and prevent any lies about the properties to potential buyers. RERA's legislative framework gives home-buyers and investors greater protection in terms of fair practices, transparency, standards of delivery and regulatory oversight. The essence is to create a more transparent environment for the real estate sector which holds both developers to account but also protects consumers with legal remedies against breaches by the developer. And which in turn set the stage for a larger real estate market built on integrity, that made sure what was promised is actually delivered culminating in fairer and inflecting transactions in real estate across India.

3. Efficacy of RERA in Protecting Consumers

Almost three years since the Real Estate (Regulation and Development) Act or RERA was enforced in May 2017, it is generally believed that this has been a game-changer in providing extensive rights to consumers in real estate sector of India. RERA has changed the power equation further in favour of consumers by adding transparency, accountability and time-bound redressal to the mix. The mandatory project registration had been one of its most impactful provisions where it compels the homebuyers provided with actual details regarding layout plans, approvals, delivery timelines and financial standing of developers. Creating state specific RERA portals which made project data widely available for the public allowed buyers to make well-informed decisions as per real data not just a fabricated marketing propaganda.

The prescription that 70% of buyer advances need to be kept in a special account too has served well to safeguard the interest of consumers. The RERA Act has helped in curbing fund diversion since whatever money is collected can only be used for construction work of that particular project which minimizes the chances of delays or even abandonment. Furthermore, the strong provisions of penalty on delayed possession in the Act interest to be paid by developers to buyers have diminished any casual approach towards projects and acts as a project manager of unplanned and protracted delays. It has made developers plan better, be more financially disciplined and keep the promises of timelines at a greater priority.

The consumer-centric aspect is the prohibition imposed by RERA on unilateral changes to project specifications without the consent of two-thirds of allottees. Buyers have a strong case as a result to ensure that their investment cannot be easily changed in size, amenities or design. Secondly, the setting up of Real State Regulatory Authorities and Appellate Tribunals will provide a quicker resolution, much more efficient compared to what can be achieved from traditional civil courts. Cases that used to take years to resolve are now being processed in the 60-day timeframe, which should markedly help with timeliness of relief. Though RERA has empowered homebuyers and brought in more discipline in the sector, its effectiveness is not even across India. Proactive state governments have reported significantly improved compliance rates and resolutions, like Maharashtra, Karnataka and Gujarat with strong digital backbone. In states where the implementation and enforcement are lackadaisical, there were delays in instituting workable authorities, besides buyers being unaware of the law thus weakening RERA's promise. But regardless of this difference, the Act has clearly raised standards of accountability and restored a measure of confidence in the housing market but more importantly, created protective mechanisms which in part are preventative and in part

remedial that simply never existed before. With ongoing reforms and stringent implementation, RERA can be a truly revolutionary tool for consumer protection on the horizon of real estate in India.

4. Implementation Challenges and Gaps

While the Real Estate (Regulation and Development) Act (RERA), can be a game changer for consumers, its implementation has faced various challenges and inconsistencies that have derailed objectives. A core challenge is inconsistency in enforcement among the states. As land and real estate are covered in the State List of the Constitution, each state has been given the authority to make its own RERA regulations as well as have its RERA;}). This creates massive discrepancies involving operational effectiveness, compliance standards and the consumer protection landscape. While states like Maharashtra, which has been actively promoting RERA appears to have done reasonably well on this front, in others the authorities are still were yet to set up or operating efficiently or support and maintain an updated digital platform.

The greatest unaddressed gaps is with respect to delays in dispute resolution, even though the Act requires that a decision be rendered within 60 days. Overworked courtrooms, understaffing, inefficient procedures are commonplace and hearings too prolonged where buyers tend to lose confidence. Not only that, but the penalties as laid down by RERA are also flouted by some of the builders and developers who seek legal recourse to arguments invoking RERA's leniency or prolonged appeals in order to beat those. The consumer awareness is still a long way away from where it should be, especially in semi-urban and rural areas. A majority of homebuyers are unaware of their rights available under RERA, where to file a complaint and the essence behind checking the project registration before investing. This lack of awareness hampers the law's deterrent function and imbalance information in market. Successions of some kind in the legislation also made for easy bypass. Examples include setting minimum thresholds at 500 square meters and/or eight units in areas where developer activities would otherwise trigger mandatory registration, thereby allowing developers to plan projects in more manageable batches uninhibited by regulatory constraints.

Even under RERA, ongoing projects had met with different stages of being included in its purview due to interspersed state interpretations and left many buyers still unscratched The regulatory authorities suffer from capacity constraints from lack of trained personnel to outdated IT infrastructure that hinder the smooth functioning of RERA. At the same time, well-intentioned provisions are unlikely to be effective in the absence of resources. Overcoming these challenges necessitates following an overlap of rules, assembling more grounded implementation systems, continuous customer instruction, and organizational reinforcing to guarantee that the Google Sparking up for Homebuyers all out in the open Indian real estate.

5. Conclusion and Suggestions

The Real Estate (Regulation and Development) Act, 2016 (RERA) is considered the most important reform in India's real estate sector passed by the Indian Parliament to bring transparency and fairness in this sector of the economy to make better customer-the builder relation. The balance of power between developers and homebuyers was reversed with the introduction of transparency, financial discipline and consumer-centric provisions. Enforcement of compulsory project registration, 70% in escrow, no-change-in-design post-booking and model RERA consumer dispute adjudication have combined to infuse new buyer confidence and accountability into the business. However, the success of the Act is uneven, with issues of weak enforcement, delays in procedures and adjudication and deficiencies in consumer awareness and legislative loopholes limiting the impact.

In the ideal world, enforcement of standards should be done uniformly across all jurisdictions through central oversight so that buyers throughout the country obtain identical protection. In such scenarios, providing better staffing to the regulating bodies which empower them with digital ecosystem and training for the grievances will help faster resolution of complaints and efficient operations. Third, there is an urgent need to step up awareness campaigns both-a digital at one level and grass root in another tier, to acquaint home-buyers with their rights as also measures for registration checks with grievance redressal mechanisms. Fourth, legislative gaps should be closed, by reducing the exemption thresholds and improving the progressivity of non-compliant actors to prevent developers from continuing to escape the law. The regular performance audits of state RERAs and transparent publishing of case outcomes will incentivize accountability and help in spurring incremental improvements. RERA has essentially set the stage for consumer protection in real estate transactions. RERA has inbuilt potential to become an effective and transformative tool as long as the state governments that have implemented this do not slow down on it.

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