

**RECORDS OF DISCUSSION OF THE SECOND REGIONAL WORKSHOP (SOUTHERN REGION) OF REAL ESTATE REGULATIONS AND DEVELOPMENT ACT- 'RERA- A NEW ERA OF TRANSPARENCY AND ACCOUNTABILITY IN REAL ESTATE- 2 YEARS OF IMPLEMENTATION AND WAY AHEAD' HELD ON 12<sup>TH</sup> OCTOBER, 2018 IN CHENNAI, TAMIL NADU.**

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1. The Second Regional Workshop on 'RERA- A New Era of Transparency and Accountability in Real Estate- 2 years of implementation and Way Ahead' was organized in Chennai on 12th October, 2018 for southern region. 8 States/UTs (Tamil Nadu, Karnataka, Andhra Pradesh, Telangana, Kerala and UTs of Puducherry, Lakshadweep and Andaman & Nicobar) participated in the workshop. The objective of the workshop was to provide platform for discussion, create awareness, learn from each others best practices and suggest way forward towards better implementation of the Act across States/UTs. The workshop was attended by Principal Secretaries/ Secretaries of Housing/ Urban Development, Chairpersons/Members, Senior Officers of RERA Authorities and Tribunals, representatives of Home Buyers Associations, Developers Association, Financial Institutions, Real Estate Agents and other stakeholders.

**2. Inaugural Session:**

**2.1. Shri S. Krishnan, Principal Secretary (Housing), Government of Tamil Nadu** delivered the welcome address. While delivering the welcome address, he highlighted the achievements made by Tamil Nadu RERA and requested all the participants to actively participate in the deliberations.

**2.2. Shri Thiru O. Paneerselvam, Hon'ble Deputy Chief Minister, Government of Tamil Nadu** welcomed all the participants of the regional workshop and thanked the Ministry of Housing and Urban Affairs for taking up this initiative. Hon'ble Deputy Chief Minister explained that such events are very important as they not only enhance the awareness and understanding about RERA and its functioning but also provide an opportunity for both the Central and State Governments along with the stake holders to review and reflect on the working of the institution and to consider corrective measures.

He observed that Tamil Nadu being one of the most urbanized states in the country, accords the highest priority to the Housing sector and aims to develop slum free cities and achieve the goal of 'Housing for All'. He described the key policy measures taken by the Government of Tamil Nadu and briefly highlighted the progress made under 'Housing for All' under PMAY programme, wherein so far 4.88 lakh families have been sanctioned dwelling units. In this regard he requested that Government of India's subsidy per dwelling unit under AHP may be enhanced to at least 50 per cent of the construction cost. He also suggested that unutilised / encroached land of Defence, Railways and Central PSUs; may be used for construction of houses under the PMAY.

He observed that Tamil Nadu has established a regular Tribunal and appointed the Adjudicating Officer and further assured that the Permanent Authority will be constituted shortly. He concluded his remarks by saying that



he is confident that the discussions of this workshop will enable us to more effectively implement the Real Estate Regulation and Development Act in its true spirit and achieve its full potentiality.

### **2.3. Inaugural Address by Shri Hardeep S. Puri, Hon'ble Minister of State (I/C), Ministry of Housing and Urban Affairs, Government of India:**

Hon'ble Minister first of all expressed his happiness and satisfaction that the regional workshop of southern states is being held in the beautiful city of Chennai. He welcomed all the participants, stakeholder and particularly home buyers of all the southern states present in the workshop.

Hon'ble Minister further stated that when the history of real estate in India will be written there will be reference of pre RERA and post RERA period. This becomes more important as the challenge before us is very daunting as between now and year 2030, approximately 700 - 900 million square meters of urban space every year will be required to be constructed and it has to be done in green and resilient manner. Hon'ble Minister added that construction industry is largest employer after agriculture and housing is the fundamental requirement. However till 70 years of independence, there was no regulator for real estate in the country.

Quoting the speech given by the **Hon'ble Prime Minister** on the 15<sup>th</sup> August 2016, on the occasion of 70<sup>th</sup> Independence Day the Hon'ble Minister summarized the problems faced by urban middle income home buyers and how RERA would solve the same. He observed that RERA has come as a big relief in the backdrop of lakhs of aggrieved home buyers across India protesting against long delays in delivering their homes, in which they have invested their hard earned money. By aiming to bring transparency and accountability in the sector, RERA is changing the general perception about the real estate sector.

Hon'ble Minister briefed about the progress of RERA and informed that all the States/UTs (28) have notified, except the 6 north eastern states and West Bengal. Hon'ble Minister appreciated the State of Kerala, who despite having its own state Act similar to RERA, have repealed its **Kerala Real Estate (Regulation and Development) Act, 2015** and notified the state rules under RERA. Other states may also replicate the same by repealing their state Act and notifying the rules under RERA to protect the interests of home buyers.

Hon'ble Minister added that in southern states, only the state of Andhra Pradesh is having the permanent Regulatory Authority and all the other states have to take immediate steps in this regard. Hon'ble Minister also appreciated the state of Tamil Nadu for being the first to establish the permanent Appellate Tribunal.

Hon'ble Minister observed that one of the biggest challenge in the effective implementation of RERA is '**tweaking of provisions while notifying the Rules under RERA**' by some of the States. The State of Tamil Nadu, Karnataka, Andhra Pradesh, Telangana and UTs of Puducherry have to take suitable action for notifying the rules in spirit of RERA and ensure that the



state rules are in conformity with RERA. In this regard, the states may introspect through self-regulation for doing the needful.

Hon'ble Minister further observed that total **2,850** projects registered by southern states which is only **8.74%** of total **32,599** projects registered pan India. Similarly, total **1,473** Real Estate Agents registered by southern states which is only **5.85%** of total **25,000** projects registered pan India and if we exclude Karnataka, the percentage of 'projects registration' of rest of southern states will be **2.54%** and Agent registration will come down to **1.60%**.

Hon'ble Minister appreciated the state of Tamil Nadu in area of Pradhan Mantri Awas Yojna (U). Approximately 5.8 Lacs houses have been sanctioned and out of which, 3 Lacs houses have been grounded and quality of houses are also very good.

Concluding his remarks, Hon'ble Minister urged all the stakeholders to define the clear set of actions, which need to be taken. The deliberations, suggestions and the take away that arise from the workshop would go a long way in providing a roadmap to all the stakeholders of the real estate sector.

#### **2.4. Opening Remarks and setting of context by Shri Durga Shanker Mishra, Secretary, Ministry of Housing and Urban Affairs, Government of India:**

Shri Durga Shanker Mishra, Secretary, Ministry of Housing and Urban Affairs, Government of India welcomed all the participants to the 2<sup>nd</sup> regional workshop of RERA. He observed that such workshops have been planned in all the 4 regions of the Country. The Workshop for the Western region was held at Pune on 10.9.2018.

Quoting the speech given by the Hon'ble Vice President of India and then Minister of Housing & Urban Affairs, Shri M. Venkaiah Naidu, in Parliament, the Secretary MOHUA summarized that implementation of RERA marks the beginning of a new era making buyer the King, while developers benefit from the confidence of the King in a regulated environment.

It was further informed by Secretary that all the States/UTs have notified Rules under RERA except for 6 North Eastern States, which have some issues relating to land and the state of West Bengal. He further emphasized about the need of speeding up the pace of registration of the projects and agents of southern states under RERA. Except Karnataka, (which has more than 2000 RERA registered projects), all other southern states need to expedite the registration process. He further observed that registration of projects and agents are comparatively low.

He observed that among major States, Tamil Nadu continues to be the most urbanized state with 48.4% of the population living in urban areas followed by Kerala (47.7%) and Maharashtra (45.2%). According to a survey by UN in 2007, by 2030, more than 40% of country's population is expected to reside in urban areas. This would result in significant construction activities in urban



areas. All new projects and 'ongoing projects' should be registered under RERA, as per provision of RERA.

He appealed to all the southern states except Andhra Pradesh (which has already set up a permanent Authority) to take immediate steps for the setting up of permanent Regulatory Authorities in their states. He also requested all the states except Tamil Nadu (which has already set up a Tribunal) to take the necessary actions to establishing the Appellate Tribunal as well.

Secretary informed that Pradhan Mantri Awas Yojna- Urban (PMAY-U) aims at providing basic housing facilities in 4,323 cities across country covering around 1 Crore houses out of which 60 Lacs houses have been sanctioned as of now. Tamil Nadu is one of top performing states of PMAY-U with more than 5 Lacs sanctioned houses, out of which 3.34 Lacs houses are grounded.

Secretary opined that RERA has transformed the Real Estate Sector by creating a win-win situation for all stakeholders including home buyers, developers, agents and financial institutes. He invited all the participants of workshop to discuss on the issues pertaining to enhancing transparency, accountability and effective implementation of RERA. He stated that in last workshop of western region at Pune it was suggested that regional forum may be formed wherein the best practices may be shared for implementation. Another suggestion emanating from the last workshop was that in the interest of early resolution of disputes conciliation platform, as set up by Maharashtra, may be considered by other States. He concluded his remarks by stating that the panel discussions have been formulated in such a way so that the all the stakeholders will get an opportunity to convey their thoughts and suggestions. I am hopeful that the deliberations held in today's workshop will surely help us all to move forward and ensure the complete implementation of RERA across country in letter and spirit.

### **3. Technical Sessions:**

#### **3.1. SESSION-1: Protection of Home Buyers' Interest & Agents Responsibilities:**

##### ***Attendees:***

- Shri Kaushik Balakrishnan, Marg Brindavan Buyers Welfare Association
- Shri Balaji, Home Buyer of Sree Aishwaryam Homes
- Shri Thiru Azeem M. Ahmed, President, Chennai Real Estate Agents Association
- Shri B.T. Srinivasan, General Secretary, United Federation of Resident Welfare Association, Greater Hyderabad.

The Session was moderated by Justice B.R. Rajendran, Chairman, Real Estate Regulatory Authority, Tamil Nadu.

**3.1.1. Moderator**, initiated the session by welcoming the participants and briefed about the implementation of RERA in Tamil Nadu. He briefed that RERA has brought transparency and accountability to all stakeholders and thereby protecting the interest of Home Buyers. He



observed that few developers are not registering their projects by declaring them for their own use. In this regard, public has been cautioned through website not to purchase property in such projects and also the Registration Department was informed not to register transactions without verification from RERA.

**3.1.2. Shri Kaushik Balakrishnan, Marg Brindavan Buyers Welfare Association** explained the importance of RERA and further opined that post-independence, there are 2 historical laws made, which will develop the future and economy of India i.e. Insolvency & Bankruptcy Code and RERA. Brief of his deliberation/ suggestions is summarized below:-

- ✓ RERA has provided protection to the interest of home buyers.
- ✓ As per section 56 of RERA, home buyer can approach directly without engaging lawyer.
- ✓ Section 40 of RERA provides that the recovery of penalty and interest shall be recovered in manner of land revenue.
- ✓ He observed that Tamil Nadu RERA has diluted the provisos of RERA while notifying the state Rules. He requested that the state Rules be notified in line with central Act.

**3.1.3. Shri Balaji, Home Buyer of Sree Aishwaryam Homes** made the following observations:

- ✓ RERA has instilled confidence amongst the home buyers for RERA registered projects.
- ✓ Few Developers are not following the provision of depositing 70% amount in escrow account, as stipulated by RERA, in letter and spirit.
- ✓ Provision of compensation, carpet area, is clearly defined in RERA which has come as a boon to homebuyers.
- ✓ The issue of open Car Parking area under RERA need to be clarified.

**3.1.4. Thiru Azeem M. Ahmed, President, Chennai Real Estate Agents Association** elaborated about the roles and responsibility of various stakeholders under RERA. The major observations made by him are summarized below:-

- ✓ Sometimes Agents offer various amenities to home buyers without having any written commitment from developers. In some cases, layout plans of projects are also not in place. Such instances should be brought to the notice of RERA Authorities and action under relevant provisions of RERA should be taken against these agents.
- ✓ He suggested that registration of Real Estate Agent should be on a pan India basis, instead of state wise registration.
- ✓ Penalty of 5% to 10% on agents in case of default, may be decreased, as the agent commission is not more than 2% in most of the cases.
- ✓ Real Estate Agents should be relieved from its liability upon execution of agreement between developer and home buyer.



**3.1.5. Shri B.T. Srinivasan, General Secretary, United Federation of Resident Welfare Association, Greater Hyderabad** briefed about the role played by his organization in enactment of RERA in its initial stages. He also opined that for a professional and committed developer, RERA is a good marketing tool, which gives assurance to the home buyer.

- ✓ West Bengal has enacted its own state Act instead of notifying Rule under RERA. This needs to be looked into and RERA need to be implemented across country including in the state of West Bengal.
- ✓ Unique project registration number may be given for each project registered under RERA for better clarity.
- ✓ The practice of Madhya Pradesh Regulatory Authority for ensuring 70% money used for said project only through Chartered Accountant, may be adopted by other Regulatory Authority.
- ✓ Pending cases under RERA (which are being adjudicated by Regulatory Authority, Adjudicating officer and Appellate Tribunals) may be expedited.

**3.1.6.** A suggestion came from one of member of audience that some regulation need to be formulated for 'senior citizen home buyers' under RERA.

**3.1.7. Comments by Chairman, Madhya Pradesh Regulatory Authority on Session 2:**

- ✓ Section 2 of RERA clarifies that RERA does not restrict the projects, which are registered under RERA. All the real estate projects which are not registered under RERA, also comes under the purview of RERA.

## **3.2. SESSION-2: Enhance Transparency to help Developers:**

### **Attendees:**

- i. *Secretary, CREDAI, Tamil Nadu*
- ii. *Hon. Secretary Builders Association of India (BAI) Southern Center, Chennai, Tamil Nadu*
- iii. *Member NAREDCO, Andhra Pradesh*
- iv. *Secretary, CREDAI, Kerala*
- v. *Chief Convener, NAREDCO, Telangana*
- vi. *President, CREDAI, Telangana*
- vii. *Vice President, CREDAI, Puducherry*
- viii. *Joint Secretary, CREDAI, Karnataka.*

The Session was moderated by Shri Satibir Singh, Member, Real Estate Regulatory Authority, Maharashtra.

**3.2.1. Moderator**, initiated the session quoting the speech delivered by Hon'ble Minister of Housing and Urban Affairs that RERA has marked



the history of Real Estate Sector into a pre-RERA and post RERA era. RERA is a landmark legislation which has brought transparency, efficiency and accountability to all stakeholders. The major observations made by him are summarized below:

- ✓ To bridge the communication gap between the consumer and the developers, a 'Conciliation Forum' with representation of all the stakeholders has been established in Maharashtra. The issues brought before the forum are sorted in a time bound manner.
- ✓ RERA has increased the transparency in real estate by mandating that all the information associated with the project is put up on public domain. This gives an opportunity to home buyers to make an informed choice.

**3.2.2. Secretary, CREDAI, Tamil Nadu** opined that RERA has come as game changer for Real Estate Sector. It has gained the confidence of consumer and investors, as projects will be launched after all clearances and information related to projects is available on web portal. The observations made by him are summarised below:

- ✓ The definition of force majeure does not address the issues related to non-availability of 'construction materials' and labor due to unavoidable circumstances, delayed approval from government bodies or due to judicial order/stay. Moderator informed that as per the judgement dated 6th December, 2017 of Hon'ble High Court of Mumbai, under the provision of force majeure and other related difficulties in project completion, the Authority may give extension upto 1 year. In case, where the project extends beyond 1 year, than the allottee has to be given compensation and interest on deposited money, as decided by Authority.
- ✓ The provision of withdrawal from Escrow Account, only after utilization of the money withdrawn earlier, increases the fund requirement on the part of the promoter. The provision of certificate by Engineer, Architect and Chartered Accountant for every withdrawal is very cumbersome and against the 'Ease of doing Business'. Moderator informed that the amount has to be kept in a separate bank account as per the provision of RERA.
- ✓ Upon registration of project, the disclosure of financial, sale and other confidential information of the promoter should be made only to the allottee of the project (password protected) and should not be put up in public domain. Moderator informed that such information regarding the project which are basic and should be made available to public should be placed in the RERA web portal. The home buyer can analyze the information to take informed decision.
- ✓ Penalty are too stringent and indicated in proportion to the percentage of the project cost, which makes it very stringent.
- ✓ The five year warranty clause mentioned in RERA is much more than the warranty given by the manufacturer of tiles and other



fixture. Moderator informed that the clause on five year warranty will ensure quality in construction.

- ✓ Section 31 of RERA provides that any aggrieved person may file a complaint. The definition of 'aggrieved person' covers any voluntary consumer association, registered under any law. This exposes the promoter and the project to litigations. Therefore, it is suggested that only allottees and their association should be covered under the definition of aggrieved persons. Moderator informed that the definition of aggrieved person has to be decided by the RERA Authority and depends on case to case basis.

**3.2.3. Secretary, Builders Association of India (BAI) Chennai**, informed that RERA has been welcomed by the promoters as it has eliminated the non-professional promoters from the real estate sector. His suggestions are summarized below:

- ✓ Single window clearance is one of the fundamental requirements for the timely completion of projects. 'Simplified Users Guide' to get permission for the projects may be made available for promoters.
- ✓ The clause on 'defect liability' of RERA should not cover items, which are exposed to wear and tear.
- ✓ For better transparency, the process of obtaining permits should be made online with standardized timeline for various approvals. Moderator informed that Mumbai ULBs are processing documents online and others ULBs may also adopt the same.
- ✓ Processing of the clearances and scrutiny of documents can be outsourced to an authorized agency for fast processing of documentation and permission for the project.
- ✓ State laws need to be in line with RERA. He opined that such regional platform for discussion should be organized periodically. Moderator opined that such challenges existed in Maharashtra, as it is in Tamil Nadu where the State has its own specific local laws and uniformity with the RERA provisions has to be worked out and ensured by State and RERA Authority.

**3.2.4. Member, NAREDCO, Andhra Pradesh** quoted the survey done by JLL and informed that India was placed at 34 rank out of 400 countries (earlier 36 rank in 2016, 40 rank in 2014) in *Global Real Estate Transparency Index* because of introduction of landmark laws such as RERA, GST and Benami Act. He observed that India's performance may improve in 2020 if law on 'Title Insurance' is enacted. A brief of the observations made by him is summarized below:

- ✓ The common area has to be transferred in favor of Allottees Association/ society and not in favor of individual allottee as per RERA. It is a practical problem for small projects, wherein the societies cannot be formed when the required number of individuals for forming a society is not available (i.e. 7 are not met) in the project.



- ✓ As balconies are out of the carpet area and therefore, it comes under the ownership of society being common area, this may affect the sentiments of home buyer.

**3.2.5. Secretary, CREDAI, Kerala** informed that RERA has been a relief to promoters in Kerala. The following observations were made by him:

- ✓ The recent flood in Kerala has led to a shortage of construction labor and construction material. Force majeure clause does not take in to account such eventualities. The same needs to be examined.
- ✓ Section 11(4)(e) of RERA mandates for 'formation of association of the allottee' upon booking of 50% apartments. In some cases, promoters apprehend that whether they will get balance funds from the sale of remaining apartments of the project or not.
- ✓ Occupancy certification is not given by ULBs in Kerala due to some conflict between local and central laws, which needs to be addressed.

**3.2.6. Chief Convener, NAREDCO, Telangana** gave a brief outline how RERA has standardized the process in the real estate sector. The major observations made by him are summarised below:

- ✓ Section 32 (b) of RERA provides for Single Window, which need to be implemented for seeking multiple clearances of real estate projects.
- ✓ Ambiguity in local and central laws exists in Telangana. For instance in local laws, the infrastructure like electricity and water supply need not be necessary for obtaining completion certificate. Moderator opined that some of the State laws may require some amendments to bring them in line with RERA.
- ✓ Frequent interactions between home buyers and developers may be organized to discuss and resolve their issues.

**3.2.7. President, CREDAI, Telangana** opined that implementation of RERA will eliminate the non-committed developers. He submitted that the local laws of Telangana are stringent for instance it provides that a developer to mortgage 10% of his total built up area, when he applies for clearances to the competent authority. Apart from genuine issues for delays, majority of develops have completed their projects in time. The developers in Telangana have welcomed the RERA in a positive spirit.

**3.2.8. Vice President, CREDAI, Puducherry** informed that Puducherry being a small UT has its own challenges. The major observations made by him are summarised below:

- ✓ The force majeure definition needs to be extended to lack of availability of labor and material.
- ✓ The registration of Sale Deed, registration of Agreement to Sale etc. should come under the ambit of RERA.



- ✓ Section 14 of RERA regarding 'defect liability' should be limited to structural defects. After issuance of 'completion certificate', allottees take the possession of apartments on different periods. The 'defect liability' for 5 years period should start from the issuance of completion certificate instead of possession date.
- ✓ Energy efficient, sustainable and green building should be promoted.

**3.2.9. Joint Secretary, CREDAI, Karnataka made the following observations:**

- ✓ To promote 'ease of doing business', there is need of 'single window clearance' across country.
- ✓ The process of registration of projects with the Authorities is cumbersome and time consuming and need to be simplified.
- ✓ In Karnataka, after completion of layout plans, final plan sanction is provided. Initially, only provisional plan sanction are given. Sale Deeds are not registered before final sanction. This matter may be looked into for proper implementation of RERA. Moderator acknowledged the challenges faced by developers to get all approvals in place before registration under RERA.

**3.2.10. Comments by Chairman, Madhya Pradesh Regulatory Authority on Session 2:**

- ✓ As per the Mumbai High Court judgement dated 6th December, 2017, the extension for real estate projects can be given beyond 1 year, with the proviso that the reasons for extension are recorded in writing.
- ✓ The issues on force majeure, may be addressed by RERA Authority from effective date of natural disaster. The shortage of labor and building material unless it is because of a force majeure, may be covered under the ambit of 'business risk of the developer'.
- ✓ Section 14 of RERA provides for 'structural defects' and 'defect in workmanship' which is to be decided by Authority.
- ✓ In case the cancellation of apartment booking is not due to developer's fault, then allottee will not be entitled for any interest receivables and also the draft agreement has to be in consonance with RERA.
- ✓ The internal walls are included in the carpet area. This is because, with the help of modern technology/ methods, the allottee has the flexibility to alter the arrangement of rooms in his apartment. The external walls may not be altered as it is the common property of the entire building.
- ✓ The issues regarding inclusion of balcony in carpet area may be considered by Government of India.



### **3.3. SESSION-3: Transparent and Disciplined Environment: Perspective of Financial Institutions:**

**3.3.1.** The session on 'Transparent and Disciplined Environment: Perspective of Financial Institution' was moderated by **Shri S. Krishnan, Principal Secretary (Housing and UD) & Chairman RERA, Tamil Nadu**. In his opening remarks Principal Secretary stated that during the last 20 years, housing finance market has evolved through a process of changes and is a very critical component of the real estate sector. He introduced the panel comprising of officials from National Housing Bank, Housing and Urban Development Corporation, Private Banks i.e. ICICI Bank and HDFC Bank, LIC Housing Finance Limited. He opined that for the betterment of the real estate sector as well as to protect the interest/rights of the home buyers, it will be important to bring clarity on ways to harmonize both the legislations i.e. Insolvency and Bankruptcy Code, 2016 and Real Estate Regulation (Development) Act, 2016. He added that there is a considerable increase in lending from banks to the homebuyers over the years. However, it would be important to address the issues of bridge financing for the unsold inventories, operationalization of escrow account as envisaged under the RERA.

**3.3.2. Dr. M. Ravi Kanth, Chairman and Managing Director, HUDCO** stated that RERA has helped in reforming the real estate sector by encouraging greater transparency, accountability and financial discipline. The RERA is an effort of eminent visionaries in bringing transparency and disciplined environment in the sector. He added that, HUDCO is 48 year old organization which is struggling to provide housing loans on retail basis (HUDCO Niwas loan up to rupees one crores) and on project basis housing loans given to States like Telangana, Andhra Pradesh, Uttar Pradesh and Tamil Nadu, Madhya Pradesh and Karnataka. He opined that there is a need to inculcate discipline (self, family, social, office discipline) in every aspects of the sector as well as in life in general with honesty, devotion and dedication.

**3.3.3. Ms. Nidhi Jain, DGM & Zonal Head-Contraction Realty and Funding Group, South & East Zone, ICICI Bank** informed that after constitution of the Securities and Exchange Board of India, which is regulating the securities market in India since 1992; the stock market of India has gone through sea change. Similarly, Regulatory Authority under RERA will increase transparency and accountability, which will ultimately help in bringing investments and contribute in the growth of the real estate sector. She further added that RERA will weed out fly-by-night promoters from the sector and promote the genuine developers. This will infuse credibility by making the sector mature. Real Estate Sector will also become an organized sector, wherein people will have with specialization job opportunities. In Pre-RERA era, home buyers were considered as the most vulnerable section; now position has been changed. Effective implementation of RERA shall lead to investments and growth in the sector in long run. However, it will be important to consider the existing stalled projects with proper examination on case to case basis.



**3.3.4. Shri Mathew Joseph, Senior Official, HDFC** informed that HDFC is a retail lending institution and due to enforcement of RERA, now the individual home buyers have become hopeful about their investment. He explained the other benefits of RERA:

- ✓ One of the concerns of the financial institutions, is completion of the stalled projects. Earlier, the financial institutions could step into/intervene to complete the project and now under RERA regime, consent of 70% of the home buyers is mandatory to make any change in the project, which is a cumbersome process.
- ✓ RERA will help to curb black money and speculation leading to price control as well as better access to project information and enable informed choice to the home buyers.
- ✓ RERA has helped investors to gain the confidence in investing in the real estate sector.

**3.3.5. Shri A. Gopal Kumar, Deputy Regional Manager, South Central Region, LIC Housing Finance Limited** stated that RERA is a positive move. As a financial lending institution, balancing the interests between developers and individual home buyers based on whatever little information available to the Financial Institutions was a challenging task. Post RERA, this situation has improved and decision making has become fast for the lending institution with better access of facts and figures related to projects. After RERA, the scope of project financing has widened. He observed that all the projects are not registered under RERA till date and requested to all the developers to get registered at the earliest. He further raised the issue regarding ongoing projects, wherein 30-50% of the housing units are sold and money collected from home buyers were utilized. However, there is no strategy for the rest unsold stock as no fresh funds are available as a result of which, the work slowed down and confidence of home buyers is shaken. He added that there should be some financing mechanism to enable the developers to access funding to complete the unsold properties. He further made following observations:

- ✓ The reconciliation model of Mumbai for settlement of builder buyer disputes may be adopted by other states.
- ✓ Conflict between state and central laws need to be looked into.
- ✓ Time and cost overrun in projects other than land acquisition issues becomes hindrance for the developments of projects.
- ✓ In case of the delayed projects which started prior to GST regime, who will bear the cost of GST- builder or the Home Buyer. As a response to this it was informed that RERA does not interfere with the tax laws. The terms of the contractual agreement has also to be examined based on the prevailing circumstances.

**3.3.6.** With regards to shouldering the responsibilities of the incomplete projects it was informed by the moderator that there are good and bad experiences in the sector. Over the past few months' substantial progress has been made and stalled projects are moving towards



protecting the rights and interests of the home buyers and cooperation all the stakeholders will help to bring improvements in the existing situation.

### **3.4. SESSION-4: Transforming Real Estate Sector: Win-Win for All:**

**3.4.1. Shri Durga Shanker Mishra, Secretary, Ministry of Housing and Urban Affairs** briefed about the success in implementation of RERA in Maharashtra and Madhya Pradesh. He opined that RERA has transformed the Real Estate Sector by creating a win-win situation for all stakeholders. The developers' play an important role in Nation making and providing basic need for human- shelter. RERA has given respectability to the committed developers, streamlined and brought discipline in the real estate sector. In few years, when all RERA provisions are in place, i.e. with registration of all projects, the system will be efficient and accountable bringing trust of home buyers and creditability of the developers to forefront.

Apart from the provision of RERA, like minimum 70% of funds in Escrow Account and 5 years defect liability, the MoHUA is working for 'title insurance', which is in progress. Though, it will take some time to mature, but the RERA will definitely bring order in the real estate sector, which has largely remained unorganized till 70 years since independence of the Country.

**3.4.2. Shri Anthony De Sa, Chairman Madhya Pradesh Regulatory Authority**, made the following observations:

- ✓ Planning area and non-planning area should not be treated differently. The people living in non-planning area are also covered under RERA as a home buyers and majority of real estate development are taking place in periphery of big cities.
- ✓ Default and penalty charges in late registration of projects as adopted by Madhya Pradesh, has stood judicial scrutiny. This provides penalty in multiple of the normal registration fee for default and standard fee for late registration. In case of delay in registration, the charges will increase in multiples of the normal registration fee. However, there is a proviso, if developer voluntarily come for registration than the charges would be flat 4 times the registration fee. He justified that percentage wise charge may run into huge amount and throw the project in an unrealistic situation.
- ✓ There is need to empower the Regulatory Authorities to ensure the compliance of their orders similar to the power of Appellate Tribunal under Section 53 of RERA. MoHUA may consider the same accordingly.
- ✓ Powers of Regulatory Authority given under Section 35 to 37 of RERA to issue directions to promoters, real estate agents and allottee may be extended to all the stake holders including the government organizations. MP Regulatory Authority is issuing directions under inherent powers to even civil servants-registration authorities, town and country planning authorities,



municipal corporations to solve problems related to single window clearances.

- ✓ Under Section 79 of RERA, jurisdiction of civil court has been barred for RERA related issues. A direction/ clarification may be issued that the provision of Section 79 includes consumer forum to avoid conflicts. Some cases are being heard in isolation in consumer forum, such cases in isolation makes stressed projects further stressed and conflict of direction between consumer forum and Authority.
- ✓ The registration of the sale of properties by the Registration Department may come under RERA with mandatory RERA registration number when the either party is a developer/ promoter or builder firm.
- ✓ On issues related to Stressed Assets: the required clarification of RBI on stressed assets notification may be requested to expedite in the interest of all stakeholders- promoter/ developer, home buyers and Financial Institutions. The Government of India may organize a national workshop to prepare a template for Stress Asset Projects before going to National Company Law Tribunal.

**3.4.3. Chief Town Planner & Nodal Officer, Puducherry RERA; and Additional Secretary, Government of Kerala & Interim RERA Authority** informed about the present status of the RERA implementation in their respective States/UTs.

**3.4.4. Chairman, Andhra Pradesh RERA** informed about the present status of the RERA implementation and assured that Permanent Authority will be formed within six weeks. He expressed his commitment to take the Real Estate Industry forward through awareness and innovative practices.

- ✓ Section 32 of RERA provides for promotion of Real Estate Sector. The Authority has taken initiatives for improving quality of construction, construction methodologies/ technologies, better building materials into the system and high quality structures in the State.
- ✓ Under Section 14(3) of RERA regarding defect liability, the Authority is insisting high quality building material with more than 5 years warranty by publishing them on web-portal to restrict unbranded/ low cost – low quality material. A separate engineering unit has been set up in Andhra Pradesh to examine material quality.
- ✓ The Government of Andhra Pradesh is setting up 4 Trade Centers for wholesale building materials, wherein the manufacturers will provide the material on 30-40% discounted price, Construction equipment on lease basis to reduce capital expenditure of the construction firms/ builders. This will bring economies of scale in the real estate sector
- ✓ Knowledge centers for modern technologies to encourage Building Information Modeling (BIM) will be set up soon. All



projects has to undergo BIM compliance – quality of building and construction will improve and reduce cost upto 4-8%.

**3.4.5. Chairperson, Telangana RERA** informed that it has been following the Maharashtra RERA (MahaRERA) and adopting the model followed in Maharashtra through their guidance. He acknowledged that the lessons learnt from the Regional Workshop will be helpful in successful implementation of RERA in state of Telangana.

**3.4.6. Representation from Lakshadweep RERA** ensured that it will be ensure that all compliance will be done as per the provision of RERA.

**3.4.7. Secretary, RERA Karnataka** informed about the present status of RERA implementation. The Karnataka RERA has published the list of unregistered projects on the web-portal with caution to public about the unregistered projects.

**3.4.8. Secretary, MOHUA** appreciated the inputs of various panelist/ stakeholders attending the workshop and ensured that MoHUA will ensure that the best practices and learnings from one part of the country are passed on to the other parts of country.

- ✓ Secretary, MOHUA highlighted that it is important to learn how RERA can regulate on building materials and restrict the low quality materials. BIM has lot of advantage in large scale projects which takes care of time and cost overrun. He also appreciated the initiatives of IIT Madras for environment friendly and product like Glass fiber reinforced concrete (or GFRC) technologies. Such modern technologies need to be encouraged, which will cost 10% less and reduce construction time to half. He mentioned that the Numerically Controlled Machine (NCM)- with 3D technology in construction of housing. He emphasized that RERA can be one instrument to play its role as regulator and for development of the sector.
- ✓ He concluded the session informing that Section 33(3) of RERA mandates awareness, and requested all participating States/UTs to spread awareness – have timely 'Regional Workshops' for all stakeholders for sharing experiences and facilitation.
- ✓ MOHUA has taken up the issue of income tax exemption for Regulatory Authority fund and all the Regulatory Authority of States/UTs may avail the benefits.
- ✓ Reconciliation and mediation platform set up in Maharashtra may be followed by other states as well.
- ✓ As decided in Western Region RERA workshop, FAQs may be prepared for different States/UTs.
- ✓ For Ease of doing Business, all construction permits has to be online as already done for 500 AMRUT cities, Andhra Pradesh and Telangana. A target has be achieved for 100% compliance to online building/ construction permits for all cities by March 2019.



**3.4.9. Principal Secretary (Housing &UD) & Chairman RERA Tamil Nadu**, concluded the Session by thanking MoHUA for hosting the regional workshop in Chennai. He observed that:

- ✓ Modification in State Rules may be required based on local laws so that there is parity in State and Central laws, for instance parking spaces in Tamil Nadu are allocated and sold with dwelling units, whereas RERA consider the parking spaces as common area.
- ✓ Registration of projects and complaints: Complaints can be registered even if a project is unregistered. Compliances has to be completed for projects before registration, especially for ongoing projects wherein some intervention of the RERA Authority may be required for clearances. Issues regarding violations in ongoing projects have to deal with no leverage before registration.
- ✓ Central Government Agencies/Housing Boards involving in provision of housing- Army Welfare Housing Organization, Central Government Employees Housing Welfare Organization may be sensitized about the need of RERA.
- ✓ In matters related to Reconciliation- the interest of all stakeholders needs to be balanced with the ultimate goal of delivering the house to consumer in time.

#### **4. Summary of the deliberations held during the workshop:**

##### **4.1. Suggestions pertaining to Real Estate Regulatory Authorities:**

- ✓ All the States/UTs including (Tamil Nadu, Karnataka, Andhra Pradesh, Telangana and Puducherry) need to take suitable action to re-notify their state rules under RERA in line with central Act.
- ✓ Authority to ensure the strict compliance of 70% amount in escrow account provision by developers in letter and spirit.
- ✓ Pending cases under RERA, (which are being adjudicated by Regulatory Authority, Adjudicating officer and Appellate Tribunals) may be expedited.
- ✓ The 'Conciliation Forum' may be established by all states to resolve the issues of consumer and the developers at initial stage.

##### **4.2. Suggestions pertaining to State Governments:**

- ✓ All the States of the southern region need to ensure that their state laws are in line with RERA for uniformity with the RERA provisions and to avoid conflict.
- ✓ Occupancy certification is not given by ULBs in Kerala due to some conflict between local and central laws, which needs to be addressed.



- ✓ The applicability of force majeure beyond the 1 year may be examined for the affected project of Kerala in light of recent floods in Kerala.
- ✓ Energy efficient, sustainable and green building may be promoted.
- ✓ RERA registration number may be made mandatory for registration of sale deed of properties, which are supposed to be registered under RERA.
- ✓ Single Window Online Approval System may be established soon across country with standardized timeline.

#### **4.3. Suggestions pertaining to Ministry of Housing and Urban Affairs along with concerned Ministries:**

- ✓ PAN India registration for Real Estate Agent instead of state wise registration, which is presently been done under RERA.
- ✓ Penalty of 5% on Real Estate Agents in case of default, may be decreased, as the commission is not more than 2% in most of the cases.
- ✓ Real Estate Agents may be relived from its liability upon execution of agreement between developer and home buyer.
- ✓ West Bengal may be advised to repeal its state Act and notify the rules under RERA.
- ✓ Unique number for project registration under RERA may be given for each projects for better clarity.
- ✓ The definition of force majeure may be widened to include the non-availability of 'construction materials' and labor due to unavoidable circumstances, delayed approval from government bodies or due to judicial order/stay.
- ✓ 5 year 'defect liability' period may start from the date of occupancy certificate instead of possession date and should be limited to structural defects only. The item, which are exposed to wear and tear; should have warranty period as provided by its manufacturer.
- ✓ Reduction in stamp duty, GST, other related tax are the issue for promoter to be more transparent.
- ✓ Resolution for the smaller project, wherein required number of individuals i.e. 7 are not met and therefore association/ society can't be formed then common area of the project may be given to allottee in individual capacity.
- ✓ The registration of Sale Deed, registration of Agreement to Sale etc. should come under the ambit of RERA.
- ✓ In Karnataka, after completion of layout plans, final plan sanction is provided. Initially, only provisional plan sanction are given. Sale Deeds are not registered before final sanction. This matter may be looked into for proper implementation of RERA.
- ✓ Internal walls are included under carpet area. This is because with modern technology/ methods, the allottee has the flexibility to alter the arrangement of rooms in his apartment. The external walls may not be altered as it is the common property of the entire building. The issues regarding inclusion of balcony in carpet area may be considered by Government of India.



- ✓ Regulatory Authorities may be given powers similar to Appellate Tribunal as given under Section 53 of RERA.
- ✓ Regulatory Authority may be empowered to issue directions to all the stake holders including the government organizations under Section 35 to 37 of RERA.
- ✓ Under Section 79 of RERA, jurisdiction of consumer forum may be expressively barred like civil court to avoid conflict of order.
- ✓ RBI may be requested to issue the clarifications on stressed assets notification to help enhanced funding to the stalled projects.
- ✓ The Government of India may organize a national workshop to prepare a template for Stress Asset Projects before going to National Company Law Tribunal.
- ✓ Central Government Agencies/Housing Boards involving in provision of housing- Army Welfare Housing Organization, Central Government Employees Housing Welfare Organization may be sensitized about the need of RERA.

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