
MINUTES OF FIRST REGIONAL WORKSHOP (WESTERN REGION) ON REAL ESTATE REGULATION AND DEVELOPMENT ACT “(RERA) - A NEW ERA OF TRANSPARENCY AND ACCOUNTABILITY IN REAL ESTATE- 2 YEARS OF IMPLEMENTATION AND WAY AHEAD” HELD ON 10TH SEPTEMBER, 2018 IN PUNE, MAHARASHTRA.

1. First Regional Workshop on “*RERA- a new era of Transparency and Accountability in Real Estate- 2 years of Implementation and Way Ahead*” was organised in Pune on 10th September, 2018 for western region. 7 States/UTs (**Maharashtra, Gujarat, Goa, Rajasthan, Madhya Pradesh and UT of Daman & Diu**) participated in the workshop. The objectives of the regional workshop was to provide platform to all the stakeholders of real estate sector to discuss/ debate/ consult and suggest way forward towards better implementation of the Act. The workshop was attended by Principal Secretaries/ Secretaries of Housing/ Urban Development Departments, Chairpersons, Members, Senior Officers of RERA Authorities and Tribunals, representatives of Home Buyers Associations, representatives of Developers Associations, Representative of Real Estate Agents Association, Financial Institutions and other stakeholders.

The brief of deliberations held, suggestions received in the workshop are summarized below.

2. **Welcome Address by Additional Chief Secretary, Government of Maharashtra:**

Shri Sanjay Kumar, Additional Chief Secretary (Housing), Government of Maharashtra delivered the welcome address. While delivering the welcome address, he highlighted achievements made by MahaRERA in the implementation of the RERA. He observed that MahaRERA is operational in Maharashtra since July 2017, and all registrations are through online web portal in a transparent manner.

3. **Inaugural Address by Hon’ble Minister of Housing and Urban Affairs, Government of India:**

- 3.1 Shri Hardeep S Puri, Hon’ble Minister of Housing and Urban Affairs in his inaugural address highlighted the importance of the landmark legislation, RERA which divides the Real Estate Sector into a **Pre-RERA** and **Post-RERA** era. In last 70 years of Pre-RERA era, there was no law to regulate the Indian real estate sector. The enactment of RERA has streamlined regulatory framework and development for the real estate sector. Quoting the JLL-CREDAI report, wherein Indian Real Estate Sector is expected to contribute 11% in India’s GDP from the existing 5-6% of GDP and the 2nd highest contributor of employment. India’s Real Estate is expected to USD 180 billion by 2020 and 350 billion by 2027.

- 3.2** Quoting the speech given by the **Hon'ble Prime Minister** on the 15th August 2016, on the occasion of 70th 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 the Government of India has taken various landmark Policy initiatives for Real Estate Sector during last 2-3 years, which includes Enactment of RERA, Benami Transactions Act, Real Estate Investment Trusts (REITs), Infrastructure status to Housing, Increase in area coverage under PMAY(U), Setting up National Urban Housing Fund, Easing FDI norms and Amendment in Insolvency and Bankruptcy Code (IBC) by making home buyers right as financial creditors along with right to vote being member of the Committee of Creditors.
- 3.3** The Hon'ble Minister observed that Maharashtra, Madhya Pradesh and Gujarat have established Authorities under the Act and put in place institutional mechanism as required under RERA. Rajasthan and Goa are on way to putting in place other institutional mechanism as prescribed under RERA. All States/UTs have notified the rules under RERA, except J&K, 6 North Eastern States (due to land issues) and West Bengal. He further observed that so far 31,475 Real Estate Projects and 24,000 Real Estate Agents have been registered under RERA across the country.
- 3.4** The Hon'ble Minister expressed concern over the fact that there are various forces, which don't want RERA to see light of the day by challenging the provisions of RERA in various courts across the country. However, the Hon'ble Mumbai High Court under the direction of Hon'ble Supreme Court has given its final verdict in December 2017 and upheld all the provisions of RERA as valid and constitutional. Therefore, RERA is in initial stage of its implementation as only 8 to 9 months passed since the judgment of Hon'ble High Court. Post-RERA era will play an important role in realizing the Government's vision of **New India** with Real Estate flourishing when homebuyers, investors, promoters and realtors will have confidence in each other.
- 3.5** The Hon'ble Minister highlighted the issue related to tweaking in the rules notified by some of the States under RERA. He observed that the issue had also been raised during the meeting of the Central Advisory Council (CAC) and urged all the States/UTs to notify the rules under RERA in the spirit of central legislation without any tweaking. He further said that legislation by any State which is not in conformity with RERA shall not be accepted by Government of India and it shall not be party to any such deviation of RERA.
- 3.6** The Hon'ble Minister observed that the Ministry proposes to organize 3 workshops which shall be organized in Northern, Eastern and Southern region of the country during the next 2 -3 months.

4. Opening Remarks and Setting of Context by Secretary, Ministry of Housing and Urban Affairs:

- 4.1** Shri Durga Shanker Mishra, Secretary, Ministry of Housing and Urban Affairs explained the context and background of 1st Regional workshop of RERA. Welcoming all the participants, he observed that the implementation of RERA marked the beginning of a new era of transparency and accountability in the real estate sector.
- 4.2** Secretary MoHUA observed that the Government of India has launched 5 Urban Missions. These Missions are Housing for All (**HFA**), Atal Mission for Rejuvenation and Urban Transformation (**AMRUT**), Smart Cities, National Heritage City Development and Augmentation Yojana (**HRIDAY**), Swachh Bharat Mission (**SBM**) and Deendayal Antyodaya Yojana National Urban Livelihood Mission (**NULM**) designed so as to cater to myriad requirements of the population of urban cities and improving their living standard. In next three decades, India will primarily be an urban nation with 800 million people staying in urban centres. Therefore, providing the basic infrastructure such as drinking water, sanitation, sewerage, drainage, transport, housing will not only be a huge challenge but also a big opportunity for economic activities and employment.
- 4.3** Secretary, MoHUA further observed that RERA is one of the legislations, which will help in improving the ranking of 'Ease of Living' index and 'Ease of Doing Business'. He further said that RERA is preventive unlike curative law of Consumer Protection. In the post RERA world of transparency and accountability developers, homebuyers and financial institutions – all would be the winners. He further observed that most of the homebuyers want their homes and not the refund of their deposited money. Our joint responsibility is to ensure that the stalled projects may not arise specially post RERA era.
- 4.4** Secretary MoHUA urged the States who are yet to establish the Permanent Regulatory Authority, Appellate Tribunals, web-portal, Adjudicating Officer and also conduct regular awareness programs of RERA in order to ensure the implementation of RERA in letter and spirit. Secretary appreciated the initiative taken by Maharashtra and Madhya Pradesh to become fully RERA-compliant States and further urged the State of Gujarat, Rajasthan, and Goa to establish the Appellate Tribunals and also appoint Adjudicating Officers. The leading States in RERA can show the way to other States/UTs to in terms of implementation, experiences and innovative practices and by way of cross learning at regional level, other states may also perform well in terms of implementation of RERA.
- 4.5** The new Era of Transparency will contribute to the vision of Hon'ble Prime Minister of **New India- 2022** by making our Bharat- **Swachh, Swastha** and **Corruption free**.

5. PANEL DISCUSSIONS:

5.1. SESSION- I: PROTECTION OF HOME BUYERS' INTEREST AND AGENTS RESPONSIBILITIES:

Attendees:

- *Representative from Maharashtra RERA.*
- *Representative from Home Buyers' Association (Mumbai Grahak Panchayat).*
- *Representative from Brokers' Association (CREBAI).*
- *Session was moderated by Additional Chief Secretary (Housing), Government of Maharashtra.*

➤ The brief of the deliberations held/suggestions made during the panel discussion are summarised below:

- (i) The success made of conciliation platform of MahaRERA was discussed in detail. It was suggested that all the other RERA Authorities may take steps to set up dispute settlement forums for amicable conciliation of disputes between the promoters and allottees. It was also observed that Section 32 (g) of RERA provides for setting up of such forums by the Authorities.
- (ii) Presently, the cases related to defaulting builders are directly being adjudicated by National Company Law Tribunal (NCLT). It was suggested that the interests of homebuyers would be better served if such cases were initially referred to RERA Authorities for resolution of dispute.
- (iii) Few Developers are violating the Section 13 of RERA by receiving more than 10% of total cost of apartment from the homebuyers without the execution of registered Agreement. It was informed that instances of such violations may be brought to the notice of the concerned RERA Authorities.
- (iv) It was suggested that while registering the document of Sale Purchase Agreement RERA registration number should be mentioned on sale deed.
- (v) Senior Citizens may be given priority while redressing the complaints under RERA.
- (vi) Single Window System may be adopted in true spirit for ensuring early registration of projects.
- (vii) The representative from CREBAI observed that RERA has given identity and respectability to the Real Estate Agents by registering them. However,

due to lack of awareness the number of registered agents is still low. Out of approximately 1 lakh agents in Maharashtra only 16,000 are presently registered. Unregistered Agents should be penalized and promoters/developers should not deal with unregistered agents. This will ensure the registration of all the Agents.

- (viii) There should be minimum qualification as well as training and skill development program for Agents. It was suggested that registration number of the Agents in the title document of the property should be made mandatory.
- (ix) It was observed that there have been instances of non-execution of the order passed by the Regulatory Authority and Adjudicating officer under RERA. In such cases the aggrieved party has to approach local civil court by filing another case. It was therefore suggested that RERA Authorities may be empowered to execute their orders without filing another case before civil courts.
- (x) It was suggested to review the clause related to *force majeure* (Section 6 of RERA) and include the court order under the purview of *force majeure*.
- (xi) To remove ambiguity on the methodology adopted for calculating Stamp Duty it was suggested that Stamp Duty may be imposed on Carpet Area instead of Built up Area.
- (xii) It was observed that presently RERA does not ensure a minimum standard of quality of construction. It was suggested that a minimum parameter of quality of construction may also be prescribed under RERA. It was informed that MahaRERA is working on such a proposal.
- (xiii) It was suggested that to enhance **Transparency and Accountability** all the data of the projects held by the Authorities may be kept in public domain / web portals of the authorities.

5.2. SESSION 2: ENHANCED TRANSPARENCY TO HELP DEVELOPERS:

Attendees:

- *Representatives from various Developers' Associations like:*
 - *CREDAI-National; CREDAI- Maharashtra; CREDAI-Madhya Pradesh; CREDAI - Rajasthan; and CREDAI- Goa.*

- NAREDCO- Maharashtra.
 - MCHI- Maharashtra.
 - *The Session was moderated by Chairman, Madhya Pradesh- RERA Authority.*
- The brief of the deliberations held/ suggestions made during the panel discussion are summarised below:
- (i) RERA is citizen centric Act and in post RERA era, the transparency and systematic working in the sector has enhanced the confidence of stakeholders and ultimately helped the developers. RERA registration has become the hallmark and every developer wants to highlight that its project is registered under RERA.
 - (ii) Appropriate “Land Title Insurance” products are not available in the market, however it is the mandatory condition under section 16 of RERA, therefore it was suggested that “Land Digitalization” under ‘Land Title Bill’ may be implemented by all the States. Other states may also enact law as done by Rajasthan i.e. Rajasthan Land Title Bill.
 - (iii) As per provisions of RERA, RERA Authorities may give directions to Promoters/Developers, Allottees/Home Buyers and Real Estate Agents/Broker only. In this regard, it is suggested that RERA Authorities may be empowered to issue directions to all the stakeholders including the local administration, who are an important player in the real estate ecosystem.
 - (iv) Section 14 (3) of RERA provides for a 5-year warranty period of Defect Liability starting from possession date. In this regard, it was suggested that said period of 5 year warranty may start from date of Completion Certificate instead of Possession Date. It was also suggested that “**Defect Liability**” should be defined and it may be coterminous with manufacturer warranty. Further, it was deliberated that Section 14 (3) of RERA may be limited to the Structural Defect only and for workmanship, it may be 1 year from date of completion certificate.
 - (v) In case of Villas, the common area is committed to be handed over to local development body, however as per Section 17 of RERA, it is mandatory to execute the conveyance deed in favour of allottees only. This may be examined.
 - (vi) Section 6 of RERA provides for maximum one-year extension of registration of projects. There is no provision for extension of projects by more than one year. It was suggested that the registration of projects can be extended beyond one year in case of unavoidable circumstances upon levying reasonable penalty upon the developer.

- (vii) RERA Authorities may be given a chance to resolve the dispute before invoking the insolvency proceeding in a fixed time period of 180 days. If RERA authorities fail to resolve the case may be referred to NCLT for adjudication.
- (viii) In smaller states such as Goa, it is difficult to get the projects registered by the developers under RERA as the plot size is around 700-800 square meter and therefore come under the definition of "Projects" as defined in Section 3(2) of RERA. Therefore, size of plot for project registration may be increased.
- (ix) Strict action to be initiated against the illegal construction of projects being done by few smaller developers outside municipal limits.
- (x) RERA may be empowered to impose penalty against frivolous complaint made by some motivated groups, as it causes the delay in completion of projects.
- (xi) The directions may be given to all local bodies to take quick action for "**Fast Track Approval Process**" through single window platform.
- (xii) Few Developers are still selling the open parking which is not permitted under provisions of RERA, therefore it was suggested that the price of open Parking should not be charged extra over and above the unit cost and such parking should not be made in common area space such as Park, Playground etc. Any such violation may be reported to RERA Authorities.

5.3. SESSION 3: TRANSPARENT AND DISCIPLINED ENVIRONMENT-PERSPECTIVE OF FINANCIAL INSTITUTIONS:

Attendees:

- *Representatives from the Financial Institutions such as National Housing Bank (NHB); Housing and Urban Development Corporation Ltd. (HUDCO); State Bank of India (SBI); HDFC Bank Ltd.; and ICICI Bank.*
- *The Session was moderated by Chairman, Maharashtra RERA Authority.*
- *The brief of the deliberations held / suggestions made during the panel discussion are summarised below:*
 - (i) *In post RERA era, the confidence of lender has boosted and now there is comfortability to infuse the fund in real estate sector due to transparency.*
 - (ii) *Registration of Real Estate Agents under RERA, Title Insurance, Real Estate Investment Trusts (REITs), Infrastructure status for Housing, Easing FDI norms and Amendment in Insolvency and Bankruptcy Code (IBC) will make the Real Estate Sector more vibrant in coming future.*

- (iii) Insolvency and Bankruptcy Code (IBC) will not lead to solution for Home Buyers, as they don't want their money to returned but their the possession of their dream homes.
- (iv) Restructuring of loan is required to make the projects viable and recover the complete loan amount from the developers. The circular dated 12th February, 2018 of Reserve of India may be reviewed, as it has become the hurdle in infusing the fund in the real estate sector especially in the stalled projects.
- (v) International Best Practices may be adopted while framing and amending the Real Estate regulatory framework in India.
- (vi) In some cases, it was observed that order of RERA Authorities and Adjudicating Officer are not being executed and therefore it was suggested to make RERA Authorities more empowered to ensure the execution of its order and take stringent action in case of non-compliance.
- (vii) RERA being repository of data of all the real estate projects will help the financial institutions in long terms planning and policy making.
- (viii) As per section 13 of RERA, 'Agreement to Sale' is required to be registered in case of more than 10% payment by Home Buyer to developer. In this regard, in order to ensure the compliance of this provision, States may be advised to lower down the registration fee of "Agreement to Sale" in order to encourage the registration.
- (ix) It was suggested that in order to protect the interest of homebuyers, the sale deed may be also de-materialized similar to Shares. It will benefit the homebuyers in long run and restrict sale thorough forged sale deeds.
- (x) RERA may give access to the information related to registered bank account to the Bankers so the Banks may transfer the loan amount of the project in the said bank account only.

5.4. SESSION-4: TRANSFORMING REAL ESTATE SECTOR: WIN- WIN FOR ALL:

Attendees:

- *Chairman of Real Estate Regulatory Authorities in Maharashtra; Gujarat; Madhya Pradesh; Rajasthan; and Goa.*
- *The Session was moderated by Secretary, MOHUA.*

The brief of the deliberations held / suggestions made during the panel discussion are summarized below:

- (i) RERA has transformed the real estate sector by creating a win-win situation for all the stakeholders. Interest of homebuyer is supreme in the regulatory framework under RERA. The vision of the Government is to provide Housing for All by 2022.

- (ii) The real estate stakeholders of Western Region should meet on regular intervals to discuss issues and share the best practices. It was suggested that a regional forum for RERA may be constituted with Chairmen of respective RERA Authorities, CREDAI, NAREDCO and other relevant stakeholders to deliberate on the experiences, share best practices, way forward and share it with concern Government.
- (iii) As per Section 8 of RERA, in case of lapse/revocation of the registration, in order to carry out the remaining development works by the association of allottees, as may be determined by the Authority. It was suggested that the financial institution may also be included in this Section along with the allottees.
- (iv) Online land record system and paperless working may be adopted by the RERA Authorities. In this regard, the training may be organized with the support of National Institute of Urban Affairs (NIUA). It was also suggested that NIUA should also develop a curriculum for on RERA for capacity building of the respective officials, developers and other stakeholders.
- (v) It was informed the skill of the persons working in the real estate sector need to be enhanced. It was suggested NULM of Government of India could be approached to train the workmanship of the sector.
- (vi) The representative from Rajasthan RERA informed that Rajasthan would establish permanent regulator in next 2 months.
- (vii) Presently the dispute of a similar nature can be heard on 2 different platforms (RERA Authorities and Consumer Forum). This could lead to different orders by the two courts that often send confusing signals. It was therefore suggested that jurisdiction of consumer forum on the real estate disputes may be barred as has been done for the civil courts.
- (viii) For 'Ease of Doing Business' in Construction permit, Mumbai has developed seamless system and subsequently other cities have also moved ahead. It was informed that it is targeted to implement across country by 31st March 2019.
- (ix) RERA Authorities may prepare FAQs to address the queries of all the stakeholders based on their experiences on implementation of RERA and put up on respective websites. Based on the FAQs prepared by each RERA Authorities, the MOHUA may prepare the general FAQs to address the queries on RERA.
- (x) Section 33 of RERA provides that one of the functions of the Authorities is to create awareness on RERA. It was suggested that Authorities may create greater awareness on RERA. All options for creating awareness of RERA may be explored.
- (xi) As per Section 91 of RERA, Central Government may remove the difficulties in implementation of RERA within 2 years, which is going to expire on 31st March, 2019. Therefore all such cases may be expeditiously dealt.
- (xii) RERA Authorities do not have adequate powers to exercise the compliance of their orders. It was suggested that in case of non- compliance of the order passed by the

Regulatory Authority/ Adjudicating officer may be tackled by empowering the RERA Authorities with the powers of civil courts as has been done for Appellate Tribunals under section 53 of RERA.

- (xiii) RERA Authority may be empowered to give directions to any stakeholder and accordingly, the scope of section 35, 36 and 37 need to be widened.
- (xiv) Necessary steps to be taken to stop the sale of any unit/apartment of the project, which is not registered under RERA but was supposed to be registered.
- (xv) Section 16 of RERA provides for mandatory insurance of the title of the land, however the appropriate insurance product is not available in the market. Therefore, it was suggested that necessary steps to be taken for availability of 'Title Insurance' by the leading insurance companies, as mandated by RERA.
- (xvi) The registration of 'Agreement to Sale' should be mandatory and Stamp Duty/ paid by the homebuyer may be adjusted at the time of registration of sale deed. It will ensure the compliance of section 13 of RERA and also safeguard the interest of homebuyers by registering the document.

6. Summary of the deliberations held during the workshop:

The suggestions emanating from the deliberation of the workshop, which would require further consideration from various stakeholders are summarize below:

A. Suggestions pertaining to Real Estate Regulatory Authorities:

- Setting up of the Conciliation Platform for amicable settlement,
- Priority to Senior Citizens in adjudication of cases,
- Action against unregistered brokers,
- Action against constructions and selling of unregistered projects,
- Action against selling of open car parking space,
- Publication of Projects details on web portals of Authorities,
- Access of Bank Account information of Developers to bankers for loan amount transfer purpose,
- Action against developers on receipt of more than 10% of amount without registering the 'Agreement to sale' document,
- Establishment of Regional Forums for regular discussion and sharing best practices among the Regulatory Authorities,
- Preparation of Frequently Asked Questions (FAQs),
- Conducting regular awareness programs involving all the stakeholders.

B. Suggestions pertaining to Ministry of Housing and Urban Affairs along with concerned Ministries:

- Pursuing introduction of appropriate products for 'Land Title Insurance',
- Amendment in Reserve Bank of India's circular dated 12.02.2018 to provide last mile funding in the stalled projects,
- Study of the international best practises for the regulation of the real estate sector,

- De-materialization of sale deed to prevent duplicate sale of the same unit,
- Training program for enhancing the IT skills of staff members of RERA Authorities and develop the curriculum on 'capacity building' with reference to RERA for the respective officials, developers and other stakeholders through National Institute of Urban Affairs (NIUA),
- Facilitate the training programs of workmanship of the real estate sector through National Urban Livelihoods Mission (NULM).

C. Suggestions pertaining to State Governments:

- Mentioning of RERA registration number on Sale Deed,
- Establishing the complete and effective fast track approval system through 'Single Window System',
- Training programs for stakeholders/agents.
- Imposition of stamp duty on carpet area,
- Defining the 'minimum standard of quality of construction',
- Enacting the legislation for 'Land Title',
- Minimum fee for registration of 'Agreement to Sale' or fee adjustable in Sale Deed registration,
- Establishment of Permanent Regulatory Body and Appellate Tribunals, Appointment of Adjudicating Officer.
- Notification of draft 'Agreement to Sale' and Regulation by the States which have yet not done the same.

D. Suggestions which would require Amendment to RERA:

- Adjudication of cases by Regulatory Authority before referring it to NCLT,
- Empowering Regulatory Authorities with the powers of civil courts as has been done for Appellate Tribunals,
- Empowering Regulatory Authorities and Adjudicating Officers to ensure the compliance of their order/judgement and issue directions to any stakeholder,
- Empowering Regulatory Authorities and Adjudicating Officers to impose penalty on lodging the frivolous complaints,
- Inclusion of court order and other unavoidable circumstances under the definition of '*force majeure*',
- 'Defect Liability Period' to be start from occupancy date for structural defects and different categories of the defects to be separately defined,
- Handover of common area in case of villas wherein it is to be handed over to urban local body,
- Inclusion of financiers under section 8 for completion of left out development work,
- Barring the jurisdiction of consumer forums to avoid confliction with the order/judgments of RERA Authorities and Consumer Forums.

Finally, it was resolved that the above suggestions would be examined along with the suggestions emanating from the other 3 Regional workshops planned across the country.