

# Real Estate (Regulation & Development) Act, 2016



# INTRODUCTION TO THE RERA

**RERA** also stands for **The Real Estate (Regulation and Development) Act, 2016**. It is an Act which seeks to protect home-buyers as well as help boost investments in the real estate industry. In order to know better about the Act following things must be known such as:

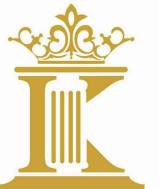
- ▶ What is RERA?
- ▶ Background of RERA
- ▶ Who will benefit from this?



# Need for this Act

There were various state laws governing the real estate sector such as The Maharashtra Apartment Ownership Act, 1970 and Rules, 1972; The Maharashtra Housing (Regulation and Development) Act, 2012 etc. However, none of the above laws provided effective mechanism for the enforcement of consumer rights. The real estate industry faced various issues such as:

- ▶ Inordinate delays in completion,
- ▶ Substandard construction,
- ▶ Absence of professionalism, standardization and adequate consumer protection,
- ▶ Lack of uniform regulatory environment,
- ▶ Absence of transparency and accountability in transactions,
- ▶ High levels of risk perception by investors/ consumers,
- ▶ Redundant/ Static land laws,
- ▶ Consumers forced to sign on dotted lines,
- ▶ Making project investment ready for REITs.



# OBJECTIVES OF THIS ACT

Though the Consumer Protection Act, 1986 is available as a forum to the buyers in the Real Estate market, the resource is only curative and is not adequate to address all the concerns of the buyers and promoters. Therefore in order to retain the trust this Act came into existence with the following objectives:

- ▶ Steering in transparency into real estate transactions,
- ▶ Elimination of information asymmetry and ensuring full and fair disclosures,
- ▶ Provide respite to flat purchasers against the practice of fly-by-night developers,
- ▶ Protect consumer interests,
- ▶ Ensure timely execution of the projects,
- ▶ Provide a speedy/ robust dispute resolution mechanism Need Objectives.



# WHOM DOES IT APPLY TO

## Act applies to:

- ▶ Commercial RE projects including shops, offices, showrooms, godowns
- ▶ Residential Apartments
- ▶ Plotted Developments
- ▶ Ongoing projects in respect of which completion certificates have not been issued
- ▶ RE projects developed in phases would require registration for each phase separately



## Exemptions: –

- ▶ Projects being developed on land less than 500 sq mts (0.05 hectare or 0.12 acre)
- ▶ Number of units does not exceed 8 (all phases)
- ▶ Obtained completion certificate for the project before the commencement of the Act
- ▶ Redevelopment RE projects where no new allotments are to be made
- ▶ Renovation/ Repair - Not involving marketing, advertisement, selling or allotment of any apartment, plot or building
- ▶ Sale of ready to occupy property in the resale market Projects outside the "Planning Area" may not need registration



# REGISTRATION WITH REAL ESTATE REGULATORY AUTHORITY

## Prior registration and Application for Registration of RE project

- ▶ No Promoter shall advertise **without registering the project**
- ▶ NO registration required if **exceeds eight or 500sq.mt.**
- ▶ An Authenticated copy of the approval and certificate from the Authority for each phases
- ▶ **Brief details of enterprise** i.e. name, registered address, type of enterprise, Details of projects,
  - ❑ Location **details of project**, clear demarcation of the land proposed to be developed,
  - ❑ **Performa of allotment letter**, agreement for sale, and the conveyance deed proposed to be signed with the allottees
  - ❑ Number, type and **carpet area** of apartment and **area of garages/ parking area**,
  - ❑ **Details of RE agents**, contractors, architect, structural engineer etc.,
  - ❑ **Declaration supported by an affidavit**, signed by the promoter.
- ▶ **Copy of commencement certificate**, sanction plan, layout plan, development plan to be executed etc.,

# *Grant and Extension of Registration*

On Receipt of the application, the Authority shall within a period of thirty days either

- ▶ Grant registration
- ▶ Reject the Application
- ▶ After Expiry of said period of 30 Days, Project shall be deemed to have been **registered** and Authorities have to provide a registration number and details to the promoters
- ▶ The Following registration is **valid**.

## Extension of Registration

- ▶ The registration granted may be extended by the Authority on an application made by the promoter due to “FORCE MAJEURE”
- ▶ The Authority may in **reasonable circumstances, based on the facts of each case, and for reasons to be recorded in writing**
- ▶ No application shall be rejected unless the applicant has been given an **opportunity of being heard**.

# REVOCAATION AND ITS CONSEQUENCES

## When Registration can be Revoked

- ▶ Promoter is in default of the requirements of the Act/ Rules/ Regulations.
- ▶ Violates terms and conditions of the approval given by the competent authorities (local authorities - BDA, BBMP etc.)
- ▶ Involved in "unfair practice or irregularities“(Section 7)
- ▶ Opportunity of being heard with 30 days’ speaking notice, in writing

## Consequences of Revocation

- ▶ Debar the promoter from accessing its website
- ▶ Listing of developer as defaulters
- ▶ Freezing Bank accounts Inform RERA in other States/ UTs about such revocation
- ▶ Handover of the development to Association of allottees/ Competent Authorities upon consultation with State Govt.
- ▶ Right of first refusal for completing the construction lies with the Association of allottees





# Promoter's Functions and Duties

- ▶ Webpage on RERA website :
- ▶ Information to the allottees :
- ▶ Veracity of Advertisement :
- ▶ Advance Payment/ Application Fee :
- ▶ Alteration :
- ▶ Transfer/ Assignment :
- ▶ Interest :
- ▶ Handover :
- ▶ Insurance :
- ▶ No limitation :
- ▶ Defect liability :



# Allottees Rights and obligations

## Entitlements :

- ▶ Obtain information regarding sanctioned plans, layout plans with specifications
- ▶ Stage-wise time schedule of completion of the project
- ▶ Claim refund of amount paid along with interest in case of failure to provide possession of the property
- ▶ Claim the possession of apartment as per the time period of completion committed by the Promoter
- ▶ Claim the refund of amount paid in case of revocation of his registration Entitlements

## Obligations :

- ▶ Make payments in the manner and within time as specified in the agreement for sale
- ▶ Liable to pay interest on delayed payments
- ▶ Take possession within 2 months of issue of occupancy certificate
- ▶ Participation in formation of an association or society or co-operative society of allottees
- ▶ Participate towards registration of conveyance deed Obligations



# REAL ESTATE REGULATORY AUTHORITY

- ▶ RE Act provides **for establishment of the RERA** in all states **within a period of 1 year**
- ▶ Until the establishment of RERA, the State Government shall designate any **Regulatory Authority** to perform the functions of RERA
- ▶ RERA would act as the nodal agency to co-ordinate efforts regarding development of the RE sector and render necessary **advice to the State Government to ensure the growth and promotion of a transparent, efficient and competitive RE sector**
- ▶ One of the functions of RERA is to recommend to the local authorities and State Government, **the creation of a single window system for project** approvals.
- ▶ Structurally, the RERA results in a fundamental imbalance, where the Developer is put under onerous obligations on various aspects related to the development of the project but there is a **lack of an appropriate mechanism** that ensures timely approvals towards the same



# FUNCTIONS AND POWERS

## FUNCTIONS (SECTION 34)

- ▶ Registration and regulation of RE projects
- ▶ Maintenance of a database on its website for public viewing of all registered RE project, details of developers and RE agents
- ▶ Fixation of standard fees to be levied on the allottees, promoters or RE agents
- ▶ Ensure compliance of its regulations and other obligations cast upon the promoters, allottees and RE agents

## POWERS (SECTION 35 – 38)

- ▶ May Suo Moto or on receipt of complaint, call for information and conduct investigation
- ▶ May issue interim orders during the pendency of proceedings
- ▶ Has the power to impose penalty or interest in regard to the contravention of the of the obligations cast upon: –  
Developers – Allottees or – RE agent



# Real Estate Appellate Tribunal

- ▶ Any person aggrieved by any direction or decision made by the Regulatory Authority or by an adjudicating officer, may make an appeal before the Appellate Tribunal within a period of 60 days from the date of receipt of a copy of the order or direction.
- ▶ The Appellate Tribunal shall deal with the appeal as expeditiously as possible and endeavour shall be made to dispose of the appeal within a period of 60 days from the date of receipt of appeal.
- ▶ The Appellate Tribunal shall have same powers as a civil court and shall be deemed to be a civil court. An appeal against the order of the Appellate Tribunal may be filed before the jurisdictional High Court within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal.



# OFFENCES & PENALTIES UNDER RERA

## Offence & Penalties under the Bill Offence & Penalties for Promoters

- ▶ 1. Failure to Register ( Sale without registration ) :- Fine up to 10% of Project Cost
- ▶ 2. Failure to compile with orders passed by RERA :- Imprisonment of 3 Year and / Or Fine up to 10 % of Project Cost
- ▶ 3. False Declaration about Project / Promoters :- Fine up to 5% of project cost

## Offence & Penalties for Real Estate Agent

- ▶ 1. Failure to Register :- Fine up to 5% of Unit cost sold and / or Imprisonment of 1 year
- ▶ 2. Selling of Unregistered Project :- Fine up to 5% of Unit cost sold and / or Imprisonment of 1 year

## Offence & Penalties for Allottee's / Customer

- ▶ 1. Failure to compile with orders passed by RERA :- Fine up to 5% of Unit cost sold and / or Imprisonment of 1 year
- ▶ 2. Deliberate Purchase in Unregistered Project :- Same as above



*Thank  
you*

