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RERA Act: A Reprimand Analysis

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The Real Estate Regulatory Authority (RERA) Act was introduced on May 1st, 2017, to safeguard the interests of buyers in the real estate industry and establish an arbitrating mechanism for swift dispute resolution. It is an act to establish a system that efficiently and openly controls and responds to problems like property prices, construction quality, title changes, and delays in completing projects. In recent years, the real estate industry has faced numerous difficulties. One of the industries with the highest international recognition is real estate. India's real estate sector is now going through some difficult times. The RERA act will also be covered in length, along with a full analysis of how the development has influenced the sector and its benefits and drawbacks. The article details how the act benefits buyers and how the RERA has lessened the burden. RERA was only passed in 2016, yet it has already had a significant impact. This essay will also discuss the proposal and the conclusion will be found in the last section of the essay.

Keywords: *rera act, registration, builder, promoter, area.*

INTRODUCTION

In recent years, the real estate sector has faced numerous difficulties. One of the industries with the highest international recognition is real estate. India's real estate sector is now going through some difficult times. One of the significant pieces of legislation adopted by the Indian

government is the Real Estate Regulation and Development (RERA) Act, 2016, implemented in 2017. It aims to improve India's real estate industry by promoting better responsibility, disclosure, and financial restraint to advance the real estate sector, Due to the unstructured nature of the industry, the amount of black money was excessive, and it was impossible to track transactions, and so this legislation was passed to close the loopholes. Even though the RERA act is for the public's benefit, those working in the real estate industry are having a lot of difficulties. While the RERA act has mostly focused on the public, it is also having an impact on the real estate industry's economy at a time when they are already experiencing significant difficulties in its operations. Legislation passed in 2016 that is relatively recent is the RERA Act. A wide range of remedies have also been mentioned, and all conceivable legal scenarios have been carefully considered when creating the rules. Despite this, disagreements continue to arise as a result of developments in technology, market forces, transaction methods, and other areas. Since the law cannot be changed frequently, orders made as part of a judgment would be valid in their applicability.

BACKGROUND

It is common knowledge that one of a person's necessities is a place to live. The right to work, health, social security, the right to vote, the right to privacy, and the right to an education are just a few of the rights that may be conditional upon having access to suitable accommodation. Humans have an innate desire for a safe, secure, and adequate dwelling. Given the housing crisis's seriousness, international and regional human rights law now recognizes the right to housing as a fundamental human right. Several States have shaped their legal systems to include the right to housing as a fundamental civil right following international human rights legislation. The Indian judicial system has shown admirable interest in the right to housing and has construed it in light of the right to life guaranteed by article 21 of the Constitution. It has been observed that the demand for housing has greatly increased over time. The Real Estate Regulation Act (RERA) was introduced on May 1, 2016, when 59 of its 92 sections were notified, and the other sections did so on May 1, 2017, to emphasize its significance and promote transparency.

This act, which aims to promote and regulate the activities of construction and sale of buildings, apartments in the buildings—whether residential or commercial—and carved out throughout the country, except for the state of Jammu and Kashmir, was enacted by the Union Government in response to the widespread abuse and malpractices involved in the real estate sector. The Rajyasabha and Loksabha passed the Real Estate Bill on March 10 and March 15, respectively, and the President signed it on March 25. On March 26, 2016, the same was released in the official gazette. The RERA has made life simpler for customers, and each state has its own set of regulations. The act's fundamental framework has not changed, but the state has been permitted to make some modifications as needed.

DEFINITIONS

- **ALLOTTEE: Section 2(c)** of RERA defines the word Allottee. The buyer of the building, apartment, or land is known as the allottee. The allottee, who may also be the recipient of a transfer of the property, is the individual to whom it is allotted.
- **ADVERTISEMENT:** The definition of "Advertisement" is found in **Section 2(b)** of the RERA. It states that "advertisement" is defined as "any document described or issued as advertising through any medium," which includes any notice, circular, or other documents or publicity in any form informing people about a real estate project or advertising the sale of a plot of land, a building, or an apartment, as well as the ability to make advances or deposits for such purposes.
- **CARPET AREA:** The carpet area is the total amount of floor space that can be used in an apartment, eliminating any space occupied by exterior walls, areas below utilities, balconies, etc. It includes all of the apartment's interior partition walls.[1]It explains in **Section 2(k).**

  Sum of All Area = Carpet Area

- **BUILT-UP AREA:** The term “built-up area" refers to structures that have exterior and interior walls, carpeting, utility ducts, and other structures.

[1] Real Estate (Regulation And Development) Act 2016, s 2

Built Up Area = Carpet Area + Area of Walls + Utility Area & Interior Part

- **SUPER BUILT-UP AREA:** The built-up section of the land and shared spaces like the clubhouse and swimming pool are included in the super built-up area (proportionate to the house)

  Super Built-Up Area = Built-Up Area + Proportionate Common Area

THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 (RERA)

RERA was put into place to promote transparency and uniformity. Numerous problems existed between consumers and suppliers before the RERA. They had to deal with several issues, but they were unable to address them since there were no appropriate norms and regulations. Consumers were the ones who suffered the most from all of these problems, and the largest difficulty has been the wait. There are a few more problems, thus this law was put into effect.

Features of the acts are:[2]

- Any issues involving real estate developments in the relevant state will be monitored, decided, and arbitrated by this authority.
- The creation of a fast-track dispute resolution process. An appellate tribunal and specialized adjudicating officials will be used to accomplish this.
- If RERA receives any complaints that are confirmed to be accurate following an investigation, a project's registration may be revoked.
- The RERA website should be updated with all relevant information regarding the plot, building, or any other registration-related issue. It ought to be updated regularly.
- The buyer must provide all supporting documentation for any tasks they undertake. Without the customer's permission, the builders are not permitted to make any adjustments. This facilitates a seamless transaction.
- Making sure that the sale of houses, apartments, land, buildings, or any other type of real estate project is transparent.

[2] Ankita Singlai, 'Features of The Real Estate (Regulation and Development Act, 2016' (*TaxGuru*, 30 August 2018) <https://taxguru.in/corporate-law/features-real-estate-development-regulation-act-2016.html> accessed 07 October 2022

- Creating a dispute resolution process for a quick resolution.
- Safeguarding purchasers' and allottees' interests in the real estate industry.
- Employing authority as a channel to build a trusting relationship between the promoters and the consumers.
- Within 30 days, you'll receive an acceptance or rejection; if you don't hear anything, it's assumed to be accepted.
- It cannot be more than 10% of the price if a promoter wants to charge an application fee or an advance payment from a purchaser of a plot, an apartment, or a building. Additionally, advance payment or the appliance fee is only collected once the promoter and the client sign a formal document pertaining to the sale of the property and the sale is officially recorded.
- Every promoter will be required to have insurance covering the ownership of the structure, the land, and every project's building phase.
- 70% of the number collected from the buyers for a project has to be deposited in an exceedingly separate account. This account, ideally, should cover the value of construction and of the land. It can only be withdrawn after the promoter receives certification from an architect, a controller, and an engineer
- This act assures that the funds received for a project will stay in the designated escrow account; as a result, each project will have its account and all payments for project-related expenses will only be paid to that account.
- The carpet area, a built-up but not super-built area, has now been established by RERA. The builders are entitled to bear the costs associated with the delay if there is any delay in completion.
- Registration is critical since, without it, a regulator is unable to market or sell structures.
- Promoters may need the previous written approval of two-thirds of the allottees to transfer or assign the bulk of their rights and obligations in an extremely property project to a third party (not including the promoter). You might also require RERA's written permission.

- Both the promoter and the consumer risk paying the same rate of interest if there is any default on either side.
- The promoter must make up any losses the client suffers as a result of someone assuming ownership of property that is either being built on or has already been built (due to a faulty title to the property). There is now no legal restriction on the amount of compensation that is allowed.
- A complaint should be made to RERA if someone believes that a promoter, buyer, or agent has violated any of this Act's rules or provisions. RERA has the power to prevent an agent, promoter, or buyer from carrying out any actions against which a complaint has been made while an investigation is under place.
- The party who has been wronged may appeal RERA's decision to the Appellate Tribunal if it is unsatisfactory in any way.
- The promoter will have to pay a fine if they disobey RERA's directives. This sum might equal up to **five times** the property's estimated cost.
- If it appears that the Appellate Tribunal's orders are not being followed, a fine will have to be paid. A fine of up to 10% of the project's estimated cost, up to three years in prison, or both are possible penalties.
- If a corporation violates this Act, both the corporation and the person in charge at the time of the violation are considered culpable and subject to punishment.
- Regarding any subject that falls under RERA or the Appellate Tribunal's purview, no civil court shall have any authority. As a result, no court has the authority to restrain RERA or the Tribunal from taking any particular action.

The Government of India's Real Estate Regulatory Act announcement has resulted in some requirements that the promoters must follow in order to legally build or sell a property in light of the growth in conflicts between buyers and promoters. The Indian real estate industry has undergone some significant changes as a result of RERA. The government's steadfast commitment to upholding fair play in the real estate industry, a private sector, has given buyers great comfort. Real estate agents would feel glad and satisfied in addition to the purchasers, promoters, and real estate agents who go by government regulations yet incur some loss due to

some unethical practices by some promoters. Only four states currently have a permanent regulator; they are Gujarat, Madhya Pradesh, Maharashtra, and Punjab. The other states are collaborating with temporary regulators. Six states have prepared the rules but have not yet been notified, and only 23 States/UTs have been notified of the rules required by the Act.

WHY RERA?

Indian real estate has been on the verge of collapse since 2012 as a result of factors like unemployment, the economic crisis, low rental yield, inventory buildup, unclear taxation, and arbitration. Uncertain delays or obstructions are concerning to a home buyer who is investing his entire life savings in the property. Brokers or real estate agents take advantage of contacting prospective homebuyers by lying about the caliber of the development and completion. They give prospective buyers false information about the property's resources. Home buyers have long complained that real estate deals were rigged and drawn out in order to the developers' benefit. The goal of RERA and the government's model code is to create a more equitable and righteous property sale and purchase process, particularly in the primary market. If states do not undercut the rules and the heart of the main legislation, RERA will make buying real estate simple by introducing superior accountability and transparency.

WHAT PROJECTS ARE COVERED BY RERA? (Chapter II)

The following types of projects are likely to fall within the RERA:

- Commercial and residential projects, including plotted development
- Projects larger than 8 units or 500 square meters [indicates in **section 3(2)(a)**].
- Before the Act's inception, projects lacked a certificate of completion **[section 3(2)(b)]**.

The project will not fall under RERA if it is merely for maintenance, repair, or redevelopment and not for re-allotment, marketing, advertising, selling, or fresh allotment of any apartments, plots, or buildings in the real estate project. The RERA will serve as the first regulator for the real estate sector in India. The Real Estate Act requires that a regulator be established in each state and union territory and that regulations be written to govern how the regulator would operate.

REGISTRATION UNDER RERA

One of the key components of RERA is registration. **Section 4** of the RERA Act talks about the application for Registration. It is a certificate covered by the Real Estate Act, RERA Registration was developed to address problems in the real estate industry. Before marketing, booking, selling, offering for sale, or asking people to invest in any lot, apartment, or building, RERA registration is essential. A builder cannot sell a unit, site, or building without first registering, according to the RERA. Building registration is necessary in order to sell the building; otherwise, the transaction cannot take place.

On the application of **section 3(2)** the following real estate projects are **exempt from Section 3** of RERA's registration requirements:

- Where the land size is no greater than 500 square meters or there are no more than 8 (eight) units;
- Where the Promoter has a real estate project that has been completed before the RERA was implemented, and
- When the work is restricted to renovation, repair, or redevelopment and does not involve marketing, promoting, selling, or the new allocation of any apartments, plots, or buildings.[3]

Registration Documents for Projects[4]

Under **Section 4(2) of RERA**, the following copies are necessary when a promoter submits an application for registration.

- Pan Card
- Bylaws are included in the registration details.
- Memorandum of Association.
- Articles of Association.
- Verified copies of each letterhead.

[3] Saloni Sharma, 'India: RERA: Registration Of Real Estate Projects- A Brief Overview' (*Mondaq*, 29 March 2018) <https://www.mondaq.com/india/real-estate/687878/rera-registration-of-real-estate-projects-a-brief-overview> accessed 07 October 2022

[4] Real Estate (Regulation and Development) Act 2016, s 4

- Information about income tax returns (prior 3 years .)
- Rubber-stamped self-certified letterhead copy.
- Acceptance receipts will be used by real estate agents.
- A promoter's audited balance sheet from the previous financial year.
- If any other entity exists, the name, address, phone number, and picture of the promoter/ director/ partners/ chairman/ any other authorized person, must be provided.
- Information about construction technologies, earthquake-resistant practices, and other criteria for architecture and design.
- The floor plan for the construction project.
- Information about the encumbrances on the planned land where the construction project will take place.
- Information on the sub-judice proceedings relating to the intended use of the land for real estate (if applicable).
- The number of covered parking spaces.
- Information on the layout design, the floor space index, the proposed plan, the approved plan, etc.
- The proposed number of wings or buildings, etc.

A statement made by the promoter and backed by an affidavit, including the following -

- That the Promoter has a valid title to the property where development is being contemplated;
- The specifics of all liabilities against such property;
- The time frame that the Promoter commits to finishing the real estate project;
- On a periodic basis, the Promoter would deposit in a separate bank account, 70% of the revenue realized Real Estate Project from the Allottee(s).

These are the papers necessary for registration. Additionally, if any of the required documents are falsified or absent, the authorities will not issue authorization, and they may potentially suffer serious ramifications.

***Durability of Registration*[5]**

The registration will only be valid for the time frame that the promoter has specified. The registration is valid until the completion date specified by the promoter. However, under **section 6 of RERA**, there are some circumstances or exclusions when they might extend the deadline.

- Force Majeure: Any event brought on by a natural calamity or delay brought on by nature, such as an earthquake or a tsunami. This might justify extending the deadline.
- Other Factors: The promoters' authority may be extended for a maximum of one year if they provide a fair or sufficient justification.

These are a select few exceptions. Any other justification is prohibited, and if it arises after the timeframe, it is void.

SUBMITTING A COMPLAINT UNDER THE RERA (Section 31 of RERA)

- Any person whose rights have been violated may file a complaint alleging a violation of the RERA.
- A person has complete authority to seek an appeal within 60 days if they disagree with the decision that was made.
- If a person disagrees with the Appellate Tribunal's ruling, they have 60 days to bring a lawsuit in the High Court.

PUNISHMENT UNDER RERA

ON PROMOTERS

- Under **section 59** of RERA, 10% of the building's projected cost will be assessed for projects that are not registered.
- Breaking the law is illegal. The penalty is three years in prison or a fine equal to 10% of the building's cost.
- Under **section 60** false information is punishable by a fine equal to 5% of the building's cost.

[5] Real Estate (Regulation And Development) Act 2016, s 6

- If other offenses happen 5% of the building's cost will be levied under **section 61**.

ON AGENTS

- Under **section 62**, non-registration is charged Rs.10,000 per day or 5% of the building's overall cost.
- Daily fines could equal 5% of the building's cost for noncompliance with the authority under **section 65**.
- Noncompliance with tribunal orders One year's imprisonment, with or without a fine. The penalty might be as much as 10% of the building's cost under **section 66**.

These are the violations covered by RERA and the associated penalties. Every offence carries a penalty. Most infractions committed by builders, agents, or homebuyers are now covered under the RERA laws. The RERA statute is strict, and it has improved how well the industry functions. These measures will also aid in lowering corruption and escalating building fees. In order to ensure that there are penalties for breaking the law, the RERA was implemented.

FORFEITURE OF REGISTRATION (Section 7 of RERA)

The circumstances under which registration may be withdrawn are described in **Section.7** of the RERA statute. The following circumstances are when registrations may be canceled:

- The Authority may cancel the registration granted under Section 5 after concluding that- upon receiving a complaint, suo moto in this regard, or upon the suggestion of the competent authority.

a. The promoter neglects to take any action that is required by or pursuant to this Act, its rules, or its regulations;
b. Any of the conditions or terms of the competent authority's approval are broken by the promoter;
c. The promoter engages in any unfair practices or inconsistencies.

For the purposes of this clause, under **section 7 (1)(c)** an **'unfair practice'** is defined as a practice that employs any unfair method or unfair or deceptive practice, including any of the following methods, in order to promote the sale or development of any real estate project:

The act of expressing any statement, whether or not it is expressed in writing or by a visible representation –

- makes a misleading claim that the services meet a certain quality or grade;
- claims to have affiliations or approvals that the promoter does not have;
- makes a false or deceptive statement about the services;

The Promoter authorizes the publication of any prospectus or advertisement, whether in a newspaper or elsewhere, for services that are not intended to be made available;

a. The promoter engages in any dishonest behavior.

- The Authority may not revoke the registration granted to the promoter under **Section 5** unless it has given the promoter at least 30 days' written notice outlining the reasons for the proposed revocation and has taken into account any arguments made by the promoter during that time period in opposition to the proposed revocation.
- Instead of revocation under subsection (1), the Authority may allow the registration to continue in effect subject to any additional terms and restrictions that it deems appropriate to impose in the interest of the allottees. Any such terms and conditions imposed shall be binding upon the promoter.

Following the Revocation of the registration, which comes under **section 7(4),** the Authority,

- Should prohibit the project's promoter from accessing its website, include him on a list of defaulters, post a picture of him on the site, and notify other real estate regulatory authorities in other States and Union territories of such cancellation or registration;
- Shall promote the completion of the remaining development projects in compliance with **section 8**'s requirements;
- Will instruct the bank holding the project back account mentioned in **sub-clause (D) of clause (I) of subsection (2) of section 4** to freeze the account and then take any additional necessary actions, including the resulting de-freezing of the said account, in order to facilitate the remaining development works in accordance with the provisions of section 8;

- Can give any instructions it sees fit to preserve the interests of allottees or act in the public good.[6]

The registration may be canceled if there are any illegal actions or unfair business practices. Revocation of registration occurs in very few instances, however, whenever an act violates the law or is illegal, it will be revoked.

JURISDICTION OF RERA

The Real Estate Regulation and Development Act (RERA) went into effect in several states on July 1, 2017. The scope of the RERA Act is not limited to new projects that will begin after the implementation of the RERA Act, but also includes projects that were ongoing on the date of the Act's enactment and had not received a completion certificate from the relevant Authority under **section 3(2)(b)**. A legal question recently arose before the Maharashtra RERA Authority regarding whether the jurisdiction of the RERA Authority is ousted in cases of termination of the agreement prior to the implementation of the RERA Authority.

The buyer made a substantial payment to the builder in the case of *Chauthiprasad S. Gupta v M/S Nahalchand Laloochand Pvt. Ltd*, and the builder executed and registered a sale agreement for a unit in NL Aryavarta at Dahisar (East), Mumbai. According to the buyers' version, the builder unilaterally terminated the sale agreement via a termination letter without providing the buyer with an opportunity to be heard. As a result, the buyer makes a petition before the Authority for instructions to withdraw the termination letter and to award interest and compensation.[7]

The builder denied the buyer's claim, claiming that because the agreement was terminated prior to the implementation of RERA, the RERA authority lacked jurisdiction to hear the current complaint. Furthermore, the builder contended that the termination of the agreement was in accordance with the terms of the agreement and thus requires no intervention from the Authority. Concerning the builder's jurisdiction claim, the Authority determined that the project

[6] 'Section 7: Revocation of registration - The Real Estate (Regulation and Development Act, 2016)' (*Aaptaxlaw*) <https://www.aaptaxlaw.com/real-estate-act-2016/section-7-real-estate-act-2016-revocation-of-registration-section-7-the-real-estate-regulation-and-development-act-2016.html> accessed 09 October 2022

[7] Varun Singh, 'MahaRERA terms developer unethical with unscrupulous behaviour' (*DNA*, 13 May 2018) <https://www.dnaindia.com/mumbai/report-maharera-terms-developer-unethical-with-unscrupulous-behaviour-2614447> accessed 09 October 2022

in question meets the definition of an ongoing project and is registered under **Section 3** of the RERA Act. The RERA Authority's jurisdiction over such projects continues until the project is completed and the promoter's obligations regarding the project are fully discharged. As a result, the authority determined that the RERA Authority has jurisdiction to hear such cases. To summarize, builders today cannot avoid liability by claiming non-maintenance of the complaint if the project is registered under RERA and has not yet received an Occupational/Completion certificate.

EFFECT OF RERA

Initially, much work must be done to register both the existing and new projects. Details such as the status of each project completed in the last five years, promoter information, detailed execution plans, and so on must be prepared. With the implementation of RERA, specialized forums such as the State Real Estate Regulatory Authority (under **section 20**) and the Real Estate Appellate Tribunal (under **section 43**) will be established to resolve home-buying disputes, and the aggrieved party will have no recourse to other consumer forums or civil courts in such matters. While the RERA lays the groundwork for expedited dispute resolution, the litmus test for its success will be how quickly these new dispute resolution bodies are established and how these disputes are resolved expeditiously and with a degree of finality.

RERA's Effect On The Buyer: RERA was created to protect property buyers' rights and interests. To increase transparency in project completion status, developers must disclose the construction status on the Authority's official website. After receiving the registration number from the authority, this must be done every quarter or every three months. In the event of a breach of contract by the promoter/builder, the buyer/allottee may file a complaint with the Authority online. Buyer/allottee complaints are required to be resolved within 120 days. Builders/promoters are not permitted to make any structural changes to the building without the prior consent of all buyers. All of these actions, in addition to those specified in the Real Estate (Regulation and Development) Act 2016 provisions, are anticipated to increase investor trust.

RERA's Effects on Developers and Promoters: Builders are required by RERA to register important project-related statistics. This covers the layout of the project, the promoter's information, Uncontested title to the land should exist, the status of the relevant authority's statutory approval, agreements that adhere to all of the timetables listed in the RERA statute, Information about the brokers, architects, and contractors and at last the fitness certificate from Chartered Accountant and Engineer.

The promoter/builders risk severe penalties if they fail to register this information. A five-year agreement between the builders and the buyer is in place to ensure the building's quality, and this agreement is based on the day when the buyer takes ownership of the building. This means that if any structural problems or poor building quality are discovered within five years of a property being sold, the builder or promoter is responsible for fixing them or making up for the cost. Additionally, they must see to it that the Resident's Welfare Association is established within three months of the project's completion. The customers could request a refund under RERA Act, 2016, **section 18** if a developer was delayed or they were unhappy with the house.[8]

They must specify the actual size (carpet area) of the property in addition to the other crucial facts that were previously given to the buyer. They are no longer permitted to cite the super-built area (i.e., common area, verandah, etc.) as the property's size. They are unable to charge the customer the amount for a super built-up area as a result. Only after receiving RERA permission may developers begin selling. Due to the requirement that 70% of the project cost that the builder receives be placed in an escrow account and used for the same project, RERA also restricted the builders' liquidity. Before authorizing the withdrawal of funds from the escrow account, certificates from a CA and an engineer are required.

RERA's Effect on New Projects:[9]Any project with more than 8 flats or a footprint larger than 500 square metres must register with RERA. Each phase of construction must be registered separately by the developers with the State Authority. Builders are unable to pre-launch a project since they must register new ones. Pre-launches used to be the main method of funding.

[8] Real Estate (Regulation And Development) Act 2016, s 18

[9] Riya Kapoor, 'RERA Impact on new launches' (*RERA Filing*, 21 June 2017) <https://www.rerafiling.com/rera-article-detail.php/443/rera-impact-on-new-launches> accessed 09 October 2022

There is a limit on the number of deposits that buyers may give builders. A builder is not permitted by RERA to request an initial deposit of more than 10%. If a project is advertised without first registering it with RERA, this is also prohibited; under **section 59** of the RERA act, RERA may send notice to the builder and take action against the project.

The Act also addresses the delays in building and the quality of the development, which are two significant difficulties for buyers. In either scenario, the builder will be responsible for making up for the buyer's loss if they disregard the RERA rules. The initial contract that the parties sign specifies the pay. Additionally, it details the amount of interest that the builder shall pay in the event that the building is delayed.

RERA's Effect on Ongoing Projects:[10]Due to RERA, developers who still have unfinished projects may run into trouble. According to the Act, all active projects must now register with the regulatory authorities before continuing with their completion. Additionally, they are not allowed to promote or advertise the property prior to registration. These actions are expected to cause significant delays in the development and sale of the current site. Before giving the buyer ownership, RERA requires builders to issue an occupation or completion certificate. There are already thousands of apartments in all of India's main cities, including Mumbai and Bangalore that have failed to do this. Another worry for these developers is whether or not they will receive the certificates on time as this depends on the Municipal Corporation for projects inside the planning area and the Gram Panchayat for projects outside of the planning area. In situations when developers ask for an extension, the authority will decide how much time is given for project completion and may also impose a fine for the delay.

RERA's Effect on Agents and Brokers: Indian real estate agents have always been a portion of the industry that is not organized. However, under the new legislation, brokers must register in order to facilitate a transaction. In India, where the real estate industry is disorganized and uncontrolled, it is estimated that there are 5,000–9, 000 agents. Brokers are not permitted to guarantee any facilities or services that are not listed in the agreements as long as RERA is in

[10] 'Is RERA Applicable to Ongoing Real Estate Project?'(*Property Adviser*, 22 July 2019) <https://propertyadviser.in/news/real-estate/is-rera-applicable-to-ongoing-real-estate-project-552> accessed 10 October 2022

effect. Additionally, they must hand over all relevant information and paperwork to the homebuyers at the time of booking. Since brokers who violate the rules risk severe fines, jail time, or both, RERA is likely to weed out the unskilled, unprofessional, fly-by-night businesses. Brokers won't be permitted to sell houses under RERA if they haven't registered with the Authority. In the event that they provide buyers with inaccurate information about the property, they may potentially face penalties. However, industry participants worry that many unorganized brokers would lose their jobs as a result. To register as an agent, agents must pay a fee. Many agents would decide to close their businesses, citing factors such as loss of confidence in builders and a lack of rewards for agents under RERA.

ANALYSING THE ACT

According to the RERA Act, the developer must specify the date and time of the project's completion when registering the project. If the developer fails to do so, strict action will be taken against them, including heavy fines and penalties, as was the case in *Bindu R. Jaisingh v Ekta Parkville Homes Pvt. Ltd*[11]. In the aforementioned case, the builder was given instructions by the authorities to give the complainant possession of the apartment that was in dispute before a specific deadline, and in the event that the builder disobeyed the order, the purchaser would be entitled to interest on the full amount that had been properly paid by the purchaser up until the actual time of custody.

RERA has established consistency in the real estate industry with regard to carpet areas and common areas, which will stop frauds such as alterations in layout, area, agreements, specifications, and information on the broker, architect, and contractor, among other things. The booked homes or office spaces must be delivered by the developers on schedule. If not, the developer may face strict reparations and imprisonment. At the moment of handover, the same functionalities that were promised at registration must be provided. If not, the builder may face consequences. It is necessary to specify the carpet area rather than the built-in area, which is more than the former by at least 20 to 30%. Before selling any property or office space, clearance must be obtained from the relevant government agencies. Each project that a developer

[11] Harsh Bhushan, 'Impact of RERA in Real Estate Sector in India: An Analysis'(*IJPIEL*, 03 January 2022) <https://ijpiel.com/index.php/2022/01/03/4488/> accessed 10 October 2022

promotes needs to have its own bank account set up. Within a year following the handover, the buyer may approach the developer with any building defects and receive a free repair.

The benefits outweigh the drawbacks, and this is a positive step toward assisting the ordinary man in receiving the timely delivery of his ideal home and being able to purchase it at a fair price. The new bill's rules and restrictions do not apply to ongoing projects or initiatives that are hampered by clearance concerns. The timely distribution of items may be hampered by government agency delays in clearance and approval. Small developers with projects smaller than 1000 square meters are not subject to the provisions of this legislation and therefore are not required to register with the regulator. The introduction of new projects may be delayed because projects cannot be started without clearance. However, the developers believe that the RERA has quickly altered the market's characteristics. The RERA, according to - Anita Arjundas (managing director of Mahindra Life Space) is India's first genuine effort to govern a sector that has a reputation for being less than transparent. We might summarize the first year after the Act's implementation as one of change and turbulence, but also as one that carries the promise of fresh prospects.

CONSEQUENCES OF RERA ON THE ECONOMY

One of the largest contributions to the Indian economy is the real estate sector. This industry has contributed to the nation's growth and advancement. The RERA was implemented to improve the efficiency of the business, but it has also had a significant positive impact on the economy. Following the implementation of RERA, the Indian economy has suffered. The main problem was that the money paid for a flat, site, or building could not be utilized for any other purpose. The norms and regulations of RERA are highly strict. This prevented a normal monetary flow from occurring. The real estate sector is consolidating as unorganized players struggle to meet RERA's strict regulatory requirements. It is now obvious that the only developers who can be trusted will prosper in the future. When a buyer is confident of receiving high-quality goods within the allotted timeframes, this is frequently advantageous.

Home purchasers may even anticipate a risk-averse journey with RERA in place. In accordance with RERA, the developer must give the client a written affidavit certifying that the legal title to

the property on which the development is proposed contains valid documentation of ownership. A type of indemnity insurance that protects against loss from claims in title to holding is title insurance. This type of insurance offers protection for a past event that gave rise to a dispute, unlike other insurance types that cover potential loss.[12] Permanent problems can be solved by implementing RERA. There aren't many problems left unresolved. The RERA statute offers a long-term fix to pressing problems. It is clear that there are certain concerns since RERA has only recently been passed, but they are issues that will benefit in the long run. It will aid in future development as well as help to limit options. The RERA act is a law that unites all builders; as a result, there will be more competition and higher-quality construction as a result of the increased unity.

Additionally, customers will have the utmost faith in the builders and the company. This will facilitate improved business. It makes sense that there may be some problems when a new law is put into effect, but in the long run, it will help the industry expand. Of course, the introduction of RERA had an impact on the Indian economy, particularly on the real estate market. Due to numerous RERA provisions that do not benefit the real estate industry, compliance with the law is quite challenging for the sector. Future sector and economic benefits will result from the implementation of RERA, but some adjustments must be made and improvements must be made so that both builders and consumers may easily abide by the law. This act has a significant impact on the real estate industry, and while there are many drawbacks for the builders, it has considered the interests of consumers throughout its development, making it a big benefit to consumers.

SUGGESTIONS

- The concept of 'ongoing projects' should not be subject to state exceptions; this concept as it has been created conflicts with one of the key goals of RERA, which is to give homebuyers transparency and better conveyance. This matter is crystal obvious according to Central RERA. States should reject any requests for exclusions and support the straightforward but precise definition of "ongoing projects."

[12] 'RERA…the impact on the Industry' (*The Hindu*, 13 May 2018) <https://www.thehindu.com/life-and-style/homes-and-gardens/rera-the-impact-on-the-industry/article23773437.ece> accessed 10 October 2022

- Keep government organizations responsible for the delay in approving requests; Any delay in obtaining the necessary government approvals for a real estate project (such as an ownership certificate, a land use conversion, an environmental and pollution no-objection certificate, a non-encumbrance, road access, and other infrastructure-related approvals) can cause projects to be delayed. Each approval process should be given a legal deadline to avoid the possibility of delivery delays.
- All state laws should maintain the RERA's provisions for enforcing violators with fines and incarceration. The states should eliminate the ability to compound imprisonment or other penalties under state law for various offenses.

The Central RERA 2016 advises imprisonment for a term, which may be extended up to three years, or a fine up to 10% of the projected cost of the real estate project, or both, in cases of non-compliance for developers, real estate brokers, and buyers. However, all other states and union territories—aside from Kerala—have incorporated a provision allowing for the compounding of offences in order to escape imprisonment, whereas Goa is left out of this draught. RERA is a quasi-judicial entity, hence a significant part of having faith in its appeals process is trusting in its ability to resolve disputes. Therefore, the Central RERA provisions for punishment of infractions, in the form of imprisonment and fine, should be preserved intact in all state laws rather than serving to replace any particular punishment.

- To prevent a disagreement between the IBC, 2016 (Insolvency and Bankruptcy Code, 2016) and RERA, clearly define the class of creditors that includes homebuyers. Recent developments underscore the issue of builders filing for bankruptcy in current projects. As "unsecured creditors," homebuyers may have their rights violated in such circumstances. Even if the new Bankruptcy Act is applicable to these projects, home buyers' rights must be protected in a systematic approach.
- Design the IT infrastructure; the long-term viability of this groundbreaking law requires a flourishing IT infrastructure for RERA, together with an effective and efficient monitoring mechanism and prompt redress of complaints in case of infractions.

CONCLUSION

The statute represents an improvement in the real estate industry's openness, the developers' and promoters' accountability, and the establishment of effective venues for grievance resolution. As a result of the strict rules and regulations in the highly corrupt sector, there will be less litigation. As the nation works to improve its ability to meet developmental demands through urbanization, the last few decades have seen an increase in the amount of focus paid towards the positive urbanization process in the context of the country's rapid transformative process. A standardized Real Estate Regulation Act is required in a nation like India in order to establish similar standards across the board and increase transaction transparency.

Implementing a law like RERA is a decisive step in the correct path for increasing customer, promoter, builder, etc. awareness. The modernization of land records, land acquisition, and GST may be prioritized in the future along the lines of RERA to support the expansion of the real estate industry. The project specifications, project agreements, and legal frameworks must be complied with by all parties involved, including builders, promoters, agents, and allottees. Additionally, it should be mentioned that the owners of real estate are responsible for making sure that allottees are content with their homes' circumstances and that they are properly maintained. The RERA is dedicated to the successful and efficient implementation of the nation's real estate law and has made appropriate and consistent steps for the sector's steady development. Various policy measures implemented under the RERA will undoubtedly produce notable improvements in the economic and social transformation in order to foster the sustainable development of the RERA along with a customer-friendly environment.