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Customers' Perspective On Real Estate Regulatory Authority (RERA) Act

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***Abstract*—**The real estate sector of India has a great impact on economy. However, with the increase in demand of the real estate sector, malpractices and fraudulent activities have also increased. Therefore, the Real Estate Regulatory Authority (RERA) Act was introduced in 2016 to increase the transparency of transactions in the world of real estate.

RERA Act (2016) is having a great impact on the buyers. It is a very balanced act, that puts responsibilities on the authority to grant approvals and declines in a defined time-period, hence pre-eliminating potential bureaucratic delays Its full fledged implementation will also help in regulation and promotion of the real estate sector in an efficient and transparent manner and protect the interest of both the consumers and realtors in this sector According to the real estate industry players and buyers , the RERA Act will improve the governance and bring more transparency and accountability into the realty sector. However there is a difference in the customer' perspective regarding this Act. According to some of the customers, this act will have a positive effect on them. It will help in decreasing fraudulent activity of the builders, increase transparency amongst them due to compulsory paper work, no manipulation in the carpet area to inflate the prices,increase in trust between buyers and builders making home buying process easier, timely completion & delivery of the projects, reduction in Fly by Night realtors while others are of the view that nothing much is going to change even after the implementation of the RERA Act. They believe that builders are powerful bodies which can strongly influence the government authorities in their favour and they will soon come up with new and RERA-compliant projects in the market. Thus this article analyses the customers /buyers perspective on the RERA act.

Keywords-RERA Act, Customers' perception, buyers, real estate sector

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INTRODUCTION

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TheReal estate can be defined as a "property consisting of land and the buildings on it, along with its natural resources such as crops, minerals or water; immovable property of this nature; an interest vested in this (also) an item of real property, (more generally) buildings or housing". The business of real estate is the profession of buying, selling, or renting land, buildings, or housing. There are different types of real estate:

i) Residential real estate: includes both new construction and resale homes.

ii) Commercial real estate : includes shopping centers and strip malls, medical and educational buildings, hotels and offices.

iii) Industrial real estate: includes manufacturing buildings and property, as well as warehouses. The buildings can be used for research, production, storage and distribution of goods. Land includes vacant land, working farms and ranches.

The real estate sector of India is one of the most globally recognized sectors. The growth of this sector is well complemented by the growth of the corporate environment and the demand for office space as well as urban and semi-urban accommodations. India's rank in the Global House Price Index has jumped 13* spots **(CS MakarandLele 2018)**to reach the ninth position among 55 international markets, on the back of increasing prices in mainstream residential sector. The construction industry ranks third among the 14 major sectors in terms of direct, indirect and induced effects in all sectors of the economy. The Government of India along with the governments of the respective states has taken several initiatives to encourage the development in this sector.

Real estate sector plays a catalytic role in fulfilling the needs and demand for housing and infrastructure in the country and is an important pillar of the economy. While this sector has grown significantly in recent years, it has been largely unregulated with absence of professionalism and standardization and lack of adequate consumer protection. Corruption is rampant in this sector specifically with respect to acquisition of agricultural land and its conversion for residential and commercial use and for obtaining Government clearances for construction. Malpractices and fraudulent activities have also increased. Thus, the need of a proper regulator in the real estate sector was long felt. Therefore, the Real Estate Regulatory Authority Act (RERA) was introduced in 2016 to increase the transparency of transactions in the world of real estate sector. RERA act will have a great impact on the both the developers and the buyers. Its full fledged implementation will help in regulation and promotion of the real estate sector in an efficient and transparent manner and protect the interest of both the consumers and realtors.It will also create a mechanism that will effectively regulate and addresses issues like project delivery delays, property pricing, and quality of construction, title and other changes; in an efficient and transparent manner (**Yerunkar, 2017).**

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Thus RERA act will be highly beneficial for the buyers in bringing transparency,security,fairness,quality and authorization.

Main Objectives of the RERA Act (2016)

- To enhance transparency and accountability in real estate and housing transactions
- Providing uniform regulatory environment to ensure speedy adjudication of disputes and orderly growth of the real estate sector
- Boosting domestic and foreign investment in the Real Estate sector
- To promote orderly growth through efficient project execution and standardization
- To offer single window system of clearance for real estate projects.**(Kumar 2016)**

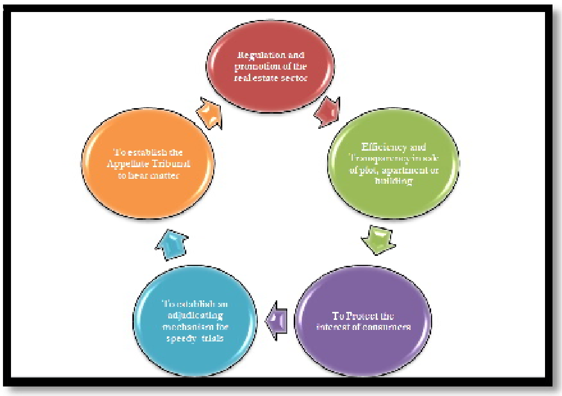

Fig : Objectives of RERA Act (www.caclubindia.com)

Salient Features of the Act

- Establishment and incorporation of Real Estate Regulatory Authority (RERA) at every State in India for monitoring and adjudicating disputes relating to real estate projects (Section 20).
- Establishment of fast track dispute resolution mechanism for settlement of real estate disputes through dedicated adjudicating officers and Appellate Tribunal (Section 43 & 44).
- Registration of all real estate projects is made mandatory with RERA having territorial jurisdiction over such projects. No sale in a real estate project can be made without registration of the project with RERA (Section 3). RERA can also refuse to register a project, if the same is not compliant with provisions of the Act. Registration of a project can even be cancelled, in case, RERA receives any complaint and the same is found to be correct after inquiry.

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- It is mandatory for a promoter to upload details of proposed project on the website of RERA, including details of registration, types of apartments or plots booked, list of approvals taken and the approvals which are pending subsequent to commencement certificate, status of the project, sanction plan, layout plan etc. (Section 11).
- RERA shall approve or reject the application for registration within 30 days, failing which it shall be deemed to have accepted the application for registration (Section 5).
- Any promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a buyer without first entering into a written agreement for sale with such person and register the same. (Section 13)
- It has been made obligatory for the promoters to deposit 70% of the money collected from buyers for a particular project in a separate account that will cover the cost of land and construction and the same can be withdrawn only after certification from an engineer, an architect and a chartered accountant. [Section 4(2)(l)(D)].
- It is now obligatory for all the promoters to obtain insurance in respect of title of the land and buildings and construction of every project. (Section 16).
- The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from at least 2/3rd no. of allottees, except the promoter, and without the prior written approval of RERA [Section 15(1)].
- Both promoter and buyer are liable to pay equal rate of interest in case of any default from either side (Section 2 (za)(i)).

- The promoter shall compensate the buyer in case any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force. (Section 18)
- An aggrieved person may file a complaint with RERA, as the case may be, for any violation or contravention of provisions of this Act or rules and regulations made thereunder against any promoter, buyer or real estate agent. (Section 31)
- During the pendency of enquiry, RERA can restrain any promoter, buyer or agent from continuing with the act complained of. (Section 36)

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- A person aggrieved by any direction or decision or order made by RERA or by an adjudicating officer under this Act may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter. (Section 43)
- If a promoter continues to violate the provisions of Section 3, he shall be punished with imprisonment for a term which may extend to three years or fine which may extend to ten percent of the estimated cost of the project or both [Section 59(2)].
- If a promoter fails to comply with orders or directions of RERA, he shall be liable to a penalty, which may extend up to five percent, of the estimated cost of the project as determined by the Authority (Section 63).
- If a promoter fails to comply with the orders or directions of the Appellate Tribunal, he shall be punished with imprisonment for a term which may extend to three years or fine, which may extend up to ten percent of the estimated cost of the project, or with both (Section 64).
- Where an Offence under this Act has been committed by a company, every person who, at the time, the offence was committed was in charge of, or was responsible for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished. (Section 69)
- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which RERA or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. (Section 79)

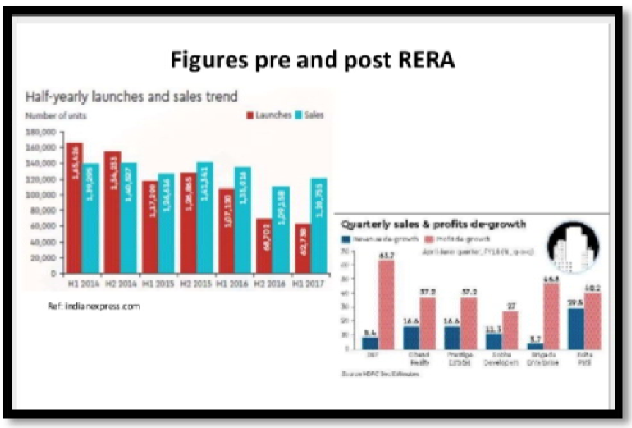

Fig: Effect On Sales : Pre And Post Rera Act (Indianexpress.com)

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Benefits of RERA Act for Buyers

*According to**Crisil Research and Deloitte,** here are the key benefits of RERA Act for home buyers:*

1. All real estate developers/promoters have to compulsorily register ongoing and upcoming real estate projects with RERA

2. <u>Standardized carpet area:</u>

Property prices are corresponding to their carpet areas. RERA has introduced a standardized definition of carpet area thereby eliminating chances of any manipulation on this front. In absence of any defined guidelines, developers and builders had devised their own mechanisms of measuring carpet area, and hence property valuations were inflated which used to act against the interest of property buyers. With standardizations coming in, builders will not be in a position to cheat innocent buyers.

The definition of the carpet area given by the law is :“Carpet area” means the net usable floor of an apartment,excluding the area covered by the external walls,area ender services shafts,exclusive balcony,or verandah area and exclusive open terrace area,but includes the area covered by the internal partition walls of the apartment.

As the definitions of the carpet area have been specifically defined,this would introduce standardization in the calculation of the carpet area.This has a direct impact on the real estate prices as most developers charge on the basis of the carpet area.Builders can compute the price of the property as follows :

Cost Of The Property = Carpet Area x Rate Per Sq Ft.

Earlier the builders use to inflate the carpet area as a result of which the cost of the property would also shoot up. However, now the method for calculation of the carpet area hasbeen clearly defined by RERA and therefore the developers would not be able to manipulate the calculation of carpet area in order to increase the prices.

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3. Repercussions of defaulting

The Act subjects both the builder/developer and the buyer to the same rates of interest payable in case of defaults. If the buyer defaults in making timely payments or the builder defaults in handing over possession of the property on time, both of them would be liable to pay interest to the other party at the same rate of interest. Before RERA came into the picture the buyer was liable to far higher rates in the event of delay of payments while the builder enjoyed delays in giving out possessions with minimal penalties.

4.Transparency and complete knowledge about the property.

Developers/promoters will have to disclose project related details, including: project plan, layout, and government approvals related information to the customers such as sanctioned floor space index (FSI), number of buildings and wings, number of floors in each building, etc.,

5.Ensures correct usage of funds and timely construction of properties

Before the RERA Act came into the picture, it was normal for developers to use funds raised for one project for another project as per their discretion. This used to result in funds deficit for completion of projects for which payments were actually received. The property buyers used to face harassment and delay in possession because the builders used to run short of funds and go paupers.

As per new RERA rules, a builder will have to keep 70% of the funds received for any project in a separate Escrow Account and the usage of these funds would be restricted for purposes of the property for which the payment has been made. This provision would ensure that funds raised for one project are not used in any other project by the builder and utilization of proceeds is made for the correct purpose only. This would also facilitate the timely completion of projects

6.Rules defined on advance payments

A builder cannot demand more than 10% of the total cost of the villa or apartment as application money or advance before an agreement for sale is entered into.

7. Buyer entitlements in case of false commitment:

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In case there is a gap encountered between the commitments made by the builder with regard to the property and the actual delivery, the property buyer would be entitled to refund of full amount paid till that time. The buyer may also claim interest or compensation depending on the prevalent circumstances.

8. Buyer entitlements in event of defect after possession

As per the provisions of this Act, the buyer would be entitled to rectification of defects free of cost if he encounters any of the below mentioned defects within a period of 5 years from the date of handover of possession.

- Structural defect
- Defect In workmanship
- Defect in quality, service or provision

Further such defects would have to be rectified within a period of 30 days once they are detected. The buyer can claim compensation if the builder fails to carry out the repairs properly within the stipulated time.

9. Buyer entitlements in the event of delay of possession

In event of delay in handing over possession of a property at the due date, the buyer shall be in a position to exercise any of the below options.

One may decide to continue with the project till completion thereof. In such a scenario he would be entitled to interest from the due date of completion to the actual date of completion of the property. He would also be able to claim compensation from the developer.

Optionally he may want to withdraw from the project. In such a case he would be entitled to full refund along with interest from the due date of completion to the date of refund.

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<u>10. Buyer entitlements if there is defect in title</u>

After possession, if the buyer detects that there is a defect in title of the property, he is in a position to claim compensation from the developer. This is not even “barred by limitation”, which would ideally mean no capping on the time frame within which such claim has to be made.

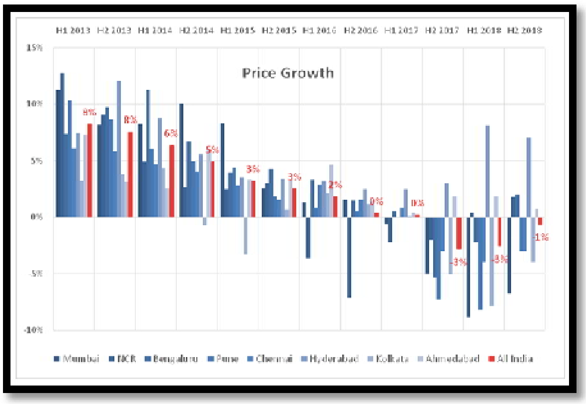

Fig: Price will Supplement Sales Data

<u>11. Setting up of an authority for getting grievances redressed</u>

If property buyers have any grievances against the builder, they may approach the state authority which is set up under RERA. This is powerful body capable of taking actions and calls. In case the buyer is not satisfied by their order, they may exercise the option of approaching the Appellate Tribunal which would have to offer redressal within 60 days ad record reasons in casethey are unable to do so.

If the buyer is not satisfied with the decision of the Appellate authority, he may further appeal to them. However, the appeal would be heard only after deposition of,

- 30% of the penalty
- Or a higher percentage as determined by the Appellate Tribunal.
- Or total amount to the allottees, including interest and compensation if any.**(Mantra 2019) .**

Customers’ perspective on the RERA Act:

Customers’ perspective on the RERA Act is that it will definitely be beneficial for all the buyers. The customers and realtors relationship will accelerate due to the transparency that will come due to compulsory paper work done by both parties leaving no ambiguity, thus the trust of the buyers will

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increase and the home buying process will be a much easier process. The consumers will revive their faith on realtors and it will certainly lead to growth of the real estate sector in India.

Customers' are also in belief that the main advantage of RERA act will be that projects will be completed on time since this act makes it compulsory for the realtors to invest 70% of the amount collected from the consumers in the planned project rather than re-investing in upcoming projects. This will reduce the number of Fly by Night realtorsand will help in timely delivery of the projects.

Buyers' are also of the view that earlier the builders use to inflate the carpet area to increase the cost of the property. However, now the method for calculation of the carpet area hasbeen clearly defined by RERA and therefore the developers would not be able to manipulate the calculation of carpet area in order to increase the prices which will be highly beneficial for the them.

Customers' also believe that RERA act will pre-eliminate potential bureaucratic delays. Online real estate platforms will help in creating a trustworthy environment based on tangible data. Based on verifiable information, that would be available from the government bodies and other sources, customers will be able to find about past project delays and incorrect promises by the builders and hence will have choice to choose from the more professional realtors. They will be further benefited from the banking loans. Thus in return the growth of the banking sector will also increase as the real estate sector will become more organised by RERA act and both buyers and builders will have financial assistance by such banks.

Many of the customers even belief thatRERA is a landmark legislation that is about to change Real estate into a more customer centric industry. It will focus on increasing accountability of the realtors and their agents and on boosting buyer confidence. Online real estate platforms and online registration of the project will help in creating a trustworthy environment based on tangible data. Moreover the entire buyer and builder community needs to readjust to the concept of carpet area, cost of delays, project centric funding and expenses, and potential of significant penalties.

Furthermore, when the possession of the projects will be on time, delivery will be on time and the purchasers will be happy and satisfied, the revenue and taxes so generated by the completion of the projects will enhance the revenue collection and the GDP of the country.

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On the other sidesome of the buyers are of the view that even after the launch and application of the RERA act, they will not be much benefitted. They are of the belief that realtors are influential bodies who can manipulate and influence the government authorities in their support, thus there will be no great advantage of this act.

Buyers are also of the belief that due to the lack of promotion and publicity of this Act, many upcoming buyers will still not aware of this act and its advantages; hence builders can easily manipulate them also.

Customers' are also of the opinion that even if some fraud happens with them, they will not have the time, money and patience to litigate with the builders and run in the court for their case settlement. Most of the Realtors will then try to settle such big issues with the buyers outside the court where the realtors will usually win over the buyers and the buyers will have no option left except to accept the deal. Thus RERA Act will as such be of no benefit to them.

Others are of the opinion that after the implementation of the RERA act, there might be some decrease in the net profit of the builders, so the builders might start using inferior quality products for their construction and other purpose and by the time the customers' become aware of it or the products starts showing their true colours, the builders' guarantee will expire.

Buyers are also of the view that with the numerous steps involved in the projects,the timeline between the announcement of the project and the final project launch will also increase and the prices of the new projects are expected to count in the expense bearing on the total project cost.

Customers' also believe that with the implementation of the RERA act prices may increase once the unsold inventory gets cleared, supply will shrink as only developers adhering to rules will be able to launch fresh projects and there will be phased launch of the projects to avoid penalties. They are also of the view that builders are surely going to bounce back with newer strategies and RERA- complaint projects in the market.

CONCLUSION

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Thus from the above discussion it can be concluded that according to the customers' RERAwas a much-needed initiative introduced by the government towards safeguarding the interests of the buyers and bringing more transparency in this sector. It is aimed at making home buying a far more easy process.It is a landmark legislation that is about to change the real estate into a more customer-centric industry. It focuses on increasing accountability of the realtors and on boosting customers' confidence. RERA is a very balanced act that puts responsibilities on the authority to grant approvals and declines in a defined time-period hence pre-eliminating potential bureaucratic delays (**Sinha 2017).** This is why RERA is being whole-heartedly accepted by the buyers who want to invest in the real estate sector. Online real estate platforms can help in creating a trustworthy environment based on tangible data. However, providing data and information for many new requirements will be a complex task. Thus its full fledged implementation will help in regulation and promotion of the real estate sector in an efficient and transparent manner and protect the interest of both the builders and consumers in the real estate sector.

REFERENCES

1. Yerunkar, T. (2017). "RERA Act: Here are 10 keybenefits for home buyers" ZeeBiz WebDesk.

2.Batra, K. (2019). "10 major benefits of RERA act for property Buyers" Chartered Club.https://www.mymoneymantra.com/blog/10-major-benefits-of-new-rera-act-for-property-buyers/

3. How does RERA benefit Buyers? Kotak Mahindra .https://www.kotak.com/en/stories-in-focus/how-does-rera-benefit-the-buyers.html

4. Shetty, P. (2017). How does RERA benefit Buyers?. My money mantra.

5. Kumar, A. (2016). "India: The Real Estate (Regulation And Development) Act, 2016 – An OverviewSinghania & Partners LLP, Solicitors and Advocate.

6.(2018). Real Estate Regulation Act (RERA): A Critical Evaluation, Forum IAS.https://blog.forumias.com/real-estate-regulation-act-rera-a-critical-evaluation

7. Menon, P. (2017). "RERA Act: Know Your Rights & Duties as Buyers" Indiacode.nic.in.

8. Misra, R .(2017)."RERA Act – Resolving India's Housing Crisis" Paisa Bazar.

 Copyright ⓒ 2019Authors

ISSN:0971-1260

Vol-22-Issue-4-October-December-2019

9. (2017) . RERA for Real Estate Buyers/Consumers,Apna Rera.http://apnarera.com/about-rera-buyers

10. (2017) .What is RERA and how will it benefit home buyers?BT Online.https://www.businesstoday.in/current/economy-politics/rera-homebuyers-developers-builders-c

11.Dhawan, S. (2017). 6 rules in RERA that will stop builders from delaying delivery of your dream home. ET Online.

12.(2019) .5 Major Benefits of the RERA Act for Buyers. Indiabulls Realestate.https://www.indiabullsrealestate.com/blog/5-major-benefits-of-the-rera-act-for-buyers/

13. Rameshfca, P. (2019).“Benefit to Buyers Under RERACorporate Law – articles.

14. Moral, A.,Basu, S. (2019). “Rera: the final hope of home buyers?Housing.com.

Copyright ⓒ 2019Authors