



## RERA Act, 2016

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### Introduction

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- Real Estate (Regulation and Development) Act (RERA) is an act passed by the Parliament in 2016 that came into effect fully from 1<sup>st</sup> May, 2017.
- It seeks to protect **home-buyers** as well as help **boost investments in the real estate sector** by bringing efficiency and transparency in the sale/purchase of real estate.
- The Act establishes Real Estate Regulatory Authority (RERA) in each state for **regulation of the real estate** sector and also acts as an adjudicating body for speedy **dispute resolution**.

### Need for the RERA

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- Real estate sector had been largely unregulated, no standardization of business practices and transactions.
- Prevalence of issues like delays, price, quality of construction. Delays in projects had been a major issue plaguing real estate sector- huge cost overrun due to delays.
- Numerous instances where developers cheated property buyers.
- No grievance redressal mechanism.
- Huge generation of black money in real estate sector.

### Objectives of RERA

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- Enhance transparency and accountability in real estate and housing transactions.
- Boost domestic and foreign investment in the real estate sector.
- Provide uniform regulatory environment to ensure speedy adjudication of disputes.
- Promote orderly growth through efficient project execution and standardization.
- Offer single window system of clearance for real estate projects.
- Empower and protect the right of home buyers.

### Key Provisions of Real Estate Regulation Act

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- **Establishment of state level regulatory authorities- Real Estate Regulatory Authority (RERA):** The Act provides for State governments to establish more than one regulatory authority with the following mandate:
  - Register and maintain a database of real estate projects; publish it on its website for public viewing,
  - Protection of interest of promoters, buyers and real estate agents
  - Development of sustainable and affordable housing,
  - Render advice to the government and ensure compliance with its Regulations and the Act.
- **Establishment of Real Estate Appellate Tribunal-** Decisions of RERAs can be appealed in these tribunals.
- **Mandatory Registration:** All projects with plot size of minimum 500 sq.mt or eight apartments need to be registered with Regulatory Authorities.
- **Deposits:** Depositing 70% of the funds collected from buyers in a separate escrow bank account for construction of that project only.
- **Liability:** Developer's liability to repair structural defects for five years.
- **Penal interest in case of default:** Both promoter and buyer are liable to pay an equal rate of interest in case of any default from either side.
- **Cap on Advance Payments:** A promoter cannot accept more than 10% of the cost of the plot, apartment or building as an advance payment or an application fee from a person without first entering into an agreement for sale.
- Defines **Carpet Area** as net usable floor area of flat. Buyers will be charged for the carpet area and not super built-up area.
- **Punishment:** Imprisonment of up to three years for developers and up to one year in case of agents and buyers for violation of orders of Appellate Tribunals and Regulatory Authorities.

## Benefits

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- **Timely delivery of flats**
  - Developers often make false promises about the completion date of the project, but hardly ever deliver.
  - Strict regulations will be enforced on builders to ensure that construction runs on time and flats are delivered on schedule to the buyer.
  - If the builder is not able to deliver the flats on time, he/she will have to refund the purchaser with interest.
- **Furnishing of accurate project details:**
  - In the construction stage, builders promote their projects defining the various amenities and features that will be part of the project. But not everything goes as per plan, with several features missing.
  - As per the Act, there can't be any changes to a plan.
  - And if a builder is found guilty of this, he/she will be penalized 10% of the project's costs or face jail time of up to three years.

- **Specifying carpet area:**
  - Generally, builders sell flats on the basis of built-in area, which includes a common passage area, stairs and other spaces which are 20-30% more than the actual flat's area.
  - But, not all buyers are aware of the concept of carpet area.
  - With this Act it will become mandatory to declare the actual carpet area.
- **All clearances are mandatory before beginning a project:**
  - Builders often attract buyers with huge discounts and pre-launch offers. And, the buyer, enticed by the offers, does not bother about the clearance.
  - But, due to delays in getting clearance, the buyer does not get the flat on time.
  - This Act ensures that developers get all the clearances before selling flats.
- **Each project should have a separate bank account:**
  - Developers raise funds through pre-launch offers and use them to purchase some other land or invest it in other projects.
  - This Act will make it compulsory that a separate bank account be maintained for each project.
  - Each transaction will have to be recorded, and diversion to another project will not be entertained.
- **After sales service:**
  - As per an interesting clause in the Act, if the buyer finds any structural deficiency in the development of the building, the buyer can contact the builder for after sales service.
  - But, the buyer should approach the builder within 5 years of purchase to rectify such defects without further charges.

## Concerns

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- **Past real estate projects not included**
  - Only new projects are covered by the Act.
  - Projects that are ongoing, completed or stuck due to clearance or financial issues, don't come under this.
  - Hence, many buyers will not be benefitted by it.
- **Delay from government agencies**
  - There can be delays caused by the government, which sometimes takes a lot of time to clear a project.
  - It is up to government bodies to timely approve projects, so that developers can launch, complete and deliver them on time.
- **No compulsory regulation for projects less than 500 square meter:**
  - Registration with the regulator will not be mandatory for projects less than 500 square meter.
  - So, small developers will not be bound to register.

- **New project launches expected to be delayed:**  
Because a project will not be allowed to launch without the requisite clearances from the government (which generally takes two to three years), projects will automatically get delayed.
- **It does not deal with the concerns of developers** regarding force majeure (acts of god outside their control) which result in a shortage of labour or issues on account of there not being a central repository of land titles/deeds.
- State governments regulated real estate before RERA as land and land improvement are in the **State List** of the Seventh Schedule of the Constitution. RERA has been enacted under **Concurrent List**. This has increased the tussle between various states and Centre over implementation of RERA.

## Way Forward

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- Avoiding any conflict between the Centre and the States regarding regulation of real estate sector.
- States should not dilute the RERA provisions. Provisions for punishment of violations, should be kept intact in all State laws.
- States should fully implement RERA to curb black money
- Issues regarding the implementation of RERA in North-Eastern States should be resolved to avoid any uncertainty in the housing sector in that region.
- Government agencies should be made accountable for the delay in granting approvals.
- A robust IT infrastructure should be established for monitoring projects and quick redressal of grievances.
- All the concerns of developers should be addressed in a time-bound manner to avoid unnecessary litigations in courts.

For Mind Map