

Minutes of the 2nd Meeting of the Sub-Committee constituted by the Central Advisory Council of RERA held on 19th January 2024 at 2:00 PM under the Chairmanship of Secretary, Ministry of Housing and Urban Affairs.

The second meeting of the Sub-Committee constituted by the Central Advisory Council (CAC) of RERA was held on 19th January 2024 at 2:00 PM under the Chairmanship of Secretary, Ministry of Housing and Urban Affairs. The list of participants is **Annexed**.

2. Welcoming the Members to the meeting, Economic Advisor (Housing) highlighted the 4 main agenda points of the meeting namely the implementation progress of RERA, Strengthening RERA, Non-compliance of Orders passed by Real Estate Regulatory Authorities and the issue of Legacy Stalled Projects.

3. Economic Advisor (H) apprised the Members regarding the latest implementation status of RERA across all the States / Union Territories (UTs). In this regard, he highlighted that Rules under RERA have been notified by all the States/UTs except Nagaland. Further, he stated that so far 32 States/UTs have established Regulatory Authorities, while Nagaland, Meghalaya, Sikkim, and Ladakh are yet to establish the same. He further added that 28 States/UTs have established Appellate Tribunals and 26 States/UTs have also appointed Adjudicating Officers. He also stated that more than 1,20,000 projects have been registered under RERA, 85,186 agents have been registered and around 1,18,500 cases have been disposed off across the Country. He also informed the Members that the issue of implementation of RERA in the States of West Bengal and Telangana was raised in the previous meetings of the CAC. In this regard, he apprised the Members that Regulatory Authorities have now been set up in both West Bengal and Telangana.

4. Subsequently, Economic Advisor (H) highlighted the issue of dilution of Rules notified by many States. He stated for instance that the definition of ongoing projects was changed by various States. He also stated that the matter related to Agreement for Sale (AFS) Rules is still sub judice and upon the next hearing, the Hon'ble Supreme Court will give further directions. Thereafter, the Chairman requested the other participants to give their inputs in this regard.

Shri M. S. Shankar, Gen. Secretary, Forum for People's Collective Efforts (FPCE), apprised the members of the sub-committee that the builders do not follow the Agreement for Sale Rules in letter and spirit. In this regard, Shri Mahesh Pathak,

Member, Maharashtra RERA stated that a model Agreement for Sale Rules has been introduced by them, which comprises 6 mandatory clauses, which cannot be deviated from. He further added if there is any deviation in any other clause, a deviation table needs to be prepared and disclosed by the developer, comprising details of such deviations at the time of registration of the project. Economic Advisor (H) added that the UP RERA Chairman had informed in the previous meetings that they examine the AFS prior to granting registration to any project. In this regard, the Chairman expressed his concern over the very relevance of having a model AFS when builders are deviating from it. Against this backdrop, he stated that a list of the major deviations from the model AFS in States which severely affect the homebuyers' interests may be compiled and examined.

5. Thereafter, with respect to non-compliance of orders passed by Regulatory Authorities, Economic Advisor (H) informed the sub-committee members that a DO Letter, along with a write-up on the recovery model being implemented by the Gujarat Real Estate Regulatory Authority and suggestions of Maharashtra and Tamil Nadu Real Estate Regulatory Authorities for effective implementation, was sent to all the States / UTs for examination of these best practices. He further informed that an advisory was also sent to all States / UTs / Regulatory Authorities on 1st January 2024 wherein they were advised to formulate a recovery mechanism / appoint a recovery officer under their respective recovery laws, on the lines of the mechanism adopted by the Gujarat Real Estate Regulatory Authority, to ensure recovery of dues. Alternatively, it was also advised that Additional District Magistrates / Additional Collectors may be entrusted with the additional charge as dedicated 'revenue Recovery Officers' for enforcement of recovery orders, especially in districts where the pendency of such cases is huge. Subsequently, Economic Advisor (H) requested the members to provide their suggestions on how to strengthen RERA.

Shri M. S. Shankar, FPCE stated that Regulatory Authorities are more inclined towards promoting the growth of the Real Estate Sector, as envisaged in Section 32 of RERA. However, he was of the view that under this Section the Regulatory Authorities do not have any direct functional responsibilities and can only provide recommendations to the appropriate government / competent Authority. Therefore, in the context of strengthening RERA, he suggested that the focus of Regulatory Authorities should be to ensure that the promoters discharge their functions and duties effectively as envisaged under Chapter III (Sections 11 to 18) of RERA. Further, he also stressed on the issue of non – availability of data on the websites of Regulatory Authorities pertaining to real estate projects such as list of completed projects, projects that have received occupation certificates, etc. The Chairman acknowledged the issue of lack of data on the websites of Regulatory Authorities and stated that this is a serious lacuna as none

of the Regulatory Authorities is maintaining the data properly. He further added that the data that is being received by Regulatory Authorities is not being tabulated properly and the information is not being displayed on the websites in a uniform format. Therefore, one has to rely on the data provided by third-party organizations in order to get information about the real estate sector. In view of this, he suggested that there is a need to systematically work with all the Regulatory Authorities to address this issue.

Shri Pathak, Member, Maharashtra RERA stated that the analysis of data is difficult if the information is not received in Excel format. In view of this, he stated that Maharashtra RERA is developing an integrated computer system to collect data in Excel format. He further added that Maharashtra RERA has also come up with a format for grading and quality assurance of the projects and for this third parties will be engaged to ensure the performance as well as the quality of the projects. He also apprised the members that Maharashtra RERA has introduced a system of QR Code. The promoter has to quote the QR Code along with the registration number, which the buyer can scan to get all the requisite information. He added that an update of this system is under development which will help in better analysis.

Shri Hari Krishna Bhanusree, COO, CREDAI stated that the builder associations also rely on the data displayed on the websites of Regulatory Authorities. He further added that the developers provide all the necessary information however the same is not compiled and uploaded in requisite format. In this regard, he stated that the developers are ready to provide information in any format. Additional Secretary (Housing), MoHUA suggested that AIFORERA may be requested to prepare a template for capturing relevant data parameters that can be shared with all Regulatory Authorities. The Chairman agreed to this suggestion.

6. Thereafter, Economic Advisor (H) requested the States to update on the action taken in the compliance of recovery orders mentioned in the Advisory dated 1st January 2024. In this regard, Shri Pathak, Member, Maharashtra RERA opined that considering the huge number of cases spanning across various districts, it is not practical to delegate the powers of recovery to one or two officers only. In view of this, he stated that they interact regularly with the Collectors to ensure the effective implementation of Orders passed by Regulatory Authorities. In this regard, Economic Advisor (H) reiterated that a dedicated revenue recovery officer may be appointed in those districts where the pendency of the cases is high. Chairman acknowledged this point and stated that this practice is quite common in a lot of states and can be easily adopted by other States.

Shri M. S. Shankar, FPCE highlighted that as per their study of Karnataka Real Estate Regulatory Authority, revenue recovery certificates for 1212 cases have been issued out of around 4000 cases, which amounts to 25%. However, he added that no information is available on the implementation of these recovery orders. In this regard, the Chairman stated that it is difficult to collect fines / penalties from the promoter as the real estate sector is Special Purpose Vehicle (SPV) driven. He added that each project is an SPV which is a separate legal entity with limited assets. If any recovery is done from these SPVs, then it also penalizes the rest of the homebuyers whose money is lying with the SPVs. The Chairman then requested members to give their comments in this regard.

Shri Abrar Ahmed, Principal Advisor, Uttar Pradesh Real Estate Regulatory Authority highlighted that Uttar Pradesh Real Estate Regulatory Authority has made a recovery of over ₹800 crores in 4000 recovery certificates from the promoters whose projects were launched in 2012, 2013 & 2014. He added that the machinery of recovery in Uttar Pradesh is working well and is very streamlined. Further, most of their demands are concentrated in the districts of Gautam Budh Nagar, Lucknow and Ghaziabad. He informed the members that the Collectors have been designated as recovery officers and UP Regulatory Authority continuously coordinates with the Board of Revenue, State government and monitoring meetings are held at the level of the Hon'ble Chairman. Further, he pointed out that the recovery certificates are issued against the companies, which are separate legal entities and there is no direct accountability on the promoter. In this regard, he suggested that a provision may be made in RERA, similar to the provisions existing in the Income Tax Act, wherein if the recoveries are not possible from the assets of the company or the project, the Regulatory Authority can pass a special order holding the Director accountable for the payment of the dues.

Further, Shri Ahmed suggested strengthening Section 8 of RERA. He highlighted the issue of lack of requisite finance available with the new developer / competent authority / AOA, which replaces the existing promoter for completion of the project upon lapse or revocation of registration of a project. Therefore, in this regard, he suggested that there should be a mechanism whereby the finances could be arranged to facilitate completion of the project.

Further, he raised another concern stating that once the project is completed, since the land continues to be in the name of the original promoter, the new developer is unable to carry out the process of registration or discharge the liabilities of the existing promoter. For this, he suggested that there needs to be an amendment in Section 40(2) of RERA wherein specific powers should be provided to the Regulatory Authority to appoint receivers, attach the properties, and handover the possession after

execution of the sale deed. Further, with respect to information available on the websites, he informed that UP Regulatory Authority is working on improving the existing system to capture the data in digital format and develop analytics to provide the requisite information to all the stakeholders on the website.

The Chairman welcomed the suggestions and stated that it is not possible to take away the rights of the owners / equity stakeholders of the SPV pending resolution process. He added that a separate resolution process outside the IBC might be required for the Real Estate Sector.

7. Thereafter, Economic Advisor (H) informed the members that a Committee was constituted under the Chairmanship of Shri Amitabh Kant, G-20 Sherpa, to examine the issues related to legacy stalled projects in March 2023. Subsequently, the Committee submitted its report to the Ministry in July 2023, which was shared with all the States and other stakeholders in August 2023. He added that the Government of Uttar Pradesh has formulated a detailed policy. He requested the representatives of UP Government / UP Regulatory Authority to give the latest status on the action taken in this regard. Shri Ahmed, Uttar Pradesh Real Estate Regulatory stated that the Uttar Pradesh Government has adopted the Amitabh Kant Committee report and NOIDA / Greater NOIDA authorities are working on the aforesaid policy/ package and are yet to take a formal decision. Economic Advisor (H) then requested other participants to offer any comments in this regard.

Shri Pathak, Member, Maharashtra RERA stated that they have identified approximately 7000 projects and have involved Self Regulatory Organizations (SROs) for the completion of projects. Through coordination and meetings with SROs, around 4000 projects were successfully completed in the past year. Notably, 15% of these projects showed zero progress for which the process of deregistration has been initiated. He also added that the focus is on completing 30% of those projects in which 70% of the work has already been completed. As a result of this, he stated that many projects have taken extensions and subsequent to completion of the projects, they have also submitted their application for OCs/CCs. He further underlined that most of these stalled projects are pre-2017 and forensic audits have been conducted for those cases which show a mismatch between the physical and visible progress. Moreover, he also stated that those cases have been referred to the Economic Offences Wing (EOW), where there is a significant discrepancy between expenditure incurred and the stage of completion of the project. To summarize, Shri Pathak stated that efforts are being made to gradually complete all the legacy stalled projects.

8. In conclusion, the Chairman thanked all the members for their valuable suggestions. In his closing remarks, he reiterated the issue of lack of information available on the websites and requested AIFORERA to work on this matter so that information is easily accessible to all the stakeholders.

The meeting ended with a Vote of Thanks.

Annexure

List of Participants for 2nd Meeting of the sub-committee constituted under CAC held on 19th January, 2024 in Hybrid Mode.

S. No.	Name	Designation/ Name of Organization	Attendance [Physically (P)/ Video Conference (VC)]
1	Shri Manoj Joshi	Secretary, MoHUA	P
2	Shri Satinder Pal Singh	Additional Secretary (Housing), MoHUA	P
3	Shri Dinesh Kapila	Economic Advisor (Housing), MoHUA	P
4	Shri Gaurav Kumar Jha	Joint Director (Housing), MoHUA	P
5	Shri Sailesh Jogiani	Under Secretary (Housing), MoHUA	P
6	Shri Gnanadesikan	Chairperson, Tamil Nadu RERA	VC
7	Shri Sanjeev Kumar Arora	Member (Haryana RERA)	VC
8	Shri R. G. Gohil	Secretary (H), Government of Gujarat	VC
9	Shri E. Shivarudrappa	Joint Secretary, Karnataka RERA	VC
10	Shri Mahesh Pathak	Member, Maharashtra RERA	VC

11	Shri Abrar Ahmed	Principal Advisor Uttar Pradesh RERA	VC
12	Shri Hari Krishna Bhanusree	COO, CREDAI	P
13	Shri M. S. Shanker	General Secretary, FPCE	P
14	Shri Anuj Puri	Chairman, ANAROCK	VC
15	Shri Abdul Kader Suriya	Chief Investment Officer, SWAMIH	VC
16	Shri Rajat Goyal	Principal – SWAMIH Investment Fund I	VC
17	Shri Kenilo Apon	Commissioner & Secretary (UD & MA), Government of Nagaland	VC
18	Shri A. Chenithung Lotha	Director (UD), Government of Nagaland	VC
19	Shri Aditya P. Bhattacharaya	Sr. Resident Fellow, Vidhi Centre for Legal Policy	P
