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## *Review and Analysis of Real Estate sector with Reference to RERA Bill*

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**Abstract:** *In India, real estate is the second major sector after agriculture and is scheduled to rise with great proportion in the coming future. The intention of this study is to focus on Movement in the real estate market as well as highlight the initiative of RERA Bill. This paper majorly studies the development tendency of the real estate sector. The real estate industry was functioning in a more hazardous way where the developer was not able to stick to their commitment of quality and delivery of the project. Due to this the customer used to face many problems. Due to such behavior of the developer it leads to a trust gap observed between the stakeholders. As many other industries are dependent on the real estate industry, it was of utmost necessity to resolve the issue. For this, the Government of India came up with a RERA bill which put some restrictions and supervision on all the stakeholders of the industry. This study is done to analyze the act and suggest some of the changes that can be implemented in order to make the system more business effectively and efficient.. This study is anticipated to present various tribulations and challenges those buyers, developer, Promoter and stakeholders of the realty sector are facing today.*

**Keyword:** *RERA Act, REIT, NRI Investment, Developers, Investors; Realty Market.*

### I. INTRODUCTION

The real estate sector in India implicit superior importance with the liberalization of the economy, as the resulting augment in business opportunities and labor immigration led to mounting demand for commercial and housing space. There was no mechanism to check the credibility of the developer and have to rely on the market image of the developer. There was no specific redressal mechanism for the sector for delay in delivering and other related project. In other ways RERA was also needed from the side of developer as it can keep the check on inventory and will filter out the non-capable developer in the sector so that there remain companies which see larger stake in the business and indulge more professionalism.

A regulation like RERA was needed in order to revive confidence in our country's real estate sector. It is one of the leading revenue generators in our country and it is needed some transparent government authority to keep a check on developers. RERA will provide a common ground for both buyers and developers and will reduce the risks which were faced by the people before. RERA is of extreme significance as it will be applicable to most of the Real estate companies.

This act mandates a number of things like registration of projects and real estate agents which have become mandatory now. A buyer will have all the rights to know each and every detail about a real estate project and will also have the right to get all the necessary documents related to the project. RERA establishes a state authority which will govern and control both residential and commercial real estate transactions. RERA will ensure timely delivery of the project which is a big sigh of relief to home buyers or allottees. RERA will guarantee more precision between the developers as well as buyers thereby ensuring transparency in the deal.

One of the greater challenge was a trust gap between the developer and the buyer. Real estate sector as and when seen the recession, one of the major factors had been trust. Buyers were always in the fear that the developer will not give possession on time or he will not provide the required documents or he will not give the said quality of property. There was a fear that developers would fly-by-night. India's real estate sector has been one of the world's largest markets.

## II. OBJECTIVES

- To study the progressions in real estate market
- To understand RERA Bill and Key Features
- To understand Impact of RERA Act on NRI and REIT in real estate sector
- To study the diverse impacts of real estate regulatory bill

## III. RESEARCH METHODOLOGY

The Data used for this paper is derived research. Secondary data from assorted sources like RERA website, Reports, websites of government, conglomerates, trade unions, newspapers, realty magazines etc. have been referred.

## IV. LITERATURE REVIEW

To curb all these RERA act 2016 was introduced in parliament. However, the prices are not stabilized even after the implementation of the RERA act. Our study is done to recognize the loopholes that still the developers are using to use the law in favor of them. Our study is done to know what can be done to make this law more effective in terms of both developer and buyers. And can this act be implemented on a wider base and more transparency.

As per Indian Express (Dec 26th, 2012) Dr. Reena Vasishta – additional secretary to the Govt. of India (26th March 2016) in her studies shed titled that this was indeed to make a call in favor of customers, buyers, promoters and agents. The reform of the act implemented due to the economic crisis, fraudulent activities happened in the Indian real estate sector this step was taken and implemented in favor of customers to stop unnecessary incidents. It has been facing a lot of problems since 2012. This could lead to decrease demand for property further. This reduced demand is causing a slowdown in recovery of investment for builders. The RERA act is initiated by the central as well as state government to spread awareness and bring transparency to maintain the real estate field safe and secure.

Drake Mac Donald (2011) in his studies titled, In India construction industry is emerging rapidly. In India faulty construction is a major problem recognized through different segments. People construct buildings due to the hefty greed. Builders use cheap product and quick ways to build while providing lesser wages to the workers.

## V. MOMENT OF INDIAN REAL ESTATE SECTOR

The Real Estate Sector plays a catalytic role in fulfilling the demand for housing and infrastructure in the country. While it has expanded over the years, it has been highly unregulated coupled with lack of standardization and adequate measures for

protection of consumers interest. The major problems faced by the consumers was the unavailability of complete and authentic information in respect of the property they were dealing into, lack of accountability on the part of developers and builders and absence of effective regulation. The irregularities affecting the sector were delay in project completion, diversion of funds collected from buyers; renegeing on contractual commitments by both the developers and the buyers; and constraints in financing and investment opportunities available to the sector, thereby affecting its long-term growth. Thus, the need for regulation of the real-estate market was never more than it was now: to ensure transparency and fix accountability.

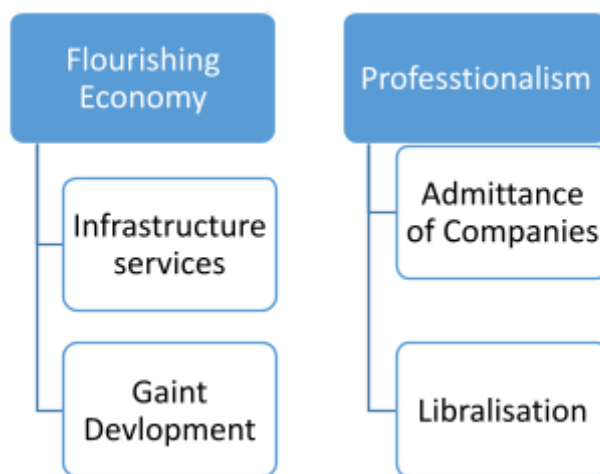
RERA was necessary to streamline the developer and to boost up the sentiment of the buyer so that the real estate sector can revive and can be capable of facing the tough times in the economy. RERA is implemented in order to look after the issues like quality of construction, price, delays etc. RERA will forced the developer to do the business in a disciplined manner and deliver the project on time with the said qualities. If this ACT is implemented successfully than it can bring revolution the real estate sector and this sector can be the driver for Indian economy

Real estate is a quality class that stipulates expert skills. The intricacy adjoining this sector is increasing in the Indian context. Compared to the full-grown real estate markets in the urbanized nations, buyers in India must have a higher level of conscientiousness before inflowing into property contracts (Christopher Crowe et al, 2011). India has its own distinctive and vital complexities and business is not an exemption to it. Real estate is an essential component in the configuration and development of all businesses and gradually growing into an immense business itself. As such the performance of the realty sector depends mainly on the performance of the market and the commerce in particular.

## VI. REAL ESTATE ADVANCEMENT AND BOOM ERA

The Initiated act of Foreign Direct Investment (FDI) was allowed, the realty market is at a great peak and there were many fluctuations in the sector before and after FDI initiative. Below are the key reasons for the boom and downfall of Indian real estate sector.

According to JLL India, the Indian economy grew at 7.3% during the financial year (FY) 2014-15, which is higher than the predicted GDP rate of 6.8%, and is scheduled to make a growth rate in the range of 7-7.5% in the next financial year i.e. 2015-16. If this propulsion continues, supported by a promotive business environment and government policies, the country will balance to achieve a two digit growth rate in the upcoming years.



- Flourishing economy; improved GDP (Gross Domestic Product) up to 7.8% per annum.
- India's materialization as a striking off shore place and accessibility of team of wellcapable engineers and managers.

- Development of giant confined units of key companies including TCS, ICICI, Google, HDFC, KPMG, EY and American Express.
- Enhancement in the demand for eminent residential housing and property as an investment option.
- Admittance of proficient companies outfitted with capability in real estate development.
- Professionalism in Real estate sector
- Liberalization of legal verdicts and processes by the leading bodies, promoting investments in real estate.
- Advances in infrastructure services.

## VII. RUINATION OF INDIAN REAL ESTATE SECTOR

The three policies that were introduced together were Demonetization, GST and RERA which had multiple effects on the Indian economy at that time and now from past two years the Covid Pandemic hits Real estate sector very badly in many ways to major cities specifically in case of Small Developers, Promoters and Authorized Dealers as well. Demonetization hit the middle class and the lower class the most. After six months of demonetization, RERA was put into effect which again affected the real estate market detrimentally. Implementation of RERA with the aim of regulating the real estate market turned out to be an impediment to its growth since its inception. RERA directly affected the small-scale developers and contractors badly in the metropolitan areas due to the lack of employment opportunities for the laborers as a lot of proposed development of real-estate projects were either closed or adjourned until they were registered with the RERA. The shift of liability and increased accountability of the builders in terms of delivery of the properties and other regulatory policies.

Affirmed below are the causes that have led to real estate downfall in India:

- Loan interests on houses are exceptionally high.
- Timely possessions of projects are not given by a large number of developers.
- Agreement and approval processes after completing several obstacles prove to be awfully lengthy.
- A largely throttled supply line and of scheduled lack of appropriate organizational funding are some of the chief looming factors.
- Record deflation of Indian rupee against dollar and political impasses.
- Due to extreme competition in prime cities, quality of construction is also getting poor.
- Housing demand is increasing day by day due to extensive migration of people from rural to urban areas (Urban Sprawl) and supply is restricted.
- Illegal practices by several real estate players regarding promotion of projects.
- Absence of national real estate policy or regulatory bill.

## VIII. REAL ESTATE (REGULATION AND DEVELOPMENT) BILL 2016

The Bill, which was initiated in the Union Cabinet in August, 2013, got granted by the Parliament in June 2016.

### Real Estate Bill

A bill to set up the real estate regulatory authority for ruling and endorsement of the real estate sector and to make sure sale of houses, apartment or building in a competent and apparent manner and to defend the interest of consumers in the real

estate sector and establish the jurisdiction to hear petitions from the verdicts, directions or commands of the authority and for issues connected therewith or subsidiary thereto.

### **Highlights of Real Estate Bill**

The bill offers a consistent regulatory atmosphere, to protect buyer interests, help quick arbitration of disputes and ensure methodical growth of the real estate sector. It aspires at reinstating buoyancy of the common public in the real estate sector by instituting lucidity and liability in real estate and housing businesses.

#### **Comprehensive key features:**

- **Pertinence of the bill**

The planned original bill was valid for residential real estate. It is now anticipated to enclose both residential and commercial real estate.

- **Formation of real estate dictatorial authority**

The bill provides for the founding of one or more real estate regulatory authority in each state for supervision of real estate operations. It also recommends employing one or more arbitrating officers to settle quarrels and oblige reimbursement and interest.

- **Listing of real estate projects and mediators**

Developers have to compulsorily register all projects with the concerned real estate regulatory authority of the state. Real estate mediators who plan to sell any plot, apartment house or building also have to get themselves listed with the authority.

- **Mandatory public revelation of all project information**

The bill intends obligatory public revelation norms for all recorded projects such as details of advertisers, project, outline plan, plan of progress works, property status, status of legal approvals and disclosure of performed concords, names and official addresses of real estatemediators, freelancers, contractors, designers, structural engineer, consultants etc.

- **Responsibility of promoter**

The bill brings out the jobs of developers including confession of all appropriate information of project, devotion to official plans and project designs, responsibilities regarding reality of the classified ad for sale or catalog, refinement of structural faults and repayment of capital in cases of evasion.

- **Obligatory security deposit of 70 per cent**

Constructors will now have to put down at least 70% of the sale progresses, counting land cost, in a separate bond account to meet building cost. As per the former proposal, it was 50 per cent or less of sale progresses. This is intended at avoiding developers from averting money raised from allottees.

- **Obedience to declared plans**

Under this bill, developers are debarred from changing plans, structural blueprints and condition of the plot, dwelling or building without the approval of two-third allottees after revelation. However, small additions or variations are permissible on architectural and engineering basis.

- **Roles of real estate mediators**

The bill makes it compulsory for real estate mediators to sell assets registered with the governing real estate authority. They are also requisite to maintain account books, evidences and certificates and are banned from getting implicated in any iniquitous trade practices.

- **Rights and jobs of allotters**

The bill brings out the right of the allotter to attain phase-wise time agenda of project and claim ownership as per promoter assertion. Allotter is also permitted to compensation with interest and reimbursement for default by the promoter. On their part, allotters must make imbursements and perform responsibilities as per contract.

- **Role of real estate dictatorial authority**

According to the bill, the authority must act as the central agency to organize attempts concerning development of the real estate sector and give essential guidance to the suitable government to make certain the development and encouragement of a transparent, competent and spirited real estate sector.

- **Fast track quarrel resolution system**

The bill also sets up a fast-track quarrel settlement mechanism through arbitration and institution of a specialized real estate matter court. The courts will now have to pass judgment of cases in 60 days as against 90 days planned before and regulatory authorities to arrange complaints within 60 days only.

- **Penalizing measures in case of disobedience**

The punitive stipulations under the planned law comprise a fee of 10% of project cost for non- registration and imbursement of additional 10% of project cost or three-year custody or both if still not obeyed with. For incorrect revelation of information or for not obeying with the confessions and requirements, payment of 5% of venture cost will be requisite. The bill provides dictatorial authorities the control to abandon project registration in case of constant breaches and settle on further strategy regarding conclusion of such projects.

## IX. CHALLENGES

- With many ventures in the higher stages of construction, or at the stage of possession, more lucidity is needed on the relevancy of the vital phrases of the bill on current projects.
- Apparent procedures are necessary on whether projects newly approved, but not officially commenced, would be directed by the bill or not.
- The fiscal penalty for any breach of the stipulations of the law is 5 to 10% of the projected project cost/construction cost. Thus, clearness on the explanation of the project cost/construction cost could help shun uncertainty at a later stage.
- There is still a call for an apparent definition of the term ‘structural faults’ to avoid any vagueness or delusion in the future.
- Structural defect is the responsibility of the developer, developer has to ensure that there are no such defects before the handling of project, and even after handling the project any such defects occur than he has to rectify it. Structural defects and workmanship are two different things, but in the act, it is mention under same section. The start date for both the thing is same, whereas the start date for structural defects should be on the date of completion certificate,



whereas the start date for workmanship should be the date of the possession and should be only for one year, unlike the structural defects which the developer has to maintain for five years.

- RERA specifically draws attention about the rights and duties of the developer but does not mention much about the rights and duties of the real estate agent who is an equally important link in this industry. Clauses must include defining roles and duties of the real estate project very clearly.
- As RERA is a central law, it requires the cooperation of the states. Every state and UT needs to establish their own real estate regulatory authority and have to frame the rules. So, every state has fabricated the rules according to their convenience and therefore the act to much extent is diluted. Due to change in the system by the states many developer and agents have to wait for the registration number.
- This is the current status of the projects registered under RERA and the states or UT which are yet to notified RERA or yet to launch the website. After the act became the law in 2016, all the states and UT were asked to notified the law in their assembly within six months and establish a regulatory body by May 2017. However, many states have failed to meet both the deadlines.
- Real estate industry is a very capital-intensive industry, RERA ask the developer to block 70% of the money into escrow account and can only be withdrawn in accordance with work done. This rule restricts the developer from expanding his business as he will not have as many funds as he may require to expand the business.
- After the implementation of RERA the number of launches of real estate project in the country has decreased, because of clearance that are the developer need to get and also their money is block in escrow account, they thus does not have enough liquidity to purchase new land for new projects and have to wait until their ongoing projects get the clearance certificate and they can withdraw the money from escrow account, this has hamper the real estate sector in many ways.
- The price which were expected to become stable or go down, after the implementation of RERA has actually gone up, because now the developer has to sell the property at carpet area and so they have increased the per square f price of the property. Also, the broker and real estate agent have to register under RERA and have to pay respective fees, their brokerage fees have also gone up.
- The developer has to take care of all the structural defects for 5 years, so developer will also try to cover that cost from the cost of the property and so the price of the property has gone up.
- Due to higher penalties on missing the deadline of completing the project, developer tends to write a completion date much longer than the actual in order to be safe. This also give time to developer to perform the construction activity slowly when they do not have enough money to continue with the projects. Buyers may get misguided due to the completion date given by the developer.

#### **X. RECOMMENDATION AND SUGGESTIONS**

- Provision for punishment should be intact in all states, according to central RERA imprisonment upto 3 years or fine to the amount of total estimated cost of the project or both is applicable to developer, buyer, and real estate agent, whosoever does not comply to rules and regulation. But except kerala all other states and UT have added a clause to compound the offence to avoid imprisonment.
- Currently the law states that 10% advance is taken when signing a sale agreement, but no further clarification is made

on payment of the rest 90% of the payment. Gujarat and Maharashtra have linked all the payment instalments with the stages of construction. Similar model should follow in central RERA law and all the states should be notified to link the payment schedules with the stages of construction.

- The percentage of the amount that should be deposit in escrow account should be reduce to 40% - 60%, this will give more cash to developer on hand to invest in different project and the growth of the market will not be sluggish. If the demand exceeds the supply than the rates of the real estate property will increase and may go out of the reach of the middle class people. And also, states should not allow to dilute this clause.
- Structural defects should be clearly defined in the central law. Some states have diluted the clause by removing the DEFECT LIABILITY word from the clause, and hence make developers less vulnerable to the trouble from the members after they hand over the project.
- According to RERA Act that any change to the plan, design or anything should be done after getting the permission of the 2/3rd allottees. But this same law does not specify the time by which the allottees should collectively come to a conclusion on allowing the developer to do any alteration. This may lead to the delay in the construction of the project. Any such delay which is out of control of the developer should be noted at correspondence time and should be extended for the completion of the project.
- The RERA Bill should act as a support to the real estate industry, the biggest issue in this industry is always about Liquidity, RERA should provide incentive to REIT and pension funds to invest in the real estate projects. By this way industry will always be available with the cash and thus developers will be encouraged to expand their business. All the legal complications or barriers should be abolished through this act.
- Set up the IT network to monitor all the projects register under RERA and for quick redressal of the complaints. as far as possible.
- Land title insurance should be available to the developers, the primary issue in this sector is land dispute. By providing land title insurance the developers can be assured about the ownership of the land which plays a vital role in documentation procedure.

## XI. CONCLUSION

The following are the conclusions of this study:

- The year 2021 was slated to be a year of recovery, and the confidence was seconded by the vaccination drive rolled out by the Union Government. However, the recent upsurge in various pockets of India (especially Maharashtra) has compelled the investor community to remain in a cautious mode.
- The availability of credit for the real estate sector has emerged as one of the key factors hampering the expansion. The already uncertain environs fueled by the recent resurgence of the pandemic have compelled the financial institutions to avoid risky investments. This could add to the woes of the already cash-strapped real estate sector.
- The problem is that the real estate sector in India has a massive information irregularity, the companies have all the information and there is no means to confirm if the information they are displaying out is correct. For example, the existing price inclination in any certain locality (Prashant Das et al, 2013).
- The real estate sector has been among the sectors nastiest hit by the universal economic recession, which together with high interest rates in the countenance of continual inflation and holdups in securing obligatory government approvals,



has kept suspicious home purchasers absent for the last couple of years (G.S. Popli et al,2013).

- The immense disparity between the decelerate cycles of then and now is that, nowadays, its buyer's feelings issue. Developers have more admittance to diverse sources of assets now but consumers just don't desire to buy.
- After real state bill 2016, the small sets of optimistic developments gradually flowing into the economy have also started creating curiosity amongst customers. Some giant developer have recently observed an improving status in terms of demand of real estate in some selected cities.
- Now, the Indian real estate conglomerates are counseled to focus on customer contentment. The sector is now more controlled by a developer, putting purchaser anticipations at the offstage and carrying on business at his own engaging willpower.
- The government of India is also loyal to the real estate sector. The central ministry granted the 100 smart cities project in India; the government has also elevated foreign direct investment (FDI) frontiers to 100% for large integrated townships and other real estate projects together with special economic zones (SEZs).
- It was necessary that some type of discipline is injected in real estate sector so that they can help government in fulfilling the dream of giving house to every Indian. Even from the developer point of view this act was necessary so that they do complete projects timely and does not face any judicial difficulties and also become more agile before launching the projects.
- There is a benefit to the buyer as this new act has become the trust bridge between buyer and developer. But there are some issues which need to be addressed and also the scope of this act should be modified as it can become more business friendly to the sector. There are some challenges which are faced by various stakeholder due to implementation of this act. Buyers should be made aware about their rights; this can bring more transparency to the transaction. RERA add a greater accountability to the developer as they have to deliver project on time and with the said quality and size of the unit. Some changes to this act can make this act a transformation tool of real estate sector.

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