

THE AWARE CONSUMER

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How Safe And Protected Are You As A

Homebuyer?

INTERVIEW



GAUTAM CHATTERJEE
Retd. IAS Officer
First Chairman, MahaRERA

RESEARCH FEATURE
Real Estate Associations
Safeguarding
Consumer Interests

IN FOCUS
Getting A
Home Loan
Done Right!



PLUS

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- Vivek Vardhan

VIEWPOINT



MESSAGE FROM PUBLISHER & EDITOR

Awareness is the Key to a Safe and Stress-Free Home Purchase



EVERY INDIAN SHARES one dream in common – to buy a house. Some toil throughout their life, working overtime and cutting corners just to be able to afford a roof that they can truly call their own! This can be a modest flat, a luxurious bungalow or a sprawling mansion.

While owning a home is a dream-come-true moment, getting there is another story altogether! I am not talking about earning enough money for this, but the pains that property buyers face in the real estate market. Alas, the thrill of buying a house fails to materialise in many a case, as the entire journey literally starts to go south from the world go!

Indeed, the path is strewn with pitfalls at almost every step with real estate agents and developers alike throwing one curveball after another. Agents will try every trick and can stoop to any level just to get a client to buy/rent a property. All of us have heard of umpteen stories of unending delays in completion of projects and developers reneging on their contractual commitments. Then there are the usual cases of misleading advertisements, misrepresentation in offers, hidden charges and more. Not to mention the deteriorating quality of construction and amenities.....

The path-breaking Real Estate Regulation Act (RERA), 2016 has finally brought the much-needed transparency

and reliability in the process of buying flats, houses, buildings, plots, etc. With almost every state setting up its own version of RERA, the Indian real estate industry has finally got its first regulator.

However, the scenario is still far from optimistic as buying a home continues to remain a harrowing experience for most consumers. The crux of the problem is that the average homebuyer has very little knowledge about the real estate sector. It is easy for other stakeholders to take him for a ride and he ends up victimised and cheated no end.

Therefore, this edition of The Aware Consumer is our attempt to increase consumer awareness about their rights and responsibilities when it comes to purchasing a property. We hope that this will bring the joy and fulfilment back to the momentous achievement of buying a home!

Prof. Bejon Kumar Misra

Publisher & Editor

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PRAFULL D. SHETH

Editorial Board Member



EXPLOITATION OF HOMEBUYERS HAS TO END!

REAL ESTATE IS a lynchpin industry of the economy and also one of the fastest-growing markets today, making up 7% of India's GDP. Buying and selling of property – be it for residential, commercial or investment purposes – takes place every day. This is also one of the most progressive industries today, with infrastructure driving the economic growth of the nation. Moreover, it has been ascertained that, after agriculture, the real estate sector is the highest generator of employment as well.

However, it cannot be denied that real estate is a complicated sector which leaves the consumer in a very vulnerable position. The process of acquiring a property is also very long and tedious, beset with tons of legal formalities. Government regulations for the industry have come a long way in bringing the much-needed measure of accountability for builders and developers. Terms like 'protection of consumer interests' and 'alternate redress mechanism' are being parlayed around as the regulatory framework comes into force.

Yet, the ground reality is quite different. It still cannot be denied that the real estate consumers are prone to a higher degree of risk than they are in the other sectors of the economy. The real estate mafia continues to rule with a strong nexus of agents-developers at play....

The questions that beg attention are what is the industry watchdog doing? Why have the states diluted the RERA laws as per their convenience? Why did the legislation fail to make much of a dent in the obnoxious dealings that characterise the real estate sector?

Alas, we still have a long way to go to truly make the real estate transactions efficient and transparent. Protecting the interests of consumers in the real estate sector is another ballgame altogether! ▶





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RESEARCH FEATURE

REAL ESTATE ASSOCIATIONS
SAFEGUARDING CONSUMER INTERESTS



Much before the advent of RERA, the real estate sector had organised itself into various associations that work not just for the growth of the members and the industry, but also impose self-regulation to protect the interests of property buyers.

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UNTANGLING THE WEB OF THE
REAL ESTATE AGENT



Real estate agents are experts at their job and can make it easy to navigate the convoluted maze of property purchase.

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IN FOCUS

GETTING A HOME LOAN
DONE RIGHT!



A consumer can apply for a home loan to purchase a new/old flat, house or villa, to buy a land, to construct a residential unit or even to conduct repairs/extension of an existing property.

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OUT OF THE BOX

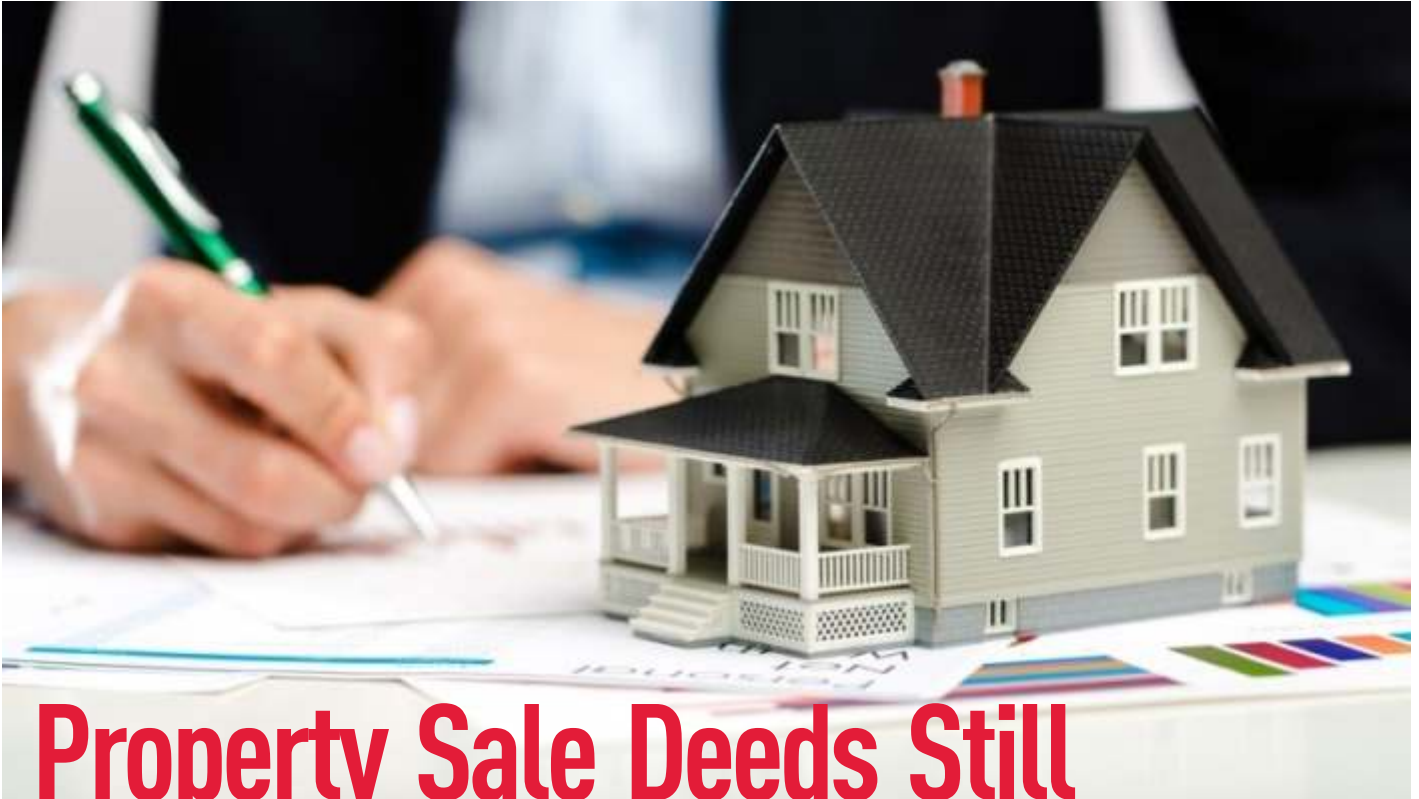
LEGAL RECOURSE FOR
HOMEBUYERS - FILING A
COMPLAINT UNDER RERA



SHRI ABHAY UPADHYAY
HOMEBUYERS' BODY FORUM FOR PEOPLE'S COLLECTIVE EFFORTS (FPCE) PRESIDENT

We are also witnessing that homebuyers are running pillar to post for justice even after having favourable order from RERA as builders are refusing to obey the orders of RERA and sadly even after six years of full implementation of RERA, we have failed to find solution for this burning issue.

ROUNDUP



Property Sale Deeds Still Being Registered without Occupancy Certificate

AN OCCUPANCY CERTIFICATE is an essential document certifying that the construction of a building complies with the local bye-laws, regulations, etc. and is in accordance with the permissible plans. The local municipal authority issues this document upon the completion of the construction of the building when it is ready to be occupied.

The Occupancy Certificate is obtained from the local authority upon submission of the application form along with the required documents after the building construction has

been completed. Usually, the local municipal body issues the certificate within 30 days from the application date.

The builder/developer is responsible for obtaining the Occupancy Certificate upon the completion of the project

The Real Estate (Regulation and Development) Act, 2016 requires that the sale deed of a project unit cannot be registered in the office of the Sub-Registrar without

DATA BRIEFING

India's real estate market is expected to exhibit a growth rate (CAGR) of

9.2%

during 2023-2028. Therefore, FY'23-24 will see a strong foundation as there will be more buyers, and home loan rates will be lower.

obtaining the Occupancy Certificate (or Completion Certificate as it is also called).

However, unit registrations continue to take place without checking or even obtaining the Occupancy Certificate. The Department of Stamps & Registrations is aware of the RERA Act implications but they have not taken necessary steps to stop the unlawful sale deed registrations of such properties. In fact, the authorities do not even seem to be bothered about the legal consequences.

As a homebuyer, you should keep in mind that the occupancy certificate is proof that the building is safe to occupy. This legal document of the property will be required while applying for water, electricity and sanitation connections from the local municipal body. What's more, without



As a homebuyer, you should keep in mind that the occupancy certificate is proof that the building is safe to occupy.

the certificate, the local authority has the right to initiate legal action as the project is deemed an illegal structure.

Then again, Occupancy Certificate is considered one of the mandatory documents for availing a housing loan and even when selling a property. ▶

Paying More Than Rs. 20,000 in Cash for a House is Illegal

PROPERTY TRANSACTIONS IN

India are marked by black money with the sellers, buyers and even the agents being keen on dealing in cash. To curb the generation of unaccounted money in the economy, Section 269SS of the Income Tax Act affected some changes for the realty sector in 2015.

According to the Central Board of Direct Taxes (CBDT) any transaction in real estate (including agriculture land) has to be made through account payee cheque, real-time gross settlement (RTGS) or electronic funds transfer if the amount is Rs 20,000 or above. If the cash transaction is done beyond the limit, then a penalty of an amount equal under Section 271D of the Income Tax Act will be imposed on the seller who accepts cash or even makes a refund of advance in cash. Moreover, if a real estate deal is cancelled, 100% penalty will be levied if the amount received for purchasing property (Rs. 20,000 or more) is repaid in cash.

Therefore, if you make a payment of over Rs 20,000 in cash while buying a house (or accept cash refunds), be prepared for an income tax notice to come knocking on your door!

The only exception is farmers selling their agricultural land – that



According to a survey conducted by community platform LocalCircles in 2021, 70% people have paid a component of the total payment towards a real estate transaction in cash in the last seven years. About 16% paid over half of the amount in cash!

too, only if they don't have any other income chargeable to tax.

Furthermore, all property transactions of a value Rs 30 lakh or more have to be reported to the

income tax authorities!

Hence, do not get lured into making part payments to a builder in cash as income tax penalties will be lying in store for you. ▶



Union Budget Fails to Meet Expectations of Real Estate Sector

EVERY YEAR, LEADING real estate associations present a list of proposals to the Union Finance Ministry in the run-up to the budget. In January this year too, CREDAI requested various tax advantages - like a rise in the threshold on house loan interest deductions from Rs 2 lakh to Rs 5 lakh, asking for the industry's infrastructure status, reduction in GST and other taxes, and new reforms in affordable housing concepts.

The other demands related to:

- A separate annual deduction of Rs.1,50,000 for principal repayment
- Increase limit of affordable housing to Rs.1 crore
- Loan-to-Value should be raised to 90%
- Boost rental housing in the affordable segment
- Special incentives for women developers by providing central subsidies on projects with Government land
- Special provisions for underwriting of municipal bonds for slum redevelopment by the Finance Ministry

- Allowing Overseas Direct Investment for Indian investors and increasing LRS limit to Rs.10 crore
- Reduction in stamp duty
- Granting infrastructure status for easy access to finance
- Single Window Clearance to remove approval bottlenecks

However, the Union Budget 2023-24 mostly ignored realty demands as usual. What is most unfortunate is that, the Finance Minister has not only neglected the supply side, but also did not bother to address the demand side, i.e., the aggrieved homebuyers!

"The real estate sector is completely ignored in the entire budget speech. Real estate sector is the second largest contributor to the GDP of our country, it is also the second largest employer in the country. It has a phenomenal cascading effect on multiple allied industries. In spite of all that, there is not a single initiative to incentivise the real estate sector and that is disappointing →

How Does Black Money Come into the Picture?

CIRCLE RATE IS the price determined by the government below which a property cannot be registered at the sub-registrar's office. The stamp duty and registration charges on a property transaction are calculated based on the circle rate, which is also known as collector rate, ready reckoner rate or guideline rate.

The circle rates vary from not only from city to city, but also locality to locality and even project to project – they are determined by the district administration based on the location and its features. The authorities are also supposed to revise the circle rates periodically to keep them close to the prevalent rates at which properties are sold in a particular market.

The problem here is that the market rate at which a

developer or homeowner sells a property is usually higher than the circle rate; a markedly wide gap in many instances. This encourages illegal activities as both the seller and buyer stand to benefit by paying the difference money in cash (which is mostly unaccounted). The former is able to save on capital gains tax while the latter is charged lower stamp duty and registration charges.

The circle rates are being raised regularly in high-intensity markets of Haryana and Maharashtra. In fact, the circle rates in Gurgaon have been increased by 30% in the residential sectors, effective from 1st April 2023. However, many other cities and localities continue to operate under a yawning difference in the official and actual rates! ▶

for the whole sector,” says Sachin Bhandari, Executive Director & CEO, VTP Realty.

While tangible benefits are non-existent, the realty stakeholders have hailed some of the intangible gains as a silver lining for the industry. As Ramesh Nair, CEO, India & MD, Market Development, Asia at Colliers points out, “For the real estate sector, the government has increased the allocation for Pradhan Mantri Awas Yojana by 66% to about Rs. 79,000 crore. The increase in outlay will go a long way in bridging the gap between demand and stock in affordable housing. This will provide opportunities for associated stakeholders such as construction companies, contractors, etc. Further,

About 3 houses are built per 1000 people per year compared with the required construction rate of 5 houses per 1000 population. The current shortage of housing in urban areas is estimated to be 10 million units. An additional 25 million units of affordable housing are required by 2030 to meet the growth in the country's urban population.

- Economic Times Housing Finance Summit, 2021

expected changes in income tax slabs will result in higher disposable incomes, boding well for prospective homebuyers, mainly in the affordable and mid segment.”

RBI Hits Pause Button on Repo Rate:

A Welcome Move for Homebuyers



LAST MONTH, THE Reserve Bank of India (RBI) decided to leave the repo rate unchanged at 6.5% - a unanimous decision of the six-member Monetary Policy Committee in the bimonthly monetary policy meeting.

This has come as a huge relief for homeowners while sending a positive signal to the prospective homebuyers and the real estate market in general. Homeowners have been reeling under the pressure of increased interest rates and longer loan terms following the back-to-back rate hikes by the RBI. More stable home loan rates and EMIs can be expected in the future now.

It is noteworthy that economists and other analysts were expecting an increase on 25 basis points in the

repo rate. But the surprise decision to pause the hike will particularly provide relief to the affordable and mid-segment homebuyers who have been under stress since the pandemic. Real estate experts welcomed the move saying that it can boost homebuyers' confidence and faith in the Indian real estate market.

"We laud the RBI for maintaining the repo rate, in a move that is bound to go a long way in sustaining the sales momentum that we've witnessed in the residential segment. Given the potential adverse impact of a hike in repo rate and its ripple effect on both housing demand and supply, this move would provide a further boost for the affordable and mid-income housing segments, in

particular," said Boman Irani, President-Elect, CREDAI National.

A month prior to this, CREDAI had urged the RBI to pause rate hikes, citing the unavoidable impact on home sales as it leads to an increase in both home loan rates and EMIs for the consumers

However, while announcing the pause, RBI governor Shaktikanta Das said, "This is a pause and not a pivot..... The future will decide. We will make an analysis of the evolving outlook and make a decision".

On the contrary, the real estate industry is of the view that the central bank should actually consider reducing the repo rate in future, as homebuyers are facing the heat of high interest rates!

Consumers, Beware

Why Consumers Need Protection in Real Estate Sector

Property purchases involve huge sums of money. There is a lot at stake for the unsuspecting buyers given the kind of risks involved. Read the warning signs to better be safe than sorry...

A homebuyer is in a very vulnerable place as there is a lot that can go wrong for him/her...



BUYING A HOME figures on the to-do list of every person at one time or the other. This is also one of the largest and most complex purchases you may ever make in your life. Therefore, there is bound to be ample stress, not to mention that the fallouts of getting it wrong can be significant!

Here, it is not just about finding the right property to suit your needs, preferences and budget per se. The real estate sector is ripe with malpractices that snowball into severe risks for the consumers. And when you are putting your whole life savings into buying a house for yourself and your family, things can get quite frustrating and intimidating.

As everyone of us will obviously prefer to avoid the potential of losing large amounts of money in the future, following are some of the red flags to watch out for:

- **Misleading Advertisements** – Real estate developers are notorious for their flashy ads in the print and electronic media that make alluring announcements of world-class facilities, high-end services, quick connectivity, etc. which turn out to be deliberate fabrications later on. Beware of such phony showcasing and walk into the deal with your eyes wide open.
- **False Claims** – Real estate agents are infamous for their dishonest assertions about a property. They will make tall claims and lie through their teeth just to convince a prospective client that a property is perfect for his/her needs. This can be about the quality of construction, features, history, neighbourhood, demand from other clients, etc. Do not believe in the hype or fall for the aggressive oversell – take everything with a pinch of salt, try to crosscheck all the information provided and confirm the reality for yourself. Also, insist on dealing with the owner directly as far as possible and get a pre-handover inspection.
- **Fake Delivery Promises** – Developers claim that their under-construction projects will be

completed within a specific timeframe of say 12 or 24 months. People believe in the commitment only to end up trapped by the false assurances. The gullible buyer will sign the builder-buyer agreement and make all the required payments as per the payment plan, but possession seems nowhere in sight long after the due date. Irrespective of whether the delay in completion is genuine or due to redirecting of the funds, there is no option but to wait while the construction seems to go on for ever and ever. Meanwhile, you are stuck with the bank loan and have to keep paying the EMIs for the house which remains yours only on paper! The only thing you can do here is check the builder's track record, brand value, reviews and RERA approval of the project before making a booking.

- **Property Title** – What if the property you are buying happens to be under litigation without you being any the wiser for it? The problem here is that many real estate agents manage to convince the buyers that the title is clear or the owner may promise that the other joint owners are ready to give their consent to sell the property. However, disputed property titles that surface later can cause issues in everything from getting bank loans and gaining possession to resale in the future. Tricky litigation and expensive settlements are bound to follow.

It's better to be safe than sorry – you can ask for a copy of the title documents beforehand to ascertain whether the property titles are clear or not before signing any agreement. While at it, check the other documentation, mortgages and RERA registration of the property as well.

Some agents and homeowners try to sell disputed properties at low prices. This can seem like an attractive prospect, but is bound to become a major headache later.

- **Unfair Clauses** – Often times, the agent or developer will rush you into signing the agreement. The legalese may be peppered with biased clauses, terms and conditions that can become a veritable noose around your neck later on. Therefore, it is better to go through the contract with a fine tooth comb, paying special attention to the completion schedule, handover period, payment schedule, penalties for payment delays, etc. Better yet, get it vetted by a lawyer before signing on the dotted line to avoid mental agony over unreasonable terms later on.
- **Deficiencies in Construction** – Builders may promise top quality materials and construction standards, only to use substandard and cheap materials to cut corners and save money. The workmanship may also be below par at times. All the promised features or amenities may not be provided when the house is finally ready.

The real estate sector is quite opaque due to which consumers cannot procure complete information before making a purchase. To add to this, many of them lack knowledge of the goings-on in the industry and remain unaware of their rights as a property buyer.

Most of the above problems are covered under RERA, but how many of us actually enforce accountability against builders and developers?

So, are you ready to be exploited by staying uninformed and get cheated out of your hard-earned money? And huge sums at that!

Once you know what to watch out for and what to ask, fraud agents and developers will not stand a chance anymore!



Conclusion

The government is working at extending legal protection to the consumers against malpractices by real estate agents, builders and developers. Covering your own back still remains crucial here! ▶



Real Estate Associations **SAFEGUARDING** Consumer Interests

Much before the advent of RERA, the real estate sector had organised itself into various associations that work not just for the growth of the members and the industry, but also impose self-regulation to protect the interests of property buyers. How effective they actually are is another question altogether!

INDIA'S REAL ESTATE sector contributes around 6% to 7% of the GDP now. According to a recent report by India Brand Equity Foundation (IBEF), the real estate sector in India is expected to reach a market size of \$1 trillion by 2030 and contribute 13% to the country's GDP by 2025 scaling 18% to 20% of the GDP by 2030.

Indeed, we Indians always hanker after owning real estate. Buying a house is the most prestigious asset and is considered the biggest achievement of one's life. The demand to buy real estate, particularly in the low and middle income segments, is expected to grow in the coming years.

> 77% Other data reveals that more than 77% of the total assets of an average Indian household are held in real estate, and it's the single largest investment of an individual in his lifetime.

Given the high financial value of real estate along with the demand and esteem associated with the same, it is surprising that the industry has stayed unorganised for the longest time. In fact, much before the government could pass real estate legislations, the real estate players themselves formed associations to bring a semblance of order, efficiency and coordination in the industry.

CREDAI

The Confederation of Real Estate Developers' Associations of India (CREDAI) is the apex body of private real estate developers and builders in India. It was established as a non-profit organisation in 1999 at

the national level with a vision of transforming the landscape of the Indian real estate industry and a mandate to pursue the cause of housing and habitat.

Today, CREDAI represents 13000+ developers across 217 city chapters in 21 states - advocating for its members and providing them with valuable resources, advice and support as well as education and training.

CREDAI is focused on promoting and encouraging the welfare and growth of the industry. It strives to make the sector organised, transparent and progressive by working closely with all stakeholders - government representatives, policymakers, investors, finance companies, real estate professionals and consumers. In fact, the association is a recognised partner for the Government and represents the views of its members on several committees engaged in policy formulation. It engages with different ministries on a regular basis – like Ministry of Housing and Urban Affairs, Ministry of Environment, Forests and Climate Change, Ministry of Finance, Ministry of Civil Aviation, Ministry of Skill Development & Entrepreneurship, Ministry of Labour & Employment and with agencies like Bureau of Indian Standards (BIS), Bureau of Energy Efficiency (BEE), NITI Aayog and others.

However, CREDAI is not just about promoting the interests of the members and creating a conducive environment for the growth of the industry; it also aims to establish fairness and ethical behaviour in the industry. CREDAI's Code of Conduct promotes professional and ethical practices and is adopted proactively by all its members.

With its strong presence and advocacy, CREDAI has brought about a positive change in India's real estate sector

CREDAI makes a conscious effort to bring honesty and transparency in the sector to protect the interests of homebuyers. In fact, it has a dedicated team working to protect the interests of real estate customers. It framed a set of guidelines for customers to follow when buying or selling a property. It also established a Consumer Grievance Redressal Forum (CGRF) where aggrieved buyers can register a complaint against member developers and get their issues resolved at the earliest.

The CREDAI Awaas app is the first-of-its-kind project online discovery platform to facilitate transparent homebuying in India and build trust and reliability for the consumers. It showcases the projects of the developer members while connecting prospective buyers directly with the said developers. Consumers can use it to identify their preferred projects and contact developers directly.

"Since the real estate sector has evolved, the mobile app will help increase transparency in the sector and improve trust between developers and homebuyers. The platform would also enable buyers across India and abroad to identify their preferred projects and developers without any ambiguity in the process," said **Satish Magar, Chairman, CREDAI National**



SATISH MAGAR
Chairman, CREDAI National

The resources and initiatives to help members include:

- Access to information and advice related to the business
- Forum to interact with each other, share information related to their operations and get useful insights from others
- App for getting real-time industry information and updates on government policies and regulations related to real estate development
- Regular events and exhibitions that bring together members and stakeholders from the industry while fostering collaborative conversations between them.

CREDAI - <https://credai.org/>

- **Chairman - Mr. Satish Magar (CMD, Magarpatta Township Development & Construction Co. Ltd.)**
- **President - Mr. Harsh Vardhan Patodia (CMD, Unimark Group)**
- **President Elect - Mr. Boman Irani (CMD, Keystone Realtors Pvt. Ltd.)**

Most of the states have their own CREDAI wing with an elected Chairman, President and other committee members

For general queries, email at info@credai.org



NATIONAL ASSOCIATION OF REALTORS - INDIA

On the same lines, the National Association of Realtors (NAR) - India is the top representative body and advocacy group for the real estate agents, brokers, realtors and consultants, providing support and education to over 30,000 of them all over the country. It was formed in 2008 to establish the highest standards and accreditation in the real estate industry and facilitate professional development for its members.

The association encourages its members to follow the highest professional and ethical standards in the industry. It also offers comprehensive resources to help them provide world class services and create value for all the stakeholders in the industry.

The functions of NAR include:

- Establish cordial, healthy relations and foster brotherhood and esprit-de-corps amongst the members
- Provide a place for meetings, where members can exchange their views and solve their difficulties
- Impart knowledge to the members related to the real estate industry

- Arrange talks by experts to assist members on technical, taxation and legal matters
- Promote awareness of the rights and duties of the agents
- Collaborate with industry leaders to advance public policy goals and speak for its members before legislative and regulatory bodies.

NAR is also a forum for making the public aware of the role and functions of real estate consultants and build the trust of property buyers in the industry

This is the only organisation on the Central Advisory Council of the Real Estate Regulation Authority (RERA) that represents India's real estate professionals.

NAR – India - <https://www.narindia.org/>

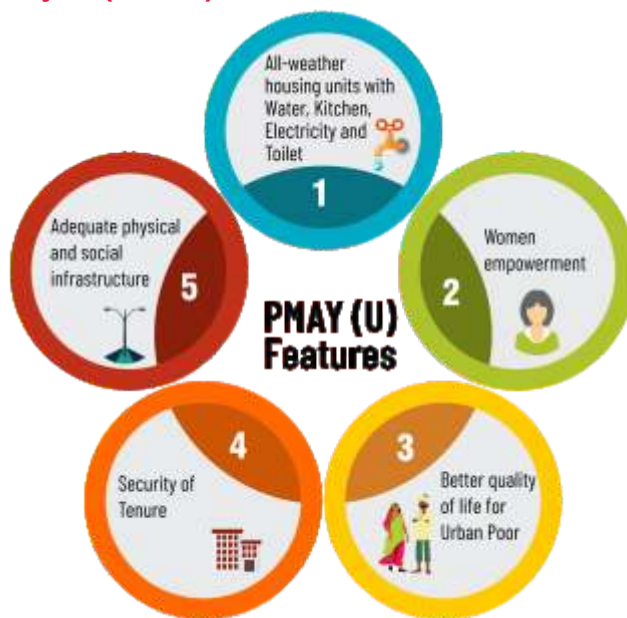
- **Chairman - Mr. Ravi Varma**
- **President - Mr. Shivakumar C.R**
- **President Elect - Mr. Amit Chopra**

There are separate zone heads for the North, South, East, West and Central Zones

For more details, email to manager@narindia.com

On similar lines, the real estate industry also has the Builders' Association of India (BAI) comprising of civil engineering construction companies and the All India Real Estate Agents Association (AIREAA), another professional body for real estate agents.

Affordable Housing By Way of PM Awas Yojna (PMAY)





Ministry of Housing and Urban Affairs
Government of India

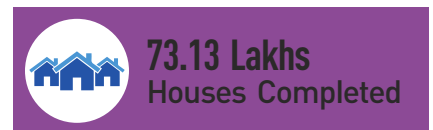
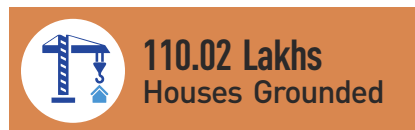


Years of
**PRADHAN MANTRI
AWAS YOJANA -
URBAN**
2015-2022

The all-round work that is being done to achieve this goal of housing for all is bringing about a major change in the lives of crores of poor and middle class families. These houses are boosting the confidence of the poor. These houses are augmenting the capabilities of the youth of the country. Many doors are opening together with the keys of these houses. When someone gets the key to the house, it is not limited to just the door or the four walls. When the key to the house comes in the hand, it opens the door for a dignified life and a secure future. The property rights open the door of savings and the growth in one's life. It opens the door for a new identity among 5-25 people, in the society and the fraternity. A sense of respect is restored. Confidence thrives. These keys are also opening the doors of people's development and progress. Not only that, it may just be a key to the door, but it also opens the locks of the mind and he starts cherishing new dreams, moves forward with a new resolution and weaves dreams of doing something in life. This key has such power.

- Hon'ble Prime Minister Shri Narendra Modi

PMAY (Urban) - Progress



Component of PMAY (U)

ISSR
In-Situ Slum
Redevelopment



CLSS
Credit Linked
Subsidy Scheme



AHP
Affordable Housing
in Partnership



BLC
Beneficiary-Led
Construction



There is a mandatory provision for the female head of the family to be the owner or co-owner of the house

The Pradhan Mantri Awas Yojana (<https://pmaymis.gov.in/>) was launched on 25th June 2015 to provide affordable housing for the urban poor by March 2022 through the Ministry of Housing and Urban Affairs (MoHUA). Subsequently, the deadline has been extended until 31st December 2024.

This will address the urban housing shortage among the economically weaker section (EWS), low income group (LIG) and middle income group (MIG) categories (including the slum dwellers) by ensuring a pucca house to all eligible urban households through subsidised home loan interest rates. The Mission provides central assistance to the implementing agencies through states/union territories and Central Nodal Agencies (CNAs) for providing houses to all eligible families/beneficiaries against the validated demand for houses for about 1.12 crore.

As per PMAY(U) guidelines, the size of a house for the economically weaker sections could be upto 30 square metres carpet area. However, the states/UTs have the flexibility to enhance the size of houses in consultation and approval of the Ministry.

A web based monitoring system, CLSS Awas Portal (CLAP) is a common platform where all stakeholders - MoHUA, central nodal agencies, primary lending institutions, beneficiaries and citizens - are integrated in the real time environment. The portal facilitates processing of applications along with tracking of subsidy status by beneficiaries. The CLSS tracker has also been incorporated in PMAY(U) mobile App and UMANG platform.

This was followed by the Pradhan Mantri Awas Yojana –Gramin (PMAY-G) on 1st April 2016 by restructuring the Indira Awas Yojana for providing housing for all in the

Therefore, the government is looking out for the housing needs of the lower strata of the population who are denied adequate shelter just because it remain out of their financial means!

EWS, LIG and MIG beneficiaries seeking housing loans from banks, housing finance companies and other such institutions for acquiring, new construction or enhancement of houses are eligible for an interest subsidy of 6.5%, 4% and 3% on loan amount upto Rs. 6 lakh, Rs. 9 lakh and Rs. 12 lakh respectively. The Ministry has designated Housing and Urban Development Corporation (HUDCO), National Housing Bank (NHB) and State Bank of India (SBI) as the Central Nodal Agencies (CNAs) to channelise this subsidy to the beneficiaries through lending institutions and for monitoring the progress.

rural areas through the Ministry of Rural Development. Accordingly, it has the aim to provide a pucca house, with basic amenities, to all houseless householders and those households living in kutchha and dilapidated houses by 2022 (extended to March 2024).

Conclusion

The real estate sector is at a turning point and may experience disproportionate growth compared to expectations. It is up to the government and the private associations to ensure that the interests of property buyers stay protected at all times. ▶



#65YearsOfSuccess

65th Anniversary

Thank you to everyone who has helped make this possible.
We hope to continue serving you for many more years to come.



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REPORT



How Satisfied Are We With the Homes We Purchase?

Buying a property should impact only the financial health of the buyer. However, Track2Realty surveys keep reinforcing that the process of homebuying is shady to the extent that it has a negative impact on the satisfaction, happiness and even the mental health of the homebuyers!

The Indian housing market seems to rob buyers of both peace and happiness that comes with an asset class like home!

TRACK2REALTY, A LEADING real estate thinktank group, conducted pan-India surveys to assess the level of stress homebuyers undergo in India while purchasing a house as well as the consumer satisfaction level in the Indian housing market. Around 1000 homebuyers from Mumbai, Pune, Bengaluru, Hyderabad, Chennai, Kolkata, Delhi and its suburbs of Gurugram, Noida and Ghaziabad took part in the survey.

Track2Realty - managed by a consortium of journalists - started the first e-newspaper in the Indian real estate sector in 2011. Today it has evolved into a thinktank on the sector with specialised research reports, ratings and rankings. The research stands editorially independent and free from commercial bias.

The respondents were asked a mix of open-ended and close-ended questions in an online poll. They were focussed on five key elements of - satisfaction in home buying; mental stress and harassment; finding the house; pre-possession issues; and post possession challenges.

Some of the primary questions asked in the qualitative surveys are:

- Was the homebuyer satisfied with the home buying process?
- Did the homebuyer undergo mental stress and harassment while looking for a house and booking a unit?
- Did the homebuyers have trust in the process?
- What was the promise versus performance quotient of the home delivery?
- Did the homebuyer face pre-possession issues including delivery cycle hassles?
- Did the homebuyer face post-possession challenges?

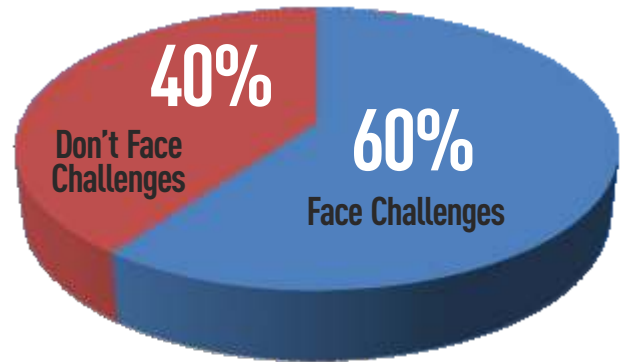
Released in July 2022, the results reveal that:

- A whopping 60% of the surveyed homebuyers face challenges while acquiring a property (see Figure 1). While they have problems in getting the possession, this is not limited to acquisition of the property alone. As many as 40% of the homebuyers contend that they encountered issues even after getting possession of their homes. For them, the post-possession challenges are way too stressful than the often long wait to get the home they wanted.

Project delays, defaults and hidden cost of housing are the major pain points cited by a majority of buyers; a defect-free home and timely possession has unfortunately become a rare luxury!

FIGURE 1

Homebuyers Facing Challenges While Acquiring A Property



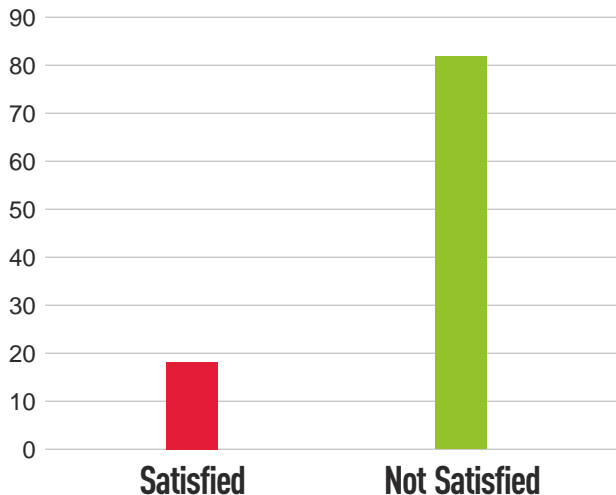
- The consumer satisfaction score or happiness index of homebuyers is extremely low with merely 18% feeling completely happy with their home purchase process (see Figure 2). 68% of homebuyers (7 out of 10) face some level of stress when buying a property.
- Furthermore, 65% of the first-time homebuyers undergo higher mental stress compared with 35% second-time homebuyers (see Figure 3). It was also revealed that Noida topped the rankings with 92% homebuyers reporting mental health issues while Hyderabad reported the least mental stress in homebuying at 48%.
- Only 12% homebuyers said they would buy the next property with the same builder.
- 88% homebuyers (almost everyone) were of the opinion that the builder-buyer agreement being handed over after making a hefty payment augmented their stress levels.
- 82% homebuyers (more than 8 out of 10) categorically blame the builders' greed for their mental health issues with the house.
- 54% homebuyers (more than half the homebuyers) felt that rental houses are far less troublesome than a house of one's own.

What is all the more painful is that the mental health issues are not confined to pre-possession alone. For many, the real mental stress begins once they have bought the so-called 'dream' home!

- When it comes to the design aspects, 72% homebuyers maintained that their apartments lacked breathing space and functionality (see Figure 4). 68% of them demanded policy intervention to ensure that each house gets proper wind flow and sunlight.

FIGURE 2

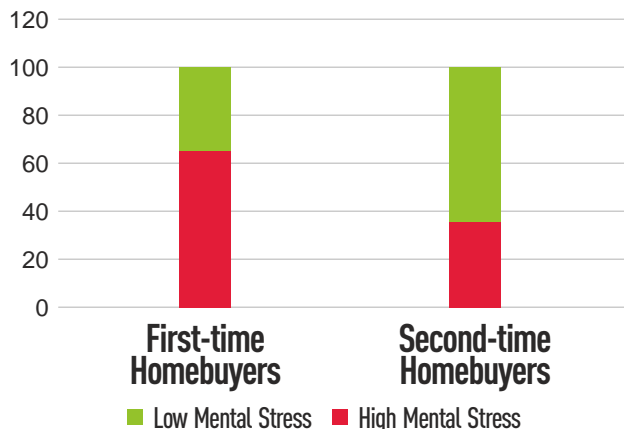
Happiness Index of Homebuyers



- 44% of the homebuyers complained that they were a victim of mis-selling in the housing market (see Figure 4) while 52% admitted that they themselves were ignorant and lacked knowledge about the homebuying process. But 82% termed unfair contracts as the root cause of the problem (see Figure 4).
- Then again, almost 58% (6 out of 10) homebuyers contended that the developers' sales channels created the idea of FOMO (Fear of Missing Out) and compelled them to book a house instantly.

FIGURE 3

Mental Stress – First vs Second Home Purchase

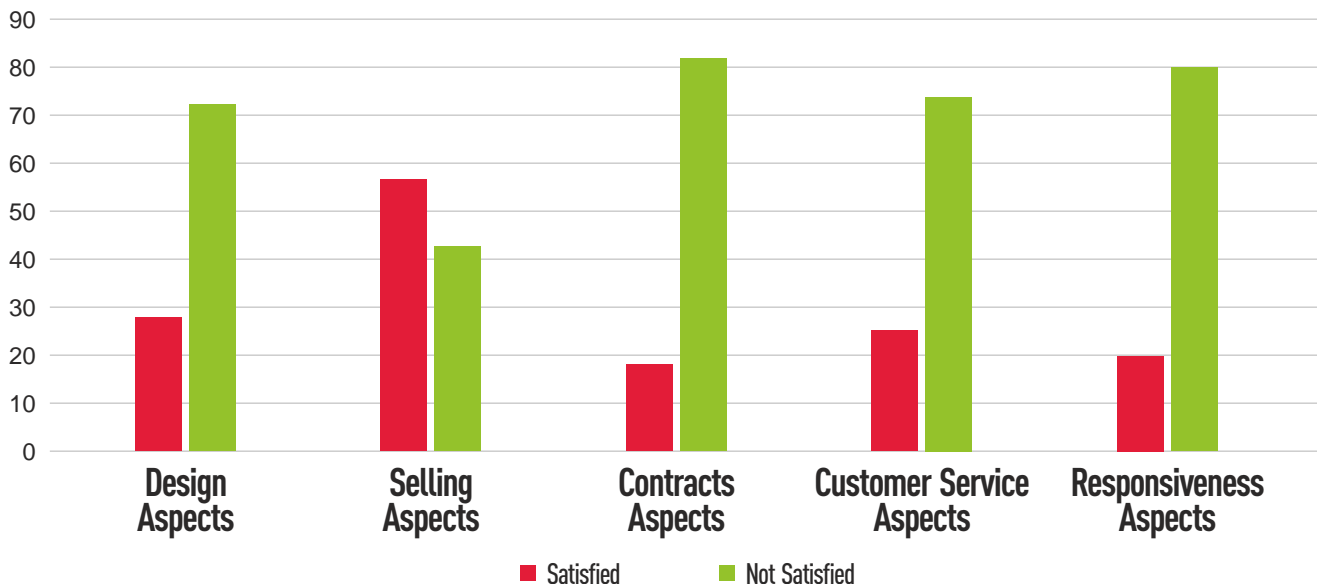


“As a pregnant woman, I had more anxious visits to the developer’s project site than to the hospital. This is the plight of the middle-class home buyers, after having invested their hard-earned money” - Pramlata, a home buyer in Ghaziabad

- No less than 74% homebuyers reported that the customer service during the construction lifecycle was unprofessional with 80% reporting that they received no response by the developers on the extended timelines (see Figure 4).

FIGURE 4

Satisfaction Quotient With Different Features of Home Purchase



- 46% homebuyers complained of hidden charges and coercion to pay more money under one pretext or the other.

“If my cheque was not deposited on time by the marketing staff of the builder, then, how am I responsible for that? However, the builder forced me to pay a delay penalty at the rate of 24%, for their own fault” - Rajkamal, a software engineer in Noida

- 34% have even been coerced by the builder to sign the pre-dated consent on the future layout and FAR changes.

“I was categorically told to either sign the advance consent letter or else wait for possession till other homebuyers sign it. Under the burden of both, the rent and the EMI, I had no choice but to surrender. I do not have bandwidth to fight the builder in a long and expensive legal battle” - Rakshit Desai, a marketing professional in Mumbai

- When it comes to the landmark RERA legislation, 70% homebuyers are of the opinion that RERA is just another window of litigation and builders simply do not comply with the RERA orders. 88% homebuyers complained that developers were still selling on super built-up area and not carpet area, as mandated by the RERA Act. More than 66% actually maintained that they wished to drag the builder to court but were deterred by the prospects of lengthy and expensive legal battles.

What is noteworthy is that the low consumer satisfaction levels continue to prevail despite the structural changes and policy reforms undertaken in the past decade. In contrast, the same survey group showed that the consumer satisfaction score was



Do builders even understand the need for measuring C-SAT scores? Not many homebuyers, 92% to be precise, have even heard of the developers measuring the satisfaction level of the homebuyers. A vast majority of them, as many as 68%, have never been approached by the builder or his team, once the property has been handed over to them.” - Ravi Sinha, CEO, Track2Realty

marginally higher 10 years earlier (at 21.2) even when there were hardly any regulatory measures governing real estate.

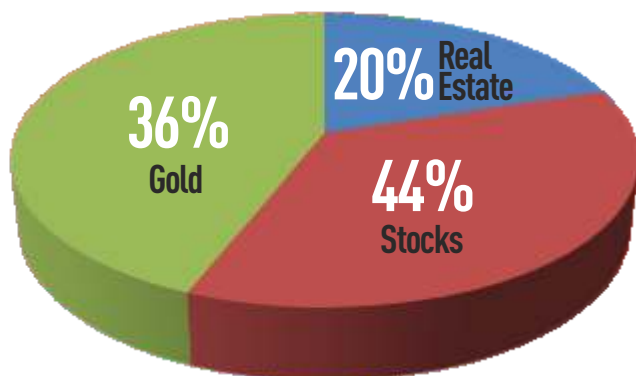
The Indian homebuyers are clear with the solutions as well. 84% of the respondents believe that professional facility management agencies are the need of the hour to settle the teething issues during and after the possession. 62% believe the developers should not keep the facility

“This is like a chicken and egg syndrome of the Indian housing market. Most of the homebuyers do not come forward to challenge the unfair contract and hence, the builders get away with this. In rare cases, when the buyer challenges the builder under the Consumer Protection Act, then, the builder harasses him with lengthy litigation” - Nirmitt Srivastav, an advocate



FIGURE 5

Investment Preference of Consumers



management in-house and this should be ensured by legal mandate.

A previous Track2Realty Investment survey in 2021 revealed that real estate has slipped to the third choice for a vast majority of the Indians, with Consumer Satisfaction Score at an all-time low of 19.5% that year.

The qualitative survey involved a series of structured questions related to the choices and concerns of their investments in relation to macro-economic uncertainties, job outlook, safety of investment, risk appetite, ROI and liquidity concerns. The results showed that in 2021 –

- 44% Indians would prefer to invest in the stock market
- 36% would invest in gold
- Only 20% Indians would invest in real estate (see Figure 5)

Furthermore:

- 50% Indians find property to be high risk and low return investment
- 62% Indians deem gold as low risk and moderate return investment
- 52% Indians feel stock market is high risk but also high return investment

The Track2Realty group even contends that research reports by various industry stakeholders try their best to paint a rosy picture. The results force feed the collective consciousness that the real estate market is improving by leaps and bounds, but the actual mood of the nation is in complete contrast to the orchestrated euphoria. This has been proven again and again by the team's survey results!

In terms of the satisfaction rate with the investment portfolio, more than half (52%) voted for the traditional investment products like gold.

Delving further into the property purchase angle, as many as 78% Indians (more than three out of four) dismiss any idea of buying an under-construction property. 84% would prefer to buy property in the secondary market where the distress sale offers them far better deals and lesser turmoil.

What was shocking is that not even 10% prospective homebuyers are ready to commit for a new launch housing project with as many as 92% wishing to buy only ready-to-move properties.

What is driving homebuyers away from under-construction properties?:

- 80% cited project delays as the number one reason
- 74% blame the builders for huge gap in promise and performance
- 70% were concerned about the poor construction quality and post-possession hassles

Conclusion

The surveys are a grim reminder and a wake-up call to the Indian real estate. If the mental health issues of the homebuyers are not their problem, then at least the extremely low Consumer Satisfaction index (contrasted with the matured property markets of the world where consumer satisfaction score is around 60%) should serve as an alarm bell – this is the root cause of the slow sales and unsold housing inventory that is distressing the real estate market today! ▶

Study suggests owning a house ends with lesser happiness than expected!

POINTS TO PONDER WHEN PURCHASING A HOUSE

Buying a property is almost like a gamble. Here's a rundown of the major considerations to keep in mind to ensure that you get the best bang for your buck, that too without getting shortshrifed at any point in the journey ...



Get your property search off on the right foot by avoiding falling prey to the common homebuyer mistakes! You just may end up with the home of your dreams!

REAL ESTATE IS one of the best investments in the current times, but only provided you choose the right asset. Irrespective of whether you are looking for a rented space; want to buy your first home; looking to upgrade to a bigger place; interested in an investment for rent, resale or building a portfolio; it is very important to stay cautious at every step of the journey.

Indeed, buying a property is a big decision and it's something you don't want to go wrong with – more so when you are a first-time homebuyer!

All this talk may feel overwhelming, but home buying is more manageable if you know what to look for and what questions to ask. Even better, always work with a checklist – this will be different for a flat, a bungalow, an open plot and a land. Again, it will also differ based on whether you are renting or purchasing, whether the property is under construction or ready and whether it is a new or used place.

Yet, the general considerations include:

- **Budget** – The starting point is obviously the budget. Be as realistic as possible about the financial aspects – including registration, stamp duty, other taxes, broker fees and other charges - as you should be able to afford the house for the rest of your life. Remember that the downpayment itself will take a huge chunk out of your finances. Finalising a budget will narrow the choices and make it easy to get a sense of what's available in the proposed price bracket!

A word of caution: Don't lose sight of your financial plan no matter how attractive or tempting a property is.

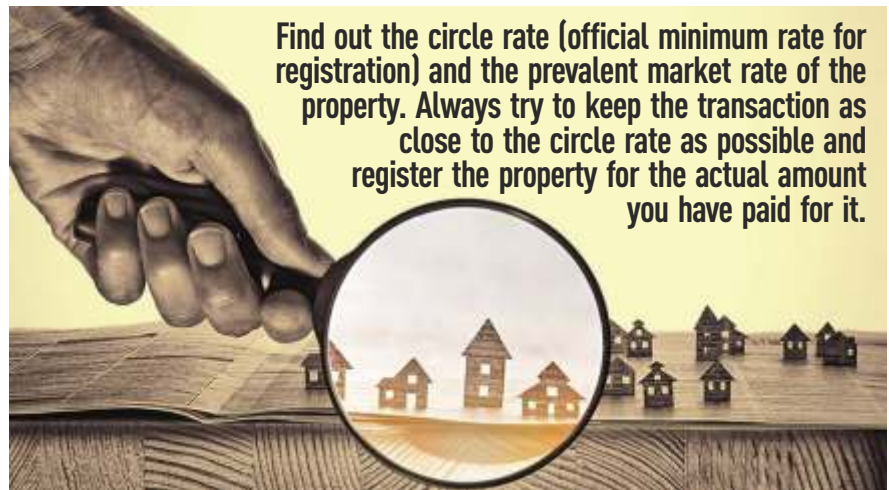
- **Location** – it is said that the three most important things when buying a house are location, location and location. Think carefully about the area you want to live in; almost everything else about the property can be changed but for the location! While it is not always possible to find a property in the

ideal locality, reflect on the preferred features of the neighbourhood like proximity to school, workplace, parks, shopping, entertainment and public transportation apart from safety, ease of access, noise and traffic.

- **Features** – Deliberate on the right amount of space you require, both in terms of carpet area and number bedrooms/bathrooms. Consider the practical aspects like the condition of the kitchen, cupboards, storage space, windows, ventilation, power outlets, parking facility, etc. As it is impossible to get everything you want, prioritise what's most important here and what can be adjusted. But be careful and do not go overboard with attractive facilities/amenities. For instance,

property rate of similar properties in and around the same location.

- **RERA Compliance** – The RERA Act mandates that all properties as well as real estate developers and brokers should be registered with the state RERA authority to be considered legal. Therefore, check the official RERA web portal of your state to verify the same.
- **Loan** – There are very few buyers who can pay the entire price of the house at once. Most of us do not have sufficient spare funds on hand and have to depend on home loans. This involves a lot of paperwork and other formalities before getting the approval. Moreover, a home loan is a long-term commitment – we are talking about 15 to 20 to even 25 years



Find out the circle rate (official minimum rate for registration) and the prevalent market rate of the property. Always try to keep the transaction as close to the circle rate as possible and register the property for the actual amount you have paid for it.

things like a jacuzzi, home gym, swimming pool or a huge backyard are good to have but may not really be useful and will only add to the cost! Not to mention translating into additional maintenance and other commitments.

- **Value and Size** – Is the owner or broker exaggerating the value of the property or embellishing the size of the land/house/flat? Check the actual square footage and the usable built-up area for yourself while considering the difference between the super built-up area which will include common areas like lobby, staircases, elevators, shafts, etc. Also research the going

You can examine the property documents on your own with due care and diligence. But it is always ideal to seek legal assistance to keep the transaction error-free. In fact, having an independent lawyer check and verify the title of the property can make a world of difference in the future.

Then again, while you can buy/rent a home on your own, having an agent on your side is always preferable!

While at it, make it a point to check the fire safety compliance and other safeguards, especially in high rises and older buildings. While some builders overlook these required precautions, many are known to abandon a project/begin the handover without completing the norms. In either case, the house literally becomes a ticking time bomb!



here. Home loan processing charges will also be applicable. So, work out all the permutations and combinations before you sign the agreement, because if you cannot actually afford the place, it will multiply into a lot of heartache soon!

- **And More** – While walking through the property, do pay attention to each and every detail like construction quality (strength of

Keep in mind that banks will fund only the transaction value at which you are going to register your property. Therefore, underreporting – based on a lower circle rate - will limit the amount of home loan you can raise on the property.

walls, flooring, window frames, bathroom fittings, paints, etc.), water damage, plumbing issues, drainage, power backup, curb appeal, noise levels, odd sounds and above all, mobile network! Apart from these, checking all the documents remains vital. In case it is a resale property, verify whether there are any outstanding loans or mortgages on the same.

Conclusion

Buying a house is almost a once-in-a-lifetime moment. You need to carefully check all the boxes and clear all the red flags without leaving anything to chance. And always read between the lines to understand all the clauses, penalties and other implications before signing on the dotted line.

And yet, no property will ever be perfect - you will have to decide what you are ready to compromise on and what aspects you just cannot live without. Even after this, be prepared that there will still always be something that can go wrong!

What is important here is that the investment should bring peace of mind and a sense of security. Above all, it is you who should own the house and not let the house own you! ▶

Are you still following the traditional method of looking for properties listed in newspapers and with real estate brokers? Buying a house is increasingly becoming a digital experience and you are overlooking a mine of potential properties on the internet. There are scores of websites that provide listings online along with instant access to information, tools and other resources. You can even view the house immediately through pictures, videos and tools like 3D walkthrough experience.



However, the fall side is that many of the web portals are not registered, peddle outdated information of properties that have already been snatched up, lack address/pictures, etc. So, leverage technology in your home search but use other sources as well!

The RERA Guardian of Consumer Interests in Real Estate

Real estate is one of the largest sectors in the country and yet, it was left unorganised and unregulated for the longest period of time. A separate regulatory body was desperately needed. Finally, the Real Estate (Regulation and Development) Act, 2016 came into being, which protects the interests of consumers by creating fair and equitable transactions between the property buyers and sellers.



BUYING A HOUSE is one of the major landmark moments of a person's life. Unfortunately, the journey to actually purchasing the desired property has customarily been marked by fraudsters who indulge in all kinds of deceits and other malpractices.

Indeed, there are hundreds of thousands of builders and developers in India. With as many projects under development at any given point of time, the market is ripe for fraud and misrepresentation, courtesy the dishonest players. In the absence of standard norms, every builder/developer could freely follow different practices and structure the builder-buyer agreements in their own favour. With the common man – especially first-time property buyers – being largely ignorant of the complex real estate norms, they easily fall prey to usurious tactics like false deeds, unfair clauses and other scams.

India did not have a specific law to regulate real estate transactions and protect the interests of property buyers till less than a decade ago – courtesy the resistance from the powerful builder lobby! Hence, the consumer – who actually invests his lifelong savings to fulfil the cherished dream of buying a home – did not have any choice but to give in to the unfair demands of the real estate agents and developers. Hapless homebuyers were exploited no end and could hardly do anything about the fraudulence prevalent in the industry.

The skewed balance of bargaining power was compounded by the lack of adequate legal remedies. Where could a person with a concern or complaint against a real estate agent or developer go? We all know what happens when a consumer knocks on the doors of the consumer courts for a grievance.....

The consumer commissions noted that the contracts/agreements made by the developers were in their own favour. They usually contain an Arbitration clause which is both time-consuming and costly. Moreover, these forums can only impose soft penalties on the defaulter – like small fines – and not a jail term.

Levelling the Playing Field

All this has changed with the passage of the Real Estate (Regulation and Development Act) in May 2016 by the central government. The Act – which took a year to come into full force - seeks to develop and promote the real estate sector by providing transparency in the buying and selling of property (be it a plot, flat, apartment or building). With safeguards to protect the interests of



The Act specifies the creation of a Real Estate Regulatory Authority (RERA) and Real Estate Appellate Tribunal (REAT) in each state and union territory of India. This is actually an umbrella Act that gives broad guidelines under which every state can frame their own rules and regulations.

property buyers, it has built confidence in consumers and, thus, boosted the real estate sector.

Applicability of RERA

Every residential and commercial real estate project has to be mandatorily registered with RERA where:

- The land is over 500 square meters or more than 8 apartments are being offered for sale
- Each phase will be treated as a separate real estate project requiring a new registration
- The developer had completed the project but did not receive the completion certificate before the introduction of RERA
- RERA approval is not required for construction work for renovation, repair or re-development, if it does not involve re-allotment, marketing, advertising, selling or new allotment of any apartments, plot or building in the real estate project

RERA registration is mandatory for every builder who wishes to build a residential or commercial property anywhere in India.

The registration process requires the developer to disclose a number of pertinent details, like - names of the promoters, project layout, land status, status of statutory approvals, plan of development work, draft of builder-buyer agreements, names and addresses of real estate agents, contractors, structural engineers and

In the *Belaire Owner's Association vs. DLF Ltd* case, the Competition Commission of India categorically stated that, "The absence of any single sectoral regulator to regulate the real estate sector in totality, so as to ensure adoption of transparent and ethical business practices and protect the consumers, has only made the situation in the real estate sector worse."

RERA is only applicable on development of property and not on renting of property.

architects, estimated period of project or phase completion, etc. All this information will be available on the RERA website and has to be regularly updated by the developer. Moreover, there will be one model sale agreement between all builders and homebuyers.

The Authority has the right to reject the registration of a project in case the guidelines have not been adhered to.

Primary Features of the Act

- **Authorisation:** A builder/developer cannot advertise, sell, build, invest or book a plot without registering with RERA. Post-registration, all marketing materials should carry the unique project registration number provided by RERA.
- **Transparency:** A builder/developer has to submit the original documents for all projects they undertake. They have to inform the buyers of the progress of construction, execution plan, stage-wise completion status, etc and abide by the timelines. They cannot make any alterations to the approved building plan without the consent of at least one-third of the total homebuyers in a project.
- **Agreement:** A builder/developer cannot ask for more than 10% of the property's cost as an advance payment, that too, only after the sale agreement is signed. The agreement of sale should lay out details such as project development specifications, property possession date, interest rate payable by the builder in case of defaults and so on.
- **Security:** A minimum of 70% of the project funds have to be transferred to a separate escrow account in a scheduled bank. This can be used for construction purposes and land related costs only; it should be verified by the project engineer, architect and a chartered accountant. The accounts have to be audited within six months of the end of the financial year.
- **Fairness:** Earlier there was no defined standard for calculating the carpet area on which the price of the property was based. Builders could easily get away by

inflating the carpet area, thus netting a higher price for the property. RERA has now defined carpet area as the net usable floor area of the flat which excludes the external walls, balconies, verandas, terrace, staircase, lifts and area under service shafts. A builder/developer can sell a property based on the carpet area and not the super built-up area.

- **Quality:** The builder/developer is bound to rectify any structural defects or service quality issues that are reported by the buyer within 5 years of possession. This issue must be rectified within 30 days of the complaint, that too, free of cost.

The Act imposes a series of penalties on the developers, agents and even the buyers:

- A penalty of 10% of the estimated project cost shall be applicable if the builder fails to register for RERA before commencing the project.
- Imprisonment of up to three years shall be applicable upon refusal to pay the penalty.
- A 5% penalty will be applicable if the builder has provided false information regarding the project.



The Act permits developers to ask for an extension over the project delivery timelines and penalty norms under two circumstances:

- If the delay in project delivery is due to natural calamities such as floods, cyclones, etc. The developer can state the reason to justify the delay and pay the penalty (if any).
- If there is a shortage of raw material, labour, etc., the developer can justify that he is at no fault by informing the RERA Authority in writing. However, the delay should not be for more than one year.

"The enactment of RERA implies one single legislation aiming to ensure a smooth purchase of the desired property, eliminating the prevailing malpractices and complicated and unnecessary technicalities. The establishment of a Regulatory Authority at state level ensures the effective implementation of real estate projects, thereby reducing the burden over both the judiciary and the consumer forums. Truly, it is a social welfare legislation." - Advocate Pushkar Taimni

Implementation Progress Report of Real Estate (Regulation & Development) Act, 2016 (as on 19-03-2022)

Sl. No.	State	General Rules	Establishment of Regulatory Authority	Establishment of Appellate Tribunal	Web Portal	Adjudicating Officer	Registrations		Total no. of Cases disposed by Authority	Website Address
							Projects	Agents		
1	Andhra Pradesh	Notified	Permanent	Permanent	Setup	Appointed	2420	154	158	https://rera.ap.gov.in/
2	Arunachal Pradesh	Notified	Interim	Not Established	Not Setup	Not Appointed	0	0	0	
3	Assam	Notified	Permanent	Permanent	Setup	Not Appointed	464	38	21	https://rera.assam.gov.in/
4	Bihar	Notified	Permanent	Permanent	Setup	Appointed	1305	415	1154	https://rera.bihar.gov.in/
5	Chhattisgarh	Notified	Permanent	Permanent	Setup	Appointed	1378	646	1424	https://rera.cgstate.gov.in/
6	Goa	Notified	Permanent	Permanent	Setup	Appointed	847	336	131	https://rera.goa.gov.in/reraApp/
7	Gujarat	Notified	Permanent	Permanent	Setup	Appointed	9818	1869	3367	https://gujrera.gujarat.gov.in/
8	Haryana *	Notified	Permanent	Permanent	Setup	Appointed	965	2812	18383	https://haryanarera.gov.in/
9	Himachal Pradesh	Notified	Permanent	Permanent	Setup	Appointed	101	113	44	https://hprera.nic.in/
10	Jharkhand	Notified	Permanent	Permanent	Setup	Appointed	821	7	93	https://jharera.jharkhand.gov.in/
11	Karnataka	Notified	Permanent	Permanent	Setup	Appointed	4739	2823	3087	https://rera.karnataka.gov.in/
12	Kerala	Notified	Permanent	Permanent	Setup	Appointed	708	235	651	https://rera.kerala.gov.in/
13	Madhya Pradesh	Notified	Permanent	Permanent	Setup	Appointed	4115	1009	4,926	https://www.rera.mp.gov.in/
14	Maharashtra	Notified	Permanent	Permanent	Setup	Appointed	33882	33798	11621	https://maharera.mahaonline.gov.in/
15	Manipur	Notified	Interim	Interim	Not Setup	Not Appointed	--	--	0	
16	Meghalaya	Notified	Not Established	Not Established	Not Setup	Not Appointed	--	--	--	
17	Mizoram	Notified	Interim	Not Established	Setup	Appointed	--	--	0	https://udpa.mizoram.gov.in/page/real-estate-regulatory-authority-rera
18	Nagaland	Not Notified	Not Established	Not Established	Not Setup	Not Appointed	--	--	--	
19	Odisha	Notified	Permanent	Permanent	Setup	Appointed	659	85	1247	https://rera.odisha.gov.in/
20	Punjab	Notified	Permanent	Permanent	Setup	Appointed	1116	2596	2106	https://rera.punjab.gov.in/
21	Rajasthan	Notified	Permanent	Permanent	Setup	Appointed	1843	3102	1488	https://rera.rajasthan.gov.in/
22	Sikkim	Notified	Not Established	Not Established	Not Setup	Not Appointed	--	--	--	
23	Tamil Nadu	Notified	Permanent	Permanent	Setup	Appointed	3981	2308	1766	https://rera.tn.gov.in/
24	Telangana	Notified	Interim	Interim	Setup	Not Appointed	4282	2148	2	http://rera.telangana.gov.in/
25	Tripura	Notified	Permanent	Interim	Setup	Appointed	91	5	0	https://rera.tripura.gov.in/
26	Uttar Pradesh	Notified	Permanent	Permanent	Setup	Appointed	3183	5151	34419	https://www.up-rera.in/index
27	Uttarakhand	Notified	Permanent	Interim	Setup	Not Appointed	336	350	629	http://ukrera.org.in:8080/rerauk/
28	West Bengal	Notified	Permanent	Not Established	Setup	Not Appointed	--	--	--	http://rera.wb.gov.in/

* Haryana has 2 Regulatory Authorities i.e. one for Gurugram and other at Panchkula for rest of Haryana.

Union Territories										
Sl. No.		General Rules	Establishment of Regulatory Authority	Establishment of Appellate Tribunal	Web Portal	Adjudicating Officer	Registrations		Total no. of Cases disposed by Authority	Website Address
							Projects	Agents		
1	Andaman & Nicobar Island	Notified	Permanent	Permanent	Setup	Appointed	3	28	0	https://rera.tn.gov.in/
2	Chandigarh	Notified	Permanent	Permanent	Setup	Not Appointed	3	16	25	https://rera.punjab.gov.in/
3	Dadra & Nagar Haveli and Daman & Diu	Notified	Permanent	Permanent	Setup	Appointed	163	2	0	https://maharera.mahaonline.gov.in/
4	Jammu & Kashmir	Notified	Interim	Not Established	Not Setup	Not Appointed	0	0	0	
5	Ladakh	Notified	Not Established	Not Established	Not Setup	Not Appointed	--	--	--	
6	Lakshadweep	Notified	Permanent	Permanent	Setup	Appointed	0	0	0	
7	NCT of Delhi	Notified	Permanent	Permanent	Setup	Not Appointed	38	440	197	https://www.rera.delhi.gov.in/node/1337
8	Puducherry	Notified	Interim	Permanent	Setup	Not Appointed	194	3	3	https://prera.py.gov.in/reraApp/

- If the project is delayed, abandoned or has a mismatch in the commitments, buyers are entitled to claim the refund amount with interest from the due date of completion till the amount is refunded. The interest rate will be 2% above State Bank of India's lending rate.
- The buyer can choose to stay invested; in such cases, the developer has to pay compensation along with interest for the period of delay until possession.
- Appropriate compensation is payable if the developer does not repair the damages within the stipulated time.
- The buyer can ask for compensation in case of any discrepancy in the title deed. This is not barred by limitation, which means there is no time limit for discovering the defect.
- The buyer is also liable to pay a similar rate of interest (as the builder) on failure to make the agreed-upon payments to the builder.

- The buyer should take physical possession of the flat within two months of the occupancy certificate issuance for the property.

Conclusion

RERA has brought about a profound transformation in the real estate industry. The radical changes include the much-needed transparency and accountability in the sector. By reducing the delays in project completions, preventing misleading information, minimising deceptive claims and thwarting embezzlement of buyers' funds, it has built trust among the consumers.

Finally, the onus is on you, the homebuyer, to understand the real estate process and the safeguards available to you before buying a property. Above all, make sure you buy a project which is registered with the regulatory authority! ▶

All 36 states and union territories of India have notified Rules under RERA except the State of Nagaland. 32 of them have set up a Real Estate Regulatory Authority and 28 have set up Real Estate Appellate Tribunals. Further, 27 RERAs have operationalised their individual websites under the provisions of the RERA Act.

101,304 real estate projects and 72,012 real estate agents have been registered under the provisions of RERA and 106,657 complaints have been successfully disposed of by the Real Estate Regulatory Authorities across the country. – Data released by the Union Ministry of Housing & Urban Affairs as of 13th March, 2023.





Mr. GAUTAM CHATTERJEE

a retired Indian Administrative Service (IAS) officer, was the first chairman of the Maharashtra Real Estate Regulatory Authority (MahaRERA) from 2017 to 2020. He also served as the Maharashtra Housing and Area Development Authority (MHADA) Vice President and CEO.

It is noteworthy that the Government of Maharashtra was one of the first few states in the country to establish a real estate regulatory authority, under the Real Estate (Regulation and Development) Act, 2016. MahaRERA came into force on 8th March 2017 and has seen the maximum registration of housing projects across the country.

The Aware Consumer presents an interview with him collated from different media sources.

Q What changes has the landmark RERA Act brought into the real estate landscape?

Close to 80% of the household assets is held in real estate. Information asymmetry was a major problem in the sector before RERA was introduced. The main problem was that a buyer trying to put his life savings into real estate did not get any information on how his asset was being developed or what was happening with his money.

The Act tried to usher in an era of 3Ts – transparency, trust and time. There has been a paradigm shift in the sector with the enactment of RERA law in 2016.

Now 76% of consumers are clear that they will buy only RERA properties in the future but this proportion needs to be increased further. Almost 50% of consumers believe that loan approvals are accelerated for RERA projects because financial institutions look upon at the legislation as a shield to invest their money. Almost 64% developers are satisfied with RERA helping increase their credibility among buyers.

Q What amendments do you propose in the Act to make it more effective?

The Real Estate (Regulation and Development) Act, 2016, needs to be amended to make financial institutions accountable for the completion of projects backed by them.

The money needed for funding a real estate project comes partly from amounts deposited by homebuyers and in the form of loans advanced by financial institutions. If builders and buyers find a mention in the legislation, so should financial institutions.

RERA should also have power over financial institutions by virtue of the fact that they are in possession of unsold flats. Right now, RERA does not go beyond two stakeholders – the buyers and the real estate promoters. The Act should include financial institutions as they are an important stakeholder.

Section 7 and 8 mentions that in a stressful situation, RERA can deal with the problem of how to take the project to completion and get the balance construction work done. Since financial institutions who have lent money and hold the first charge on the project (over unsold flats), then financial institutions along with the association of allottees together would have to ensure that the project is completed.

Q What about extending the responsibility to other stakeholders?

Under Section 37, RERA's power to give directions to a competent authority is only confined to the real estate promoter, real estate agent and home allottees. The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such

directions shall be binding on all concerned. This provision should include both financial institutions and officials of the competent authority.

In a stressful situation, both the financial institutions or important stakeholders that have charge on a project, should be held responsible. Also, various officers of the competent authorities should also be held accountable for their acts of omission and commission.

Q The Act holds builders liable for construction quality and any defects in a project. However, this is a post-remedy. What are your suggestions on this?

Section 14 of the Act says that on completion of the project or handing over of the property to the buyer, the developer will be held accountable for structural defects, workmanship defects etc. The buyer inflicted by any of these bring up the issue with the developer and if he fails to rectify the problem within 30 days, the buyer can seek compensation.

These are curative remedies. MahaRERA has introduced a preventive remedy through Form 2A wherein the engineer of a project has to certify that the raw materials used and the project itself conform with various codes enforced in the country.

This can be made uniformly applicable across the country. Rather than Section 14 deal with the problem of structural defects or workmanship only in the curative mode, certain provisions can be included in the preventive mode wherein the structural engineer can be held accountable for the structure.

Having said that, the competent authority is expected to look at this aspect but they don't do so. RERA can gain more teeth by making these three accountable – architect (design), engineer (quality of the work) and the chartered accountant (fiscal disciple).

Q Many states have been given the power to dilute the RERA Act. Do you feel this is wrong? Do you feel this is happening in various states?

The Act has not been diluted. The states have the power to enact subordinate legislation; but the rules and regulations under that legislation have to be in line with the parent Act, they cannot go beyond it. If it has happened and some states have gone beyond the parent Act, then that needs to be challenged in court or by going to the state.

In some states where an ongoing project has been defined, there was some apprehension about whether to include it or not. There has to be clarity on this and if you explain this to every developer, why will they not want to be a part of the legislation? It is not in anyone's interest to keep projects out of the ambit of RERA.

Q What is your take on the changes needed in the approach of builders and developers?

Real estate developers should inculcate transparency, trust building and time adherence as envisaged under the RERA law for the growth of this industry. There is

“ I tell people to not use the RERA Act to walk out of the project. RERA Act is there to give you a home! A completed home! ”



renewed investors interest post the pandemic, but the interest is especially in projects that are led by trusted developers, implying that trust is a key factor that can shape decision making of the customers going ahead.

Trust building bridges the trust deficit, which has been one of the pains of the sector. So trust building will breach that trust deficit between promoters and buyers and provide speedy grievance redressal.

Moreover, developers should focus on the timely completion of registered projects, which is a real pain point for the consumers.

Q When it comes to conciliation, we have seen some instances where terms agreed to under conciliation are not complied with. What happens then?

If the terms are not complied with, the aggrieved party files online complaint with MahaRERA. When the matter comes before us, we call both parties and find out what went wrong and then pass a reasoned order, taking due cognisance of the non-compliance.

But, though we ensure protection of the interest of the consumers, we are not a consumer court when dealing with individual complaints. The problem is that the representative who appears on behalf of the home-buyer complainant believes that the redressal of the grievance means that this MahaRERA forum must award getting money in the form of interest/compensation to be given out of the project fund – either he should be allowed to walk out of the project with interest and compensation or if wishes to continue in the unfinished project and there is a delay, give interest for delay.

If you look upon RERA as an ATM machine, then I'm afraid, you are not understanding the Act. We created this Act and brought unfinished projects under its ambit in order to ensure project completion, so that homebuyers get their completed apartments. The Act itself allowed extension of the completion timelines for ongoing projects and creation of a ring-fenced fund (RERA account) and monitoring of the fund to ensure project completion; that is what is the essence of this Act.

Suppose you have a housing project and two people are not satisfied with it and wants to walk out, where will the money come from in stressed times? It can only come from the ring-fenced fund, which is meant to complete the project. So, should the money go to the two dissatisfied persons who want to walk out or the 200 people who have invested their life savings and are waiting for the project to be completed? This is a point I continuously keep on debating and explaining to aggrieved home buyers; most of the times they do understand.....

Q Can you tell us what role RERA will play in affordable housing?

RERA is playing the role of regulator in the sector, by telling anyone who is taking a project that you have to make commitments upfront and abide by them. Failure to comply has serious consequences. They must design and offer products for which there are takers.

There is a dovetailing of the types of homes being built and that can be linked with the Pradhan Mantri Awas Yojana (PMAY), and some interest subvention might be provided. But, the fact remains that there is no clear cut matching of the number of persons in a particular location who are eligible for the PMAY scheme, to ensure that only that many apartments get constructed in the projects, which are commensurate to the demand in the said location. I feel there are too many new launches and there is mismatch even in the affordable sector.



Now **76%** of consumers are clear that they will buy only RERA properties in the future but this proportion needs to be increased further.

– GAUTAM CHATTERJEE

The question is: At what stage should a developer know that his launch of a new project is moving in the right direction? I believe it is best when the promoter gets 30% booking within three months of the launch, 50% as soon as the plinth is completed and by the time the superstructure is in place, bookings have reached a healthy 75%. That is the best scenario and you will be able to complete the project with the money you have raised from your homebuyers, without requiring any bridge finance.

If that doesn't happen, you need bridge finance, especially when buyers feel they would rather wait until the project is completed or has progressed substantially. But it is not always so; when RERA is part of the project, it will get built in time because there is regulatory oversight. ▀



Pyush Misra
Trustee,
Consumer Online Foundation

Cover Your Back with RERA Checks When Buying a House

“The government has instituted certain important protective measures to afford homebuyers reasonable rights in the real estate transaction by requiring sellers to comply with specific legal standards. Without this security cover, consumers are exposed to many risks and uncertainties connected to the property. But how aware are you of these rights and the responsibilities that come with them?”

– questions Pyush Misra

SAFE, SECURE AND adequate housing is considered one of the basic needs of human beings. Realising the gravity of the problem, the right to housing has been recognised under international as well as regional human rights laws as a fundamental right of the individual.

India has the Real Estate (Regulation and Development) Act, 2016 with a RERA authority and tribunal in almost every state and union territory. The law requires real estate developers and builders to register their projects under the local RERA. In fact, no project can even be started without registration with the local RERA authority.

Both buying and selling of properties that are not registered with RERA (even though they are required to be registered) is considered illegal. Therefore, homebuyers should stay away from such unregistered properties, even if they are being offered at a cheap price or look enticing. In fact, pre-launch scams are quite common where projects without RERA registration and local authority municipal permission are sold as a

Property buyers are always advised to check the RERA registration of the project and the approvals as well.

tempting deal to buyers, only for the unapproved projects never to see the light of the day! The innocent homebuyers are left homeless and hopeless!

Indeed, the onus is on you to visit the official website of RERA of the concerned State to check whether the builder and the real estate agent are registered with RERA. The portal will have a list of registered projects along with RERA registration numbers, approvals and other documents.

Click on the Registered Projects tab to find out more about the project you are considering for purchase. Searching for the project name will reveal all the project details along with the application, certificate and even the extension certificate, if any.

Clicking on the View Details option will show the promoter information, address, contact information, past experience and other information about the current

A property which is not registered with RERA is illegal!



**Why buy a RERA-approved property?
– When you invest in a project registered with RERA, your rights are protected as a buyer.**

project like land, built-up area, number of units, proposed plans, development work and much more. Scroll down further and you can even access all the required documents and approvals in the Uploaded Documents section.

The builder/developer will also update information of the project on the RERA website on a regular basis (usually every quarter) – like construction status and even number of units sold.

RERA-approved simply means RERA registered

While at it, also check details like status of the developer's other current under-construction projects, any cases/complaints filed against the developer or default by the developer. Also, take the builder's goodwill amongst earlier clients, their reviews and experiences into account. Doing a thorough background check on the builder's reputation, credibility and reliability, including existing and under-construction projects, before closing a deal will ensure that it is a safe and informed investment.

The developer has to resolve the concerns of homebuyers within 120 days of it being filed

The advantage of RERA-approved properties is that it rules out the possibility of fraudulent developers. You know that it is a legitimate project and can purchase it without any misgivings as all information pertaining to the project is available online.

However, do make it a point to check the builder-buyer agreement with utmost care, especially the penalty clause for payment of the instalments. Are there any extra charges on the same? Also, try to figure out if any

hidden charges have been implied in the contract which were not verbally discussed/agreed during the deal. A prudent verification of all the terms and conditions in the agreement is crucial here.

The laws that govern real estate transactions are different from the laws governing other kinds of purchases, which adds to the existing complexity!



In sum, though real estate is being regulated now, we are still a long way from complete transparency and authenticity in the transactions. The sector is still undergoing organising and reorganising.

Conclusion

Consumer protection in the real estate sector is paving the way for growth of the industry and will, eventually, contribute to the development of the economy. This will, in turn, benefit the real estate builders, agents as well as the consumers. The future belongs to those who adapt smoothly to the changes on the anvil. So, strategize your property purchases and face the challenges head on! ▶



**Having an expert agent in your corner is half the battle won!
But how can you be sure he is working in your interests?**

Untangling the Web of the **Real Estate Agent**

Real estate agents are experts at their job and can make it easy to navigate the convoluted maze of property purchase. They can eliminate most of the hassles and ensure that the transaction is completed quickly and smoothly. However, new problems may be lying in store when working with an agent.....

THERE ARE THREE parties in any real estate transaction – the seller, the buyer and the agent. This becomes the landlord, the tenant and the agent in case the property is being rented.

Therefore, the real estate agent is the common denominator in any purchase/rent of land, building, house or flat. This is not to say that a person cannot buy, sell or rent a property without a middleman. However, having a real estate agent/broker/listing agent can make the going easier for both parties.

Following are just some of the many benefits of using an agent to buy/rent a house:

- **Finding Properties** – There are a huge number of properties available for sale/rent out there. Looking for suitable houses that match your requirements (location, size, features, budget, etc.) and contacting the sellers/landlords can become a full-time job in itself. Not to mention that many prime and appropriate properties may still slip through the flimsy net you have spread. In contrast, an agent will have a huge database of properties and can filter them based on your criteria. He will do all the behind-the-scenes work without you even
- **Market Knowledge** – When working with a broker, it's not just about access and convenience alone. He will also have inside knowledge of the real estate market in terms of prevailing rates, value of the neighbourhood, appreciation rate, quality of construction and so on. They can share key insights, guide you through the rough patches and find solutions where none seem to exist.
- **Negotiating the Price** – Real estate agents are savvy negotiators and can do a good job of finalising the best price as they are already privy to the going-rates for the property. Apart from wrangling over the terms, they can also help tackle tricky matters like getting the seller/landlord to agree on changing the décor, repairing the bathroom or upgrading the kitchen. Not to mention parlaying over the other clauses and contingencies of the sale/rental agreement.
- **Tackling the Paperwork** – Properties always involve contracts

and this comes with tons of paperwork. The documents include the written offer, the written and signed counteroffer and more. They will be filled with complex jargon that are both confusing and tiresome. On the other hand, the agent will know the terms inside out and can handle the paperwork as a matter of course.

- **Avoiding Closing Problems** – Many issues often crop up just as the deal is being closed – these can relate to the title deed, pending loans, financing troubles, etc. Real estate agents are prepared for such challenges and can tackle them accordingly rather than letting the deal fall through.

Therefore, a real estate agent can become a trusted guide, advisor and support system in navigating the tricky web of property purchasing or renting.

Ideally, real estate agents, brokers and other consultants should work as industry experts who counsel, educate, connect, bargain and maintain the market

The Flip Side

Agents are supposed to give the white-glove treatment to their clients. However, in reality, most unscrupulous and greedy agents take their clients for a ride! Following are just some of the problems that people face with their real estate agents:

- **Hard Sell** – An agent will try to convince you to buy/rent a property by hook or by crook. They are driven solely by the commissions they can make and will be in a rush to close the deal. Most of them pitch the same properties again and again until you are lured into 'buying what they are selling!' Many people give in to the pressure deeming that the property will live up to the persuasive claims of the agent.

Real estate has a language of its own which puts property buyers at a disadvantage. And crooked agents take full advantage of this!



You may think that skipping an agent can save you a lot of money in terms of the commission. However, flying solo can sometimes end up being costlier in the long run!

- **Malpractices** – Brokers have scores of opportunities to cheat and defraud the vulnerable clients. They can fudge the details, misrepresent the property, make a sham sale and exploit the consumers in other ways by playing on their ignorance. Stories of fraudulent activities of real estate agents that deviously rip off consumers are a dime a dozen.
- **Pushing the Price** – Agents use varied tactics to drive up the price of the property and thus increase their commission on the same. They often mislead clients about a property's price, create artificial scarcity and even encourage higher offers by triggering fake 'price wars'.

Therefore, while it is best to have an expert and professional agent on your side, consumers have to actually be wary of the agents. The service may be below par and you may feel discontented, but don't allow the broker to cheat you on any count!

Following are some tips for homebuyers/tenants working with agents:

- Do not believe everything that is pitched by the agent
- Do not be tempted by awesome deals and discounts
- Do not feel rushed if the agent says that most of the flats have been sold or this is the last one available
- Do not be overly mesmerised by the sample flat or 'upcoming infrastructure'
- Keep asking for alternatives till you are completely satisfied
- When you like a property, tone down your eagerness to buy/rent it
- Ask for the legal documents, sample agreement and information about the basic amenities
- Above all, select the agent wisely – look for an ethical one backed by good reviews

The Legal Angle

With the passing of the Real Estate (Regulation and Development) Act, 2016, all real estate agents have to be registered with the state RERA, in

RERA registration will filter out inexperienced, unprofessional and fly-by-night agents

order to operate legally. All registered agents have a unique RERA registration number that has to be quoted on every property sale. This registration has to be renewed periodically.

The promoters and developers, while applying for RERA registration, are also required to provide the names of the registered real estate agents who will facilitate the sale of apartments in the said project.

Therefore, you should ask for the RERA ID and registration of the agent before engaging their services. Crosscheck the state RERA website to confirm the agent's registration and if it is up-to-date.



Moreover, the Act mandates that the agents should share all the documents and other information regarding any project with the buyers. They also have to maintain books of accounts, documents and records related to all transactions. An agent can be suspended for misrepresenting or committing any fraud during the registration process. Breach of the terms for which registration is obtained can also lead to cancellation of the registration number of the agent.

The legislation has instituted legal action and penalties against illegal agents and those that indulge in corrupt practices. You can file a case against a real estate agent in RERA or a consumer commission.

An agent should never promise any amenities or services that are not mentioned in the documents. You can be penalised for sharing wrong information with buyers.

- **A real estate agent has to pay a 5% penalty for the property in question upon failing to comply with RERA**
- **The agent also has to accept a one-year imprisonment or 10% of the property for not abiding by the Appellate Tribunal's rules**

What Should Agents Do?

There are many good and honest agents out there, but a few rotten apples are giving the entire community a bad name! So, if you are a real estate agent, remember that handling properties – be it selling or renting them – comes with a lot of responsibilities.

It is your duty to have your client's best interests at heart. Build a bank of experience and knowledge along with the right contacts to be able to deliver top-notch service to the clients.

Make it a point to sit down with the clients and understand their requirements before giving appropriate suggestions. Establish open communication while being amenable to discussing problems and offering solutions. This kind of customised service will not only please the clients but also increase the chances of a successful sale. You also have to back up your services with cutting-edge technologies and timely follow-ups.

All this will come together to show that you are reliable, trustworthy and will drive the best deal possible, thus enabling the client to buy/rent the home with confidence!

Conclusion

You may not have the time or the expertise to buy/rent a house on your own. While it is the agent's job to help you traverse the complexities of the real estate market, you still have to be on your guard with them. Working with an experienced and reliable agent in a cautious manner will be worth the money spent! ▶



A consumer can apply for a home loan to purchase a new/old flat, house or villa, to buy a land, to construct a residential unit or even to conduct repairs/extension of an existing property. However, the process of loan application and approval brings a lot of factors into play!



As home loans involve large sums of money, they are approved by the banks after a lot of consideration!

BUYING A HOUSE is an investment of a lifetime! In fact, this could be the biggest financial decision you will ever make. And almost all of us need the help of a lender to achieve the dream of owning a home!

Going by the bombardment of advertisements and cold calls from banks offering home loans, it almost feels like they are falling over themselves to finance real estate purchases. However, actually getting a loan approved is another story altogether! In fact, it is considered that amongst all the complexities related to the real estate space, getting a home loan is the most critical.

There are several parameters on which banks and other lending institutes evaluate an applicant before issuing a loan. The loan will also involve many complex terms and conditions that can be difficult to understand, especially for first-time homebuyers. The application process itself can seem quite complicated.

How to Apply for a Home Loan?

- **Conduct Research** – Every bank that offers a home loan has its own set of features pertaining to the loan. In fact, the same bank can offer different types of home loans to suit varied circumstances. The myriad financing options can seem overwhelming and it takes time and effort to research the best and cheapest loans out there.

Homebuyers are advised to apply to more than one bank – in case one doesn't approve, there is another to fall back on. However, keep in mind that being rejected by multiple lenders can lower your credit score. So, pick the lenders carefully and apply for a home loan only if you are sure of it being approved.

Home loan interest rates of different banks can easily be compared online by using aggregator websites like bankbazaar.com, creditnation.in, etc. They offer loan application facilities as well.

Keep in mind that the interest rates are usually negotiable and you should try to get the best rate. In general, floating rate loans (interest rate changes based on the prevailing rate in the market) are popular due to the flexibility they offer - consider both options and decide depending on your situation. Most of the time, fixed rate loans can be converted into floating rate loans and vice versa, by paying a small fee.



The primary factors to consider when applying for a home loan are EMI amount, duration, rate of interest and downpayment. Every bank has a different rate of interest and there is the option of fixed rate, floating rate and even combination loans. Most banks require 10% to even 25% of the property value to be paid in the form of downpayment depending on the loan value. In general, longer the tenure (maximum limit is 30 years), lower the EMI.

• **Assess Eligibility** – Every housing finance institution will assess your eligibility based on certain criteria like age, monthly income, credit score, fixed monthly financial obligations, number of dependants, credit history, retirement age, job stability, etc. This is basically done to ascertain the creditworthiness and repayment capacity of the applicant. Most websites offer free home loan eligibility calculator tool, EMI calculator tool, credit score calculator, etc. These work as self-help planning tools that will give you a basic idea of how much loan you can avail and at what interest rate - based on your financial position, remaining working years, past and present credit history, whether you have other liabilities like car loan, credit card debt, etc.

Make it a point to carefully understand a bank's eligibility criteria before applying for a home loan.

You yourself should closely assess your finances and cash flow to determine how much EMI you can afford to pay back comfortably. Try to maintain a good CIBIL score with a clean financial record and clearing off outstanding debts.

You can enhance your home loan eligibility quotient by:

- Adding an earning family member as co-applicant
- Availing a structured repayment plan
- Ensuring a steady income flow, regular savings and investments
- Taking actions to rectify errors (if any) in your credit score
- Repaying ongoing loans and short terms debts

If you are planning to buy a house, it is advisable to get the home loan pre-approved before selecting a property. Pre-approval will give you an idea of the exact budget for the home search. Pre-approvals even help negotiate better and close deals faster.

yearly income, property details on which the loan is being applied, estimated cost of the property, etc. The documents that are usually required by banks are:

- Identity proof (PAN card/Aadhaar card/Voter ID/Driving license)
- Address proof (can be any utility bill)
- Education proof (school/diploma/degree certificates)
- Employment details with proof
- Income proof (like salary slips for last 3 months or income tax returns in case of self-employed individuals)
- Bank statements (usually last 6 months)
- Property details on which the loan is applied (if finalised)

Fill the form carefully with all the correct details – one of the worst reasons for being rejected for a home loan is an incorrect application form! Ensure that you are completely honest and provide accurate documents as most applications are rejected due to incomplete paperwork or mismatch of the expected and applied profile. Moreover, providing fake documents or committing other such fraudulent activities are not only unacceptable by the banks but are considered a criminal offense and can lead to bigger troubles.

Every bank is highly cautious with the home loan it lends and the property it finances!

• **Processing Fees and Other Charges** – The loan application process usually involves a processing fee which can range from 0.25 % to 0.50 % of the requested loan amount. You stand to lose this processing fee if your loan application is rejected. While some banks offer zero processing fee home loans, it may be compensated by a higher rate of interest or other hidden charges.

Similarly, the loan will involve other administrative and service fees in addition to the EMI amount. You will have to pay for everything from realty check and site estimation to stamp duties and other legal charges.

Ideal conditions to apply for a home loan

There is no other existing outstanding loan	There is adequate savings for a down payment	The borrower has long work experience and a good pay package	Interest rates are low	Due diligence for the property has been done
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• **Submit the Application** – Once you have zeroed in on a couple of banks, start filling the loan application form and submitting the documents.

Loan applications can be submitted online now and even digital home loans are available

The form will require basic information like your name, phone number, residential address, educational information, employment/business details, monthly or

Look for low processing fees as far as possible. It is even more important to check for hidden costs that can come back to haunt you later.

While at it, check if the bank imposes a prepayment/foreclosure penalty or a takeover penalty if the loan is taken over by another lender.

• **Insurance Cover** – Most lenders require you to purchase a loan cover term assurance plan that will



cover the loan amount. This will work as a financial security in the event of your untimely death so that the unpaid dues do not fall on your family - the insurance provider will pay back the loan balance on which the insurance was purchased. In fact, many lenders insist on a loan cover word guarantee plan to prevent defaults.

- **Approval Process** – The bank will carefully evaluate the documents and other pertinent details provided in the application. A bank representative may visit your residence or workplace to verify the details. You may even be required to visit the bank for a face-to-face interaction. If everything passes muster after the thorough deep-check of the bank, the loan will be sanctioned. You will get a certified offer letter communicating the loan amount, interest rate, tenure, mode of repayment and other terms and conditions. This can be unconditional or contain a few clauses which you have to fulfil before the disbursement. You have to sign a copy of the offer letter and return it for the bank's records.

- **Property Check** – Once you have finalised the property to be purchased, you have to submit the original property documents to the bank, which should contain the following details:

- Name of the seller with identification and address proofs
- Name and address of the property
- Chain of written documents if the seller isn't the primary or actual owner
- NOC (No Objection Certificate) from the primary legal owner (if any)
- NOC from the Statutory Development Board representative and Cooperative Housing Society
- If the land is already on a lease, the bank will require a NOC from the lessor as well

The property should be RERA approved and the builder should have a valid registration number. Otherwise, it will be difficult to get a home loan.

The bank's legal team will thoroughly check the property documents and sale papers – you may also be asked to submit some more documents for verification. They will pay special attention to the transparency of

ownership rights of the property and other conflicting information.

This will be followed by a physical site inspection, estimation and other technical checks by a bank employee, a civil engineer or someone from an architect's firm. They will check the construction stage, quality of construction, work progression, builder's certificates for construction on the land, etc. for properties that are under construction. If the property is ready or for resale, they will check the age and maintenance of the property, existing mortgages, builder's approval plans, etc.

After this, the actual value of the property will be evaluated and the total loan amount to be sanctioned will be determined accordingly.

If everything is clear, the bank will issue a final agreement letter and the deal will be registered by stamping and signing the loan documents. You will be required to submit post-dated cheques for the initial 36 months or the duration agreed with the bank. The original property papers will be retained by the bank till the entire home loan is repaid.

You should read every loan document carefully before signing. If possible, get them checked by your own lawyer.

- **Point to Note:** If you miss more than 3 instalments, the lender is empowered to take action against default directly without intervention of courts as per the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).



The pre-EMI option kicks in for properties that are under construction. As the loan is disbursed in stages based on the instalment amount to be paid to the developer, you are generally required to start paying only the interest on the loan amount disbursed (called the pre-EMI interest). If you want to start paying the principal repayment immediately, you may opt to tranche the loan and start paying EMIs on the cumulative amounts disbursed.



Irrespective of whether you are able to get a home loan or not, it is advisable not to pay with unaccounted (black) money to save taxes or get discounts. It can land you in legal hot water in the future.

Increase in Prices, Interest Rates and Tax Benefits

Home loan interest rates have been surging constantly for the past two years (from 6.5% in April 2022 to about 9% in March 2023) – in line with the six back-to-back repo rate hikes accumulating to 250 basis points - by the RBI. The burden is passed on to the homebuyers in the form of higher interest rates or extension (in some cases as much as 10 additional years). For some, a home loan tenure has even extended beyond the retirement age limit of 60 years.

“My home loan EMIs had increased from Rs. 80,000 to Rs. 1.02 lakh per month,” lamented Praveen Bohra, a trader.

Results of a Consumer Sentiment Survey by Anarock (a leading Indian real estate services company) released in January 2023 indicated that if home loan interest rates rise above the 9.5% mark, considerable housing demand contraction can be expected.

However, a number of home loan tax exemptions and deductions are also available to consumers under the provisions of the Income Tax Act of 1961. You can use the income tax breaks offered on home loans to significantly lower your tax liabilities. Like, a deduction for

principal repayment (upto Rs. 1.5 lakh) or interest paid (upto Rs 2 lakh) on a home loan for self-occupied property in a particular fiscal year.

“Although a house loan has a cost associated with it, using the loan wisely can significantly help in minimising the cost and maximising tax savings” - Mr. Ashwani Kumar, Pyramid Group

Apart from the tax saving, you can try to reduce the extra burden of the rising interest rates by:

- Negotiating with the existing lender to reduce the loan rate (if backed by high CIBIL score, excellent loan repayment history and work profile)
- Switching to another bank with a lower interest rate (like Bank of Maharashtra or Bank of Baroda)
- Opting for loan refinancing which will replace the existing loan with a new one with lower interest rate or shorter tenure
- Increasing the EMI payment whenever possible

Conclusion

If everything is in order, a home loan can be approved and disbursed as quickly as within two weeks. ▶

The House Price Index (HPI) published by the Reserve Bank of India shows that the average home prices in India have risen by 10% yearly between 2010-11 and 2020-21.



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Payal Agarwal
Editorial Consultant

Legal Recourse for Homebuyers - Filing a Complaint Under RERA

“Unfair and unlawful real estate dealings have tarnished the industry for long. This grave failure has been rectified by the RERA Act which has established a strong adjudicating mechanism to resolve disputes arising between the builders and buyers. Each state's Real Estate Regulation Authority has the power to redress the grievances”

– states Payal Agarwal



RERA has a fast-track mechanism for settlement of real estate disputes

BUYING A HOME is an exciting and cherished moment in a person's life. It brings a sense of great pride and fulfilment. However, the actual buying process is strewn with complications which led to the Real Estate (Regulation and Development) Act, 2016, that has, to some extent, restored the faith of property buyers in the real estate sector.

Despite the enactment of this landmark legislation, many legal disputes continue to arise in real estate transactions. However, consumers now have access to improved legal remedies as the Act has established an adjudicating mechanism for speedy dispute redressal. This is done through an appellate tribunal and dedicated adjudicating officers.

Under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the aggrieved party can file a complaint against any builder, promoter, seller, real estate agent or even the contractor or other intermediary of the concerned property.

A complaint can be filed with the Authority with respect to any registered real estate project, for any violation or contravention of the provisions of the Act or the rules and regulations made there under. Therefore, the complaint can relate to –

- False advertisements
- Excessive advance payment
- Improper registration of a project
- Failure to update project details
- Delay in possession
- Failure to rectify/compensate for structural defects
- Poor quality of construction
- Transfer of ownership rights without consent
- Unsettled claims on the property, etc.

Homebuyers usually file a case with RERA for two reasons - claim interest on delayed possession or to withdraw from the project. The builder can be called on to refund the amount already paid with the appropriate interest.

How to File a Complaint with RERA?

Almost all the states and union territories of India have set up a Real Estate Regulatory Authority (RERA). Most of them have set up a Real Estate Appellate Tribunal and operationalised their individual websites. They have also laid down a clear procedure with specific forms for filing a complaint.

While the rules vary from state to state, the general procedure is as follows:

- Visit the respective state's official RERA website (where the property is located) and access the complaint registration link on the portal. This will



While it is not mandatory to hire a lawyer, it is recommended to have one in case there are any legal issues

redirect you to the RERA complaint form. In case the state does not have a RERA website, the complainant can physically approach the RERA authorities or the adjudicating officer in charge to file a complaint.

- The form will require all the pertinent details and supporting documents of the project – like registration number and address of the project, concise statement of facts, grounds of the claim and the reliefs and interim reliefs, if any, sought. Some personal information like name, address, contact number will also have to be provided to affirm authenticity.
- A fee is applicable for filing a RERA complaint – can range from Rs. 1000 to Rs. 5000 depending on the state.

A homebuyer can also file a complaint against unregistered projects under Form 'A' of Section 31 of the RERA Act.

The Process - Once the Authority receives a complaint, it will issue a RERA complaint number to the complainant. An inquiry bench will be constituted to hear both the parties involved.

The complainant is first called and given the complete set of document copies required. These documents are also provided to the other party concerned. The builder/ other party is then required to file a response to the complaint that has been raised. The authority will accordingly deliberate on the builder's actions and pass a mandate.

RERA has evolved during the lockdowns imposed on account of the COVID-19 pandemic. Virtual hearings and conferences started during the lockdown and the e-courts for RERA proceedings have continued thereafter. Tamil Nadu has taken up the video conferencing route.

While an enquiry is taking place, RERA can stop an agent, promoter or buyer from continuing any activity against which a complaint has been raised. In a recent case, the Gurugram bench of the Haryana RERA blacklisted a developer firm with stuck projects and disallowed any new project until the builder completes the previous projects!

You can check your RERA case status on the portal by clicking on the Complaint Status link and entering the RERA complaint number.

Some of the common remedies are:

- Rectification of service deficiencies
- Full refund of the amount paid (with interest in certain cases)
- Monetary compensation for any loss or suffering (including mental agony)
- Reimbursement of all legal costs incurred in filing the complaint
- The builder may be ordered to discontinue his/her unfair trade practice

RERA can further impose a fine on the defaulting party or a jail term, as it deems fit.

If you are dissatisfied with the RERA's order, you can file an appeal with the Appellate Tribunal which again has to redress the case within 60 days. In case of failure to do so, it should record the reasons of such failure. And if you are still not satisfied with the Tribunal's hearing, there is the option of moving to the High Court.

Here, it is noteworthy that if the builder wants to appeal to the Appellate Tribunal against the RERA order, he/she has to deposit at least 30% of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.

The Act stipulates that every complaint has to be concluded within 60 days from its filing date. In case there is a delay, it has to be informed to the homebuyer, with valid reasons for the delay.



Benefits of Filing a Case Under RERA

- Expeditious disposal of complaint
- Requirement of financial discipline by the promoters
- Transparency
- No ambiguity in area measurements
- Promoters are liable for compensation for delayed delivery
- Adjudicating mechanism is quick

The Other Side of the Story

RERA protects the rights of both homebuyers and real estate developers. Therefore, it's not just the buyer alone; if the promoter or the agent has any complaints with respect to the project, they can file a complaint with RERA. If they are not satisfied with RERA's decision, a complaint can also be filed with the Appellate Tribunal.

Consumers need to exercise due diligence before filing a complaint. In case RERA finds that the charges imposed on the developer are baseless or false, the homebuyer has to pay a penalty of up to 5% of the project's value. The penalty is also applicable if the complainant fails to comply with the RERA rules. Also, non-compliance with the Appellate Tribunal will cost a homebuyer 10% of the project's cost or up to one year of imprisonment.

The Option of Consumer Commissions

Residential societies and projects launched before 2016 are not under the purview of RERA. Moreover, a few states are yet to set up RERA. In such cases, aggrieved homebuyers have no option but to file a case in the Consumer Commission.

However, the complainant has to first issue a formal notice to the builder/developer about the unfair practice or other issue. Allow the opposite party time to respond. If they refuse the notice or are unwilling to offer compensation, the next step is to approach the applicable consumer forum.

This can be done online - <https://consumerhelpline.gov.in/> or on the UMANG/NCH apps. Grievances can also be filed by calling the helpline numbers - 1800-11-4000 or 14404 – or sending an SMS to 8130009809.

If the developer defects from complying with the orders of the RERA/Tribunal, the amount will be recovered as arrears in land revenue. On non-compliance, the defaulter can also be charged a hefty monetary penalty (up to 5% of the evaluated cost of the property) or imprisonment. The complainant can file an execution application to enforce the execution of the Tribunal's orders.

No civil court has any jurisdiction with respect to any matter that comes under RERA or the Appellate Tribunal's jurisdiction. As such, no court can grant an injunction with regards to any action taken by RERA or the Tribunal.

Penalties Under RERA

For Buyers

Offence	Penalty
Non-compliance with RERA	Daily penalty up to 5% of the approximate cost of the project
Non-compliance with the Appellate Tribunal	Imprisonment up to 1 year or 10% of the approximate cost of the project, or both

For Promoters

Offence	Penalty
Non-registration	10% of the project's estimated cost
Giving false information	5% of the project's estimated cost
Violation of laws	Up to 3 years' imprisonment or a fine of 10% of the estimated cost of the property, or both

For Agents

Offence	Penalty
Non-registration of projects	Rs.10,000 per day up to 5% of the approximate cost of the project
Non-compliance with RERA	Daily penalty up to 5% of the project's estimated value
Non-compliance with the Appellate Tribunal	Imprisonment up to 1 year or 10% of the project's estimated cost, or both

In case of any dispute, a homebuyer can approach RERA, NCLT (National Company Law Tribunal) and the Consumer Commissions as allottee, financial creditor or consumer, respectively.

In a landmark judgment passed by the Supreme Court on 2nd November, 2020, homebuyers can approach the consumer fora, even though they have a specific legal remedy available in the form of the state RERA under the Real Estate (Regulation and Development) Act, 2016.

The bench said, "Parliamentary intent is clear that a choice or discretion is given to the allottee, whether he wishes to initiate appropriate proceedings under the Consumer Protection Act or file an application under the RERA Act."



Last year the Department of Consumer Affairs, Ministry of Consumer Affairs, Food & Public Distribution, Government of India stated – based on a report by a panel reviewing the functioning of RERA in urban areas – that Consumer Commissions are a more accessible and affordable option for redressal of complaints of home buyers compared to RERA or NCLT. This is because a consumer commission will be located within a few kilometres from the residence of the consumers, whereas there are only one or two RERA adjudicating agencies in each state.

The CREDAI Avenue

The Confederation of Real Estate Developers' Association of India (CREDAI) - the apex body of all registered real estate builders and developers in India - has adopted a voluntary code of conduct ensuring highest ethical standards among its members. CREDAI has set up Consumer Redressal Forums through all its city level associations in order to safeguard the consumer interests. Property buyers can file a complaint with CREDAI at <https://credai.org/register-your-complaint>.

Conclusion

The establishment of a dedicated authority for resolving real estate issues should deliver buyers, builders and agents a seamless grievance redressal experience. ▶

Supreme Court Upholds Interests of Homebuyers



The Supreme Court has passed a spree of judgments to protect the interests of homeowners while focussing on enhancing transparency and reliability in real estate transactions. These are a welcome step in the modern day real estate jurisprudence as they ensure that the rights of homebuyers are not watered down.

The Supreme Court is trying to reduce the stress and overpowering distress of things going wrong with a home purchase!

HOUSING IS ONE of the three trinities of roti, kapda aur makaan (food, clothing and shelter) for the average Indian. However, the sector is beset with shady operators, malpractices and other fraudulent activities that trouble the consumers no end.

Despite RERA working as a watchdog for the housing sector, the unfortunate fact is that homeowners are still being exploited by different stakeholders in the real estate game. In fact, the entire process of owning a dream home can easily go sour for the consumers with project delays and even abandonment not to mention developers misappropriating and siphoning off funds collected from homebuyers for their own selfish interests. Alas, a person may invest the entire life savings in a property only to have the builder vanish with his/her hard-earned money.

Disputes about misleading real estate claims continue to arise every day. Balanced agreements have still not become the norm as promoters continue to include punitive clauses that penalise homebuyers for any default while similar defaults by them result in negligible or no penalty. Alas, the homebuyer is left mired in unnecessary and burdensome litigation with almost nothing to show for it!

Supreme Court Interventions

The good news is that the Supreme Court has made a number of rulings in favour of the homebuyers, thus according them a semblance of rights and equality in the real estate transactions. Some of the prime decisions are:

- Prior to August 2019, homebuyers were considered neither as financial creditors nor as operational creditors. They were treated as 'other creditors', which restricted their ability to initiate insolvency proceedings under the Insolvency and Bankruptcy Code (IBC) against a defaulting builder or developer. Finally, the government decided to grant homebuyers the status of

financial creditors in the event of liquidation. The Supreme Court upheld this order along with the IBC Amendment with certain safeguards. As a result, the amount raised from a homebuyer in a real estate project now comes under the definition of financial debt. This entitles them to invoke insolvency proceedings (irrespective of a dispute between builder and the buyer). It also gives them the right to be represented on the Committee of Creditors (CoC) – through their authorised representative - and voting rights in proportion to the amounts due.

The Supreme Court felt that if, in the insolvency resolution process, the homebuyers are left in the last category of creditors, this would amount to gross injustice to them! It opined that the amendment to IBC is in public interest and no unreasonable restriction is placed on the fundamental rights of the builders.

- Again, in January 2021, the Honourable Court accepted an amendment in the IBC - which requires either 10% or 100 of the homebuyers to initiate insolvency proceedings against the developer (whichever is less) - as constitutionally valid. Under the IBC amendment, a single homebuyer is barred from approaching the National Company Law Tribunal (NCLT) as it could put the interests of the others in peril.
- In November 2020, the Supreme Court clarified that the timeframe for allotting a flat to a homebuyer should be calculated starting from the date of the buyer agreement rather than from the date the project was registered under RERA.
- In November 2021, the apex court affirmed that the provisions of the Real Estate (Regulation and Development) Act, 2016 are applicable to projects that were ongoing and for whom completion

certificates were not obtained at the time of the enactment of the law, in effect interpreting that the law is retroactive. This ruling has speeded up the arbitration process while making it difficult for state governments to dilute the intent of the law.

- In February 2022, the Supreme Court passed the judgment that the interest of homebuyers is more important than the interest of banks in cases where the developer or builder fails to repay the bank loan. It noted that, "If the real estate company is not able to repay the bank loan and is not even giving possession to the homebuyers, then in these cases, homebuyers should get attention".
- In the same case, it was also ruled that the RERA authority has the jurisdiction to entertain a complaint by an aggrieved person against a bank, in a case where proceedings before the RERA Authority are initiated by the homebuyers to protect their rights. This has brought an end to the relentless controversy between the SARFAESI and RERA Act - in an event of conflict between the two, the RERA Act, being a subsequent legislation, shall prevail over Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI). As banks/secured creditors are now amenable to the jurisdiction of RERA Authority, an aggrieved homebuyer will have the remedy to approach the Authority when recovery proceedings have been initiated by the bank/financial creditor against the promoter, where the properties belonging to the homebuyers may be subject to attachment.
- The Supreme Court noted that the states have been given the responsibility for implementing RERA, but they are not following uniformity in their general real estate rules and rules for agreement for sale. Accordingly, it directed the Centre to examine whether the rules framed by

While some builders have financial defaults, others fail to obtain the completion certificate because they offered possession to buyers in partially ready complexes as they did not have the funds to complete the requisite parameters like installation of fire safety systems and other services.



various states under the Real Estate (Regulation and Development) Act, 2016 are in conformity with the central legislation and subserve the interest of homebuyers. The government was required to place the report by the first week of May 2022.

- In January this year, the Supreme Court ruled that default on the part of homebuyers is not a ground for denying refund in a delayed project, giving relief to buyers who stop payments when construction timelines are not met. It stated that, “In many cases allottees stop payments when they do not see any progress in the construction of the project or the possibility of timely delivery. In such cases defaults of allottees cannot be held against them and their right to claim refund cannot be refuted.”
- In February, the apex court determined that builders are legally bound to obtain the completion certificate despite offering possession to the flat owners. The bench reprimanded the National Consumer Disputes Redressal Commission (NCDRC) for suggesting that the flat owners should have obtained the certificate themselves after taking possession and refusing their claim for compensation. It also stated that there are about 100 cases wherein possession was offered by the developer without obtaining completion certificate, causing issues for buyers.
- In the same case, the Honourable Court highlighted that the builder is legally bound to fulfil the promised amenities in a project by flatly stating that homeowners - who are

often forced by the circumstances to take possession of apartments even if the amenities promised by the builder are not provided – do not give up their rights to these amenities by taking the possession without completion certificate. It did not fail to fault the flat owners for taking possession without the completion certificate either.

Conclusion

The legal machinery is going great guns on protecting the interests of homebuyers while promoting the development of the real estate sector. The various decisions of the Supreme Court and other judicial forums have fortified the regulatory framework. And yet, developers continue to flout the provisions of the Act with impunity, calling for a big step up in the investigation and regulatory action. ▶



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RERA and NCDRC Are Finally Coming to the Aid of Hapless Home-buyers

– *Ms. Sucheta Dalal*



Ms. Sucheta Dalal is among the best-known financial journalists in India. She was awarded the Padma Shri in 2006 based on her outstanding investigative journalism since the early 1990s. Her 35 years of investigative reporting spans the Harshad Mehta scam, CR Bhansali scam, and expose of Enron among others. She was the Financial Editor at The Times of India and has also written for Business Standard, The Economic Times, Indian Express and Financial Express among others.

SIX YEARS AFTER the Real Estate (Regulation and Development) Act (RERA) came into existence, a series of decisions is finally working in favour of homeowners. What is interesting, though, is that many positive orders have come from consumer courts rather than the realty regulator. But regulatory action from state regulators has also begun to gather momentum, especially after the pile up of adjudication cases has turned unmanageable because developers have been flouting the stringent safeguards and disclosure rules of RERA with impunity.

It is worth recollecting that RERA got off to a difficult start. It was already among the last of the sector-regulators to see the light of day due to resistance from the powerful builder lobby (comprising many politicians) which had thrived under opaque rules, unaccounted money and a plethora of murky, anti-customer practices. By the time a comprehensive and workable Central legislation was enacted and became fully operational in May 2017, the rot in the system was on the verge of exploding into the public domain in a series of large defaults. It led to bankruptcies of developers being resolved under another brand new law—the Insolvency and Bankruptcy Code.

Although RERA was passed in 2016, it became fully operational only in May 2017—the same year when the Maharashtra Real Estate Regulatory Authority (MahaRERA) came into existence. Since the law was applicable prospectively, it did not help those whose realty investments were already destroyed by defaulting builders.

Large realty companies such as Unitech, Supertech, Housing Development Infrastructure (HDIL), Dewan Housing Finance Ltd (DHFL), Jaypee Infratech and Amrapali group went bust just a year after the Act was passed and others like DS Kulkarni a little after. The collapse of Infrastructure Leasing & Financial Services (IL&FS) in July 2018, and Yes Bank soon after, wrought havoc in the financial system, exacerbating

the woes of those who were locked into long-term equated monthly instalments (EMIs) with once-famous builders who had now gone bankrupt.

The past six years have been harrowing for homebuyers, who have had to approach every forum available for justice.

At the same time, the regulator is discovering that a disclosure-based regime will not work without tough supervision. This is especially true of Maharashtra. It was the first to set up a strong realty regulator in MahaRERA which got off to an impressive start in 2017. Over the past year, even as the backlog of adjudication cases have risen to nearly 5,000, MahaRERA has found developers flouting provisions of the Act with impunity causing it to step up investigation and regulatory action.

For instance, MahaRERA found that developers were asking for cheques from home-buyers in two or three different bank accounts, or they had a single account for multiple projects which is a complete violation of the law. The regulator also discovered that developers were submitting false certificates, not uploading quarterly progress reports (QPRs), maintaining multiple accounts for the same projects, etc. Then there were projects stalled due to disputes which blocked funds and affected all stakeholders. Builders were also ignoring legally mandated completion deadlines without bothering to seek extension of time.

“This is why we decided to tighten our regulatory oversight and our regulatory wing has now become much bigger than the adjudication wing,” says MahaRERA chairman Ajoy Mehta, who is also chairman All India Forum of Real Estate Regulatory Authorities. It has led to a series of actions over the past few months which are widely reported by the media. Consider these actions:

- **June 2022:** MahaRERA found that the state had over 4,500 'abandoned projects' blocking Rs. 78,000 crore. Of these, the Mumbai metropolitan region, where real estate rates are among the highest

in the world, accounted for 60% of such projects. Further, 2,800 projects, valued at Rs. 90,000 crore, had lapsed in the previous five years. Although the numbers are small compared to the 34,400 projects registered in that period, the regulator created a special vertical to mediate between stakeholders to resolve disputes and restart the projects, while also examining reports of financial misdeeds. Show-cause notices have also been issued to builders who have failed to adhere to completion deadlines without seeking an extension in time. At the same time, MahaRERA has asked developers' bodies to join the mediation effort to revive the projects.

- **October 2022:** MahaRERA suspended the registration of over 60 developers after the suburban municipal authorities of Kalyan-Dombivli had registered cases against 27 for forging and

Six years after the Real Estate (Regulation and Development) Act (RERA) came into existence, a series of decisions is finally working in favour of homeowners. Even the national consumer disputes redressal commission (NCDRC) has stepped up and issued hard hitting orders in favour of homeowners.





fabricating registration documents to dupe homebuyers into buying properties.

- **February 2023:** MahaRERA has issued notices to 19,539 realty projects for failing to upload mandatory disclosures on its website. These include QPR, financial details certified by chartered accountants and architect's certificates. It also identified 313 specific housing

projects for discrepancies in expenditure statements and completion status.

- **March 2023:** A key to financial discipline mandated by RERA is to maintain a separate designated bank account per project. MahaRERA has identified 1,781 projects having violated this requirement and served notices to them seeking details of flats sold, money received and receipts

issued. They include some well-known names in the business.

The Uttar Pradesh real estate regulatory authority has also been proactive. It imposed a fine of Rs.1.39 crore on 13 developers for non-compliance with its orders. In another action based on its orders, the Lucknow district administration plans to seize the properties of at least 26 builders to recover Rs.132 crore paid by buyers who were not delivered homes and shops they had paid for.

NCDRC to the Rescue

While RERA authorities across India have turned active, individual homebuyers continue to look up to the consumer forums for relief and have managed a series of positive rulings in their favour.

As heartening as these stories may appear, we must remember that each of these consumers has had to battle his/her way to the apex forum and the builder could still appeal to the SC. The creation of a sector regulator as well as individual state regulators was expected to provide swift remedies and do what MahaRERA is attempting - eliminating potential problems at source through stringent regulation and oversight. But that will require a sustained effort by consumer organisations at state levels to ensure their regulators act as effective watchdogs and fulfil their responsibilities. ▶

You can read the complete article at <https://www.moneylife.in/article/rera-and-ncdrc-are-finally-coming-to-the-aid-of-hapless-home-buyers/70140.html>





Himadri Sarkar
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Limitations of **RERA** Call for Upgrades in the Act

While RERA is a positive move in the real estate sector, it is not without its drawbacks and loopholes. The Act should be a work-in-progress as it needs a number of changes to plug the existing gaps.

THE REAL ESTATE (Regulation and Development) Act of 2016 proved to be a paradigm leap for India's real estate business. It has changed the market dynamics while bringing transparency, accountability and uniformity in this, as yet, unregulated sector.

Indeed, the industry has been witnessing fewer project launches with the focus shifting to execution of existing ones. Developers are working on adhering to the compliances to avoid litigation. Many of the state RERAs have been marked by swift delivery of judgments.

However, the legislation is not without its limitations. In fact, many stakeholders lament that the much anticipated and flaunted changes in the Indian real estate scenario have failed to materialise with hardly any change in the on-ground realities for the homebuyers!

“RERA is like the battle of 1857 and definitely not what the homebuyers across the Indian cities were waiting for. It may help those who would fight for a level playing field in 1947, but as of now in the battle of 1857 this weak piece of legislation is nothing more than a future promise” - Rehman Sheikh, a dejected homebuyer in Mumbai.

The following loopholes need to be addressed urgently:

Delays in Project Approvals

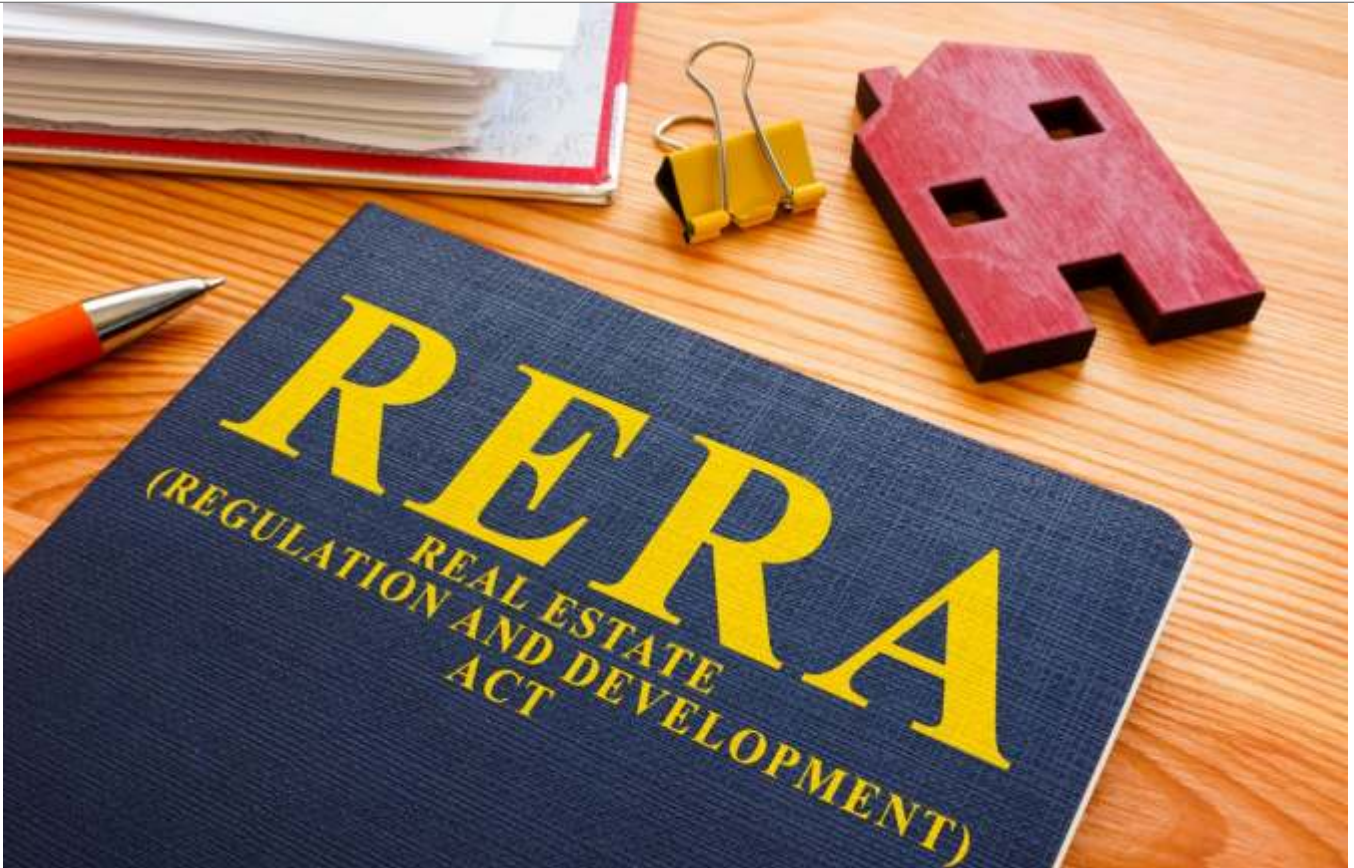
RERA imposes heavy penalties on developers if there is any delay in project delivery. But, it is silent on the delays or issues when seeking clearances and approvals from the concerned authorities.

The reality is that builders need to obtain around 50 to 70 clearances, NOCs and permissions (like ownership certificate, land use conversion, environmental and pollution no-objection certificates, non-encumbrance, road access and other related infrastructure related approvals) before they can launch and market a new project. This usually takes up to two years as the government agencies are lax with their work, which delays the project considerably and stretches the timelines for no reason. They have to be held accountable here as the developers are suffering on account of the slipshod approach.

RERA should include an objective performance assessment of the process of granting approvals by the concerned authorities and the processes should be made time bound. It should facilitate single-window clearances of all necessary approvals – in place of the elongated process of individual clearances - for the timely completion of real estate projects.

Debt Blow to Developers

70% of the advance payments from homebuyers has to be maintained in an escrow account for that specific project and cannot be used in other projects. Hence, the developer cannot take up new projects on account of funds of previous projects. The lack of liquidity will also affect their cash flow and raise their debt levels. As they have to depend on other sources to raise capital, it will increase their financial burden, and finally, the cost of the property.



Further, the problems of funding and delay in approvals will come together to deter new property launches. Given the reduction in housing options for property buyers, demand will outpace supply thus leading to significant rise in property prices.

The government should make alternate formal financing available – like pension fund and other endowment funds – as well as remove legal restrictions on the REIT platform.

RERA seems to be dissuading joint ventures between land owners and developers by terming the former as the promoters. They do not want to tie up with the developers as they will have to take responsibility of the project.

Tedious Registration Process

The application process is not only lengthy and cumbersome, but is compounded by the presence of two regulatory authorities governing the real estate industry in some states. This doubles the time-consuming process and makes it confusing as the forms are different for each authority. A national template for submitting project-related information can bring standardisation and ease of operations.

No Action on Stalled Projects

The RERA Act provides for punitive action against developers and promoters that abandon a project. However, there is no mention about restarting work on the project and it remains stuck. The legislation should

The state of West Bengal had passed its version of RERA – the West Bengal Housing Industry Regulation Act (WB-HIRA) in 2017. While the primary objectives were the same as RERA, certain provisions were inconsistent with the Central Act.

In fact, the state law created a 'parallel regime' and was in direct conflict with the central legislation by lacking necessary safeguards to protect consumers. It also caused great confusion for the developers, builders, homebuyers alike.

Finally, the Supreme Court declared WBHIRA as unconstitutional in May 2021 and from that day it became non-functional. This led to a regulatory void as HIRA was struck down and RERA was not yet operational. Homebuyers were left in the lurch as they could not file new complaints against builders. Even the existing complaints already filed before the erstwhile WB-HIRA could not be continued and homebuyers were subjected to even more ruthless exploitation. On the other hand, developers could not register their new projects either.

It was after 18 months that the WB RERA finally became operational in December 2022. While offline registrations and complaint filings started immediately, the online facilities commenced in February 2023.

consider means for resurrecting such projects (may be by another developer or agency) so that the land, funds and construction materials do not go waste and can give housing options to the homebuyers.

Exclusion of Small Projects

Small developers with projects less than 500 square metres or 8 flats do not come under the purview of RERA and do not require registration. However, there are numerous instances of such small projects flouting the development and construction rules and should be brought under the ambit of RERA.

In a similar vein, projects that are completed and then offered for sale should be governed by RERA rules. Right now, it is easy for developers to contravene the RERA provisions by finishing the project, obtaining a completion certificate and then offering it for sale. Even the RERA certificate is valid only till the date of completion of the project.

Many developers are of the view that the carpet area and net usable area needs to be defined more clearly

Lack of Awareness

Most of the consumers are still not aware of RERA and the protections available to them. Many of the developers are unequipped to use the online registration process. We need outreach programs for educating the developers and increasing consumer awareness about their rights and responsibilities.

States Diluting the Laws

It has been noted that individual states have been deviating from the rules framed by the Centre under the RERA Act by introducing exceptions in the definition of 'ongoing projects', allowing compounding options of penalties/imprisonment in the punishment for violations, diluting the 'proportional withdrawal' clause for an escrow account and other tweaks in favour of the builders. Some states have diluted RERA to the extent that it allows the erring developers with the existing projects to get away with blatant flouting of the norms.

In many states, the developers are given arbitrary fresh completion datelines in RERA registration to escape penalties. An Ansal API project launched in Lucknow in 2006 with 3 years delivery timelines revised the delivery deadline to 2023. Another developer in Mumbai who started a project in 2010 with promised delivery in 2014 took the extreme liberty of extending the timeline and giving a fresh possession date of 2025!

In Karnataka, all projects that are 60% or more complete have been exempted from RERA purview, thus allowing nearly all long stuck projects to escape.

Almost all developers continue to sell on super built up area without a care for the regulations mandating sale based on actual carpet area.

Indeed, patchy adoption by state governments and varying legal interpretations of the Act has weakened the sting of the legislation as well as reduced the fear among the developers. The RERA Act provisions established by the Centre have to be kept intact to ensure its effectiveness.

No Coverage for Rentals

RERA doesn't include any rental agreements and arrangements of any sorts. The Bombay High Court ruled that the Act also applies to long-term leases or agreements to lease.

Silent on Agents

Most of the RERA provisions are applicable to developers, builders and promoters. It remains silent on the duties and responsibilities of the real estate agents – they only get a passing mention in terms of transparency and punishments.

Lack of Implementation of Orders

The State RERAs are passing decisions to protect the rights of homebuyers – not just ordering refund, interest, penalty and compensation but also issuing arrest warrants against developers and freezing their bank accounts. But are they actually being enforced? Aggrieved buyers find that they get a favourable judgment, but the builder fails to comply with the same. The delay in implementation of orders is bringing the efficacy of RERA into question.

Many of the RERA rulings are not even in sync with the Supreme Court orders!

There's still more trouble from different quarters. State RERA authorities lack the manpower and resources to verify the documents submitted by the builders and conduct all the required checks. Many buyers allege that their contract has a different date of project completion while the timeline submitted to RERA is much longer.

"For RERA to function the way it has been envisaged you need to have not only the powers but also the infrastructure support. For example, with RERA all project details uploaded by developers are scanned with 150 DPI. It is just not readable for the average homebuyers. Unless someone files a specific complaint against a specific project, RERA officials don't have infrastructure support to cross check and reject such uploads," opines Kaamini Jaiswal in Chennai.

Conclusion

It is clear that the RERA Act still remains toothless in many ways. The biggest hurdle remains the laxity in both interpretation of the rules and implementation of the RERA orders. While the legislation holds promise of new opportunities with the suggested changes, the focus has to be on ensuring strict compliance by the stakeholders in both letter and spirit! ▶

UPDATE ...



Moving a Step Ahead

Update on the March edition on

World Consumer Rights Day - Clean Energy Transition

World Celebrates Consumer Rights Day!

ON 15TH MARCH this year, the consumer movement and other influential actors again came together to celebrate World Consumer Rights Day under the aegis of Consumers International to raise global awareness on consumer rights, protection and empowerment. Based on the theme of 'Empowering Consumers Through Clean Energy Transitions', all the stakeholders converged together for change in energy transitions to both support consumers through the cost-of-living crisis and help to meet net zero targets by promoting access to sustainable energy globally.

The Department of Consumer Affairs, Ministry of Consumer Affairs, Food & Public Distribution, Government of India also aimed to increase awareness of consumer empowerment and our joint responsibility to fight for a more rapid transition to renewable energy.

"In accordance with the theme, the primary thrust is on the deployment of technology to reduce the dependence on traditional energy sources such as fossil fuels and enable a rapid transition to



clean energy solutions that promote sustainability, security, affordability and access to consumers in the long term", said Nidhi Khare, Additional Secretary, Department of Consumer Affairs.

On a positive note, the Union Minister of Road Transport and Highways, Nitin Gadkari recently declared that India will soon have hydrogen buses plying on the streets in addition to using hydrogen to fuel aeroplanes. An indigenous hydrogen bus was unveiled in Pune last year (developed by CSIR - Council of Scientific and Industrial Research - and KPIT Limited) and very soon hydrogen buses will become common.

The Department of Consumer Affairs is also planning to organise a hackathon for designing charging solutions that work with wearable

devices with an emphasis on reducing 'electronic and electrical waste (e-waste)' and promoting a more sustainable consumer ecosystem. Wireless charging methods are also being explored, which will help significantly in e-waste proliferation. ▶



Letters to the



editor

(March issue: World Consumer Rights Day - Clean Energy Transition)

We are truly humbled by the praise and acknowledgment that is flowing in from varied sources. Please feel free to send in your comments, views or feedback on The Aware Consumer magazine at bejonmisra@theawareconsumer.in – we will publish your opinions and implement your feedback while ensuring that your voice is heard on the right platforms.



For a cleaner and more secure future, the issue of awareness of consumers, is a body developed to give voice for consumers globally. Firstly, to have the right of information and also a befitting group to develop standards for services and goods. Consumer International is an organization for groups around the world that advises and helps resolving consumer problems both at home and international agencies around the world. This harmony at all levels finds solutions to restore the right to information and justice to benefit all.

The Aware Consumer has magnificently brought to the forefront all these issues under the expert and sparkling leadership of Professor Bejon Misra and has empowered the consumer at home and abroad.

One earth, one family, one future. They have successfully been granted high appraisals in Solar PV modules, wind power equipment testing, CNG bio mass testing, battery testing, associating power systems component testing, not forgetting taking the right actions for climate neutrality. The consumer group should lead the G20 from the front.

As Nirmala Sitaraman noted in her budget 2023-24 speech, "In times of global challenges, India's G20 Presidency gives us a unique opportunity to strength India's role in the world economic order." She also emphasised on Green Growth as one of the seven priority sectors for targeted growth for India as run for India till 2047.

President Droupadi Murmu said India does not believe that progress and nature cannot go together. She emphasised on Green Growth connecting the Whole World with Mission LIFE.

Congratulations to Prof. Bejon Misra and all his respected and devoted team members for the grand success in this respected field of work. Keep it up...we are so proud of you all!

– Chaya Diesh

Volunteer For International Relations, Sydney, Australia • cdiesh@hotmail.com



I congratulate and applaud the entire team of The Aware Consumer magazine for enhancing and empowering consumers with the information they need to protect their rights, make wise choices, and lead a sustainable and healthy lifestyle. I read the magazine regularly, and it covers a broad range of topics, which is commendable. The blend of issues

addressed and opined by key experts has helped me understand them better. I wish the magazine to continue growing and succeeding in its field, reaching new readers and expanding its influence and impact.

– Dr Vishal Kumar Gupta

Dean (Academics), JSS Academy of Higher Education & Research, Mysuru • vishalkumargupta@jssuni.edu.in

I appreciate and value your magazine a lot. My request is that can you do a series on responsiveness of customer help desks/call centres of various industry like Cabs, Airlines etc. The service levels are deteriorating and at times it's impossible to get queries redressed.

– Yatish Singh, Hyderabad

Dr. Anamika Wadhwa inducted as Director



Dr. Anamika Wadhwa

BDS, MPH, MSW, MWMA



Dr Anamika Wadhwa was inducted as a Director of COF and trustee nominee on 09th April 2023.

We wholeheartedly welcome her in our gamut of system and we believe she will take the organisation to greater heights with the blessings of her Guruji and mentors.

She has been working with women and child issues apart from advocating for tobacco deaddiction, oral health issues and nutrition in India and South Asia region. She has also featured on various expert health and nutrition panels.

She is a young entrepreneur with a dynamic personality, great leadership skills and social work background. A doctor with medical then Public Health and Social Work education, she has acquired exceptional experience in working with various national programs of our country and of WHO South Asian Region.

Dr. Anamika has been recognised by various reputed national and international NGOs and renowned people for her excellent foothold with ground and people in the community and bringing change and transformation in society for the greater good. ▶

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for the next issue in June dedicated to
'Unclaimed Funds of Consumers'

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