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RERA – IS IT REALLY JUSTICE DONE FOR ALL.

AUTHORED BY - SIDDHARTH BHATTACHARYYA

INTRODUCTION:

One of a person's fundamental needs is a place to live, and everyone wants one of their own, even if purchasing one requires a significant financial commitment. In addition, in order to construct and acquire ownership of a home, an individual must associate with builders who have their own set of terms and conditions, further complicating the process of building a home for the average person.

Prior to the implementation of the RERA (Real Estate Regulating Act), 2016, there were many delays in the work from the developers and a lack of transparency and consistency in the home-buying process due to the absence of government regulations or unregulated real estate sector. However, with the introduction of this legislation, the process is now much simpler and more transparent.

The Real Estate (Regulation and Development) Act, 2016 is an Indian parliament act that aims to increase investment in the real estate sector while safeguarding homebuyers. Even while the Act's provisions have greatly benefited us, the process of putting them into practice doesn't seem to be that simple, and registering a project under RERA still presents many challenges.

THE COVERAGE OF RERA:

On March 10, 2016, the Rajya Sabha and the Lok Sabha passed the Real Estate (Development and Regulation) Act, which became operative on May 1.

- The slogan of RERA is that "the buyer is the king and builders must ensure compliances to avoid punishment".

Security: According to the RERA act, a minimum of 70% of the funds belonging to investors and buyers must be placed in a designated account. After that, the builders will only be able to use the remaining 30% for costs associated with building and land. Before the sale contract is signed, developers and builders are not permitted to demand more than 10% as an advance payment on the property.

The 70:30 idea about the sale proceeding that the promoter received and the establishment of a separate bank account with the designated bank (Section 4(2)(i)(d)).

- Its primary goal is to minimize work delays or ensure that the project is completed on schedule.
- The RERA regulations apply to any construction projects involving 500 square meters or more than eight flats.
- In addition, all current and under-construction projects that do not yet have an occupation certificate are required to submit an application for an RERA certificate. If the project doesn't start the developer can't accept more than 10% of the total cost.
- Seventy percent of the funds that are received from the buyers will be placed in an escrow account that will only be used for project construction.
- To offer structural upkeep for five years following the transfer of ownership.
- Within 30 days after receiving the complaint, to resolve the problem.
- No discrimination on the basis of caste, creed, or sex, making it illegal to create homes for specific groups.
- Should the conditions be broken, the builder faces a three-year jail sentence or a penalty of 10% of the total cost.
- Exchanging data, like project blueprints and layouts.

Significant alterations in the property industry

- Real estate project registration (Section 3).
- Real estate agent registration (Section 9).
- Section 20 establishes the real estate regulating authority.
- Section 43 establishes the Real Estate Appellate Tribunal.
- Section 79 prohibits civil courts from hearing disputes resulting from this Act.

RERA's ADVANTAGES:

For the buyer, the promoter, and the real estate agent, RERA offers several advantages. Among them are:

- Standardization of carpet area: Prior to RERA, there was no established method for how a builder would determine a project's cost. Nevertheless, carpet area is now determined using a consistent formula thanks to RERA. In this manner, promoters are unable to raise prices by offering inflated carpet areas.

The entire surface of the floor that is usable inside the apartment's walls is referred to as the carpet area under the Act. This excludes spaces such as balconies, shafts, and open patios. By standardizing the definition of the carpet area, we can make sure that consumers are not duped by unauthorized promoters.

The developer can increase the saleable area because of the high loading factor. The developer can lower the charge per square foot on the inflated saleable area by increasing the saleable area. The house purchasers are pleased because they believe they are receiving excellent rates, which makes the situation quite perplexing. However, the flat's size remains constant. The loading factor is the only variable

- Lower chance of the builder going bankrupt – Most promoters and developers manage several projects at once. Developers used to be able to move money from one project to another. But according to RERA, one bank account must hold 70% of the funds raised. Only after being certified by architects, engineers, and chartered accountants can funds be taken out.
- Advance payment: A builder is not permitted by law to charge the customer an advance or application costs equal to more than 10% of the project's total cost. This spares the buyer from needing to make a big payment and from having to find quick funding.
- Buyer rights in the event of defects: If the builder discovers any structural flaws or issues with quality within the first five years of possession, these must be fixed within 30 days at no additional expense to the buyer.
- Interest to be paid in default: Before RERA, the buyer would receive far less interest from the promoter if the promoter withheld possession of the property than if the buyer withheld payments from the promoter. RERA has rectified this, requiring equal interest payments from both parties.
- Buyer's rights in the event of false promises: You are entitled to a complete reimbursement of the advance payment if there is a discrepancy between what the builder promises and what is really delivered. The builder would occasionally have to pay interest on the sum.
- If there is a title defect: The buyer may sue the promoter for damages if, upon taking ownership of the property, they find that the title is defective. This sum has no upper limit.
- Informational right: The purchaser is entitled to be fully informed about the project. Plans for arrangement, performance, and status of completion are included in this.
- Grievance Redressal: The buyer, promoter, or agent may register a complaint with RERA if they have any grievances regarding the project. They can also file a complaint with the Appellate Tribunal if they disagree with RERA's ruling.

DEFICIENCIES ABOUND DESPITE RERA:

Residents of DDA's opulent apartment building in Dwarka, Sector 19-B, have expressed apprehension regarding construction quality concerns, including uneven building and corroding fixtures,

They complained to the DDA about various issues, including seepage problems, rusting iron

fittings, and uneven construction. The Indian Express reported that the allottees are not happy with the facilities and construction quality in the luxury project scheme.

A few tenants have claimed that the opulent apartments may have had outdated fixtures. In addition, incomplete walls and plastering revealed the locations of the water and power pipes.

The future of the DDA's luxury apartment project is unclear as allottees struggle with uncertainty and construction issues, which raises concerns about consumer protection and accountability in real estate endeavors.

Homebuyers in Noida, Uttar Pradesh, are not receiving RERA refunds.

Recovery Certificates (RCs) are a tool meant to help troubled homebuyers, but in Noida, Uttar Pradesh, they are rarely used. Out of Rs 875.6 crore, or 5% of all RCs granted since 2018, only Rs 98.6 crore have been successfully recovered.

The Real Estate Regulatory Authority (Rera) created Recovery Certificates (RCs) as a way to help distressed homeowners, but there have been issues with its implementation, especially in Noida, Uttar Pradesh.

According to a Times of India article, just 5% of the RCs granted by the real estate ombudsman in Noida since 2018 have been successfully recovered, despite the fact that they were issued to address issues of incomplete projects and delayed deliveries.

Officials do point out that while some RCs are settled amicably between developers and buyers, the process is always slowed down when there is a communication breakdown with RERA or the administration.

MAIN CHALLENGES FACED :

Officially, at least, the Real Estate Regulation Act (RERA) took effect on May 1. It's a really good idea conceptually. Giving house buyers more protection and transparency is undoubtedly a smart move for the long-term viability of the real estate sector. Practical difficulties like time and expense overruns, defective construction, information gaps, lien disputes, legal title challenges, post-handover upkeep, broker regulation, etc. are all intended to be addressed by RERA.

Let's examine a handful of them.

States' timelines for enacting the RERA Acts still exhibit contradictions. Only fifteen states have received notification of the final rules, while the remaining states are still in the process of doing so. The second crucial step is establishing the RERA authority in each state, which will serve as the main nodal organization for state-wide real estate transactions. The majority of states have not yet designated an RERA authority, while some states are trailing behind in setting up a website for RERA compliance and uploading the necessary data.

Current buyers who have reserved properties are unclear about whether the requirement to place 70% of the deposit money in a separate escrow account applies to under-construction projects only or to projects starting after May 1st. The relationship between builders and customers is becoming increasingly muddled as a result of this.

- In the event of projects where the deed has already been signed, there is also a significant amount of uncertainty regarding the re-execution of the agreements. Existing agreements are exempt from this obligation in some areas, while other states are demanding that all such documents be re-executed in accordance with the RERA. For those purchasing real estate, this variation between states is proven to be a significant cause of uncertainty.

There are still a lot of unknowns, even at the client level. For instance, how can clients determine whether a project is registered or not in the lack of a central database containing projects and brokers? Alternatively, since the entire database is not accessible to the public in either scenario, how can customers find out if the broker in issue is registered under the RERA or not?

- Regarding the topic of project marketing to clients, brokers and distributors are likewise highly confused. Certain aspects are still unclear, such as limitations on the construction of builder microsites, limitations on sales, KYC, etc. Following the enactment of RERA, some sizable corporations have planned a significant entry into the real estate broking market.

However, a lot of them are currently trading carefully because there are still a lot of unanswered questions about how and to whom they should sell the initiatives.

Creating an account on a website

The builder or developer must register any new project with the State's real estate regulating body. The issue is that switching from an offline to an online platform can be quite challenging for someone who is not familiar with the internet world; this was also the case for real estate developers. They were unable to access the website, which made it impossible for them to register on the online portal. They were instructed to register the project by July 31 at the latest. The website was extremely hard to navigate and not at all user-friendly; one could not hope to avoid making a mistake because making a mistake requires starting over from scratch, which takes a lot of time and delays the completion of the task. As a result, everyone must be taught how to use the gateway.

Educating the public about RERA is a difficult task, as it involves teaching individuals about the Act's provisions and responsibilities, which makes it difficult to get business associates on board with the new concept. Numerous developers and builders encounter challenges due to their lack of knowledge about the Act, which they then impart to their clients. This is where the issue lies;

while top-level management may be in order, lower-level management may have miscommunicated information to clients, which is something that needs to be investigated.

Agencies within the government are not synchronized

It is a common adage that anything involving the government takes longer than usual to complete. This is also true with the RERA; the builder is required to complete the project by a certain date, but frequently, the work is left unfinished due to systemic defaults. It is particularly challenging to entertain eight government departments before beginning work because it takes a lot of time and money. As a result, many projects are running behind schedule and the builder is unable to complete them on time. Because there was a lack of coordination between the government institutions and the builders, the builders were also unaware that they needed to file an occupation certificate. As a result, the length of time it takes to obtain authority approval and approvals results in numerous delays.

promoting ongoing initiatives and numerous registrations.

One of the primary concerns regarding the Act's provisions is the possibility of promoting one's ongoing projects. The Act expressly states that the developer must register the project within ninety days, so the answer is in the affirmative. However, the Act does not specify any conditions under which the developer is prohibited from selling or promoting the project.

There is a ban on marketing or selling the ongoing project because the builder has demonstrated his interest in having the project registered by submitting an application for registration.

Only projects that will be turned over to the buyers may be advertised by builders; for example, if a township is being developed in phases and the clubhouse will be turned over in the third phase, the developer is not permitted to advertise the clubhouse in the first phase. Developers will be able to register all of their projects if the state governments improve the usability of their portals and the center expands its recommendations. If the government is to blame for the delay, the developer shouldn't be punished.

Management of complaints

Every field has obstacles that must be resolved as soon as possible, and those challenges must be shared with someone who will listen to the situation and offer a solution. In the event that a customer visits a shop seeking assistance with a laptop he recently bought and is not provided with a solution, he may come to doubt the effectiveness of both the shop and the shopkeeper.

Similar to any other industry, the real estate sector depends on the trust and confidence of investors, customers, and government agencies to continue operating. In order for this to occur,

developers must finish their projects, respond to any concerns raised, and find a quick solution. There was no redressal mechanism in place prior to this Act, but authorities are now making sure projects are delivered on schedule. However, no complaint procedure has been established in case the buyer engages in frivolous or fraudulent behavior.

Both parties should put forth effort to ensure that no pointless or frivolous complaints are made by customers, and that the authorities are not biased in handling complaints. If builders are penalized for not completing their work, then the equally important authorities should also face consequences.

Approvals are required

A single-window clearance system, where everything is available at a single platform for granting the regulating approvals, is necessary because getting approval and clearances from different stages and at different times has become one of the major issues and challenges for the developers. As a result, the developers are burdened with unnecessary work, and the cost of the project increases due to passing on from one person to another. As a result, the projects frequently get delayed. If this were done, housing policies would be a huge success because the real estate industry would grow and the work would be completed quickly and effectively.

Problem with compliance

The RERA clause is extremely difficult to implement; developers began registering their projects in July, but there is no appropriate authority or way to validate the aforementioned paperwork. The aforementioned documents have simply been completed; no verification has been carried out. RERA was passed in order to guarantee the real estate project's timely completion. As a result, a clause should be included to monitor the RERA's implementation process.

CONCLUSIONS:

It is imperative to acknowledge that the RERA is likely experiencing teething issues, as is typical with any legislation of this size and significance. To this government's credit, it has decided to bite the bullet and tackle the issue of real estate regulation in a more practical and significant way. Although institutionalization of the real estate was long overdue, this has long been planned. India has undoubtedly made a solid beginning in that regard from that standpoint. All one can expect is that these minor problems would be resolved on the journey. A lot will depend on how quickly the states advance their RERA agenda and how much support they receive from developers for the initiative.

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