

ANALYTICAL STUDY OF RERA ACT 2016 AND ITS IMPACT ON HOME BUYER & PROMOTER

PATIL SAMARTH SURESH¹ Dr. TUSHAR BAGUL²

¹PG STUDENT, D.Y. PATIL COLLEGE OF ENGINEERING, AKURDI, PUNE – 411044, INDIA

²ASSOCIATE PROFESSOR, D.Y. PATIL COLLEGE OF ENGINEERING, AKURDI, PUNE – 411044, INDIA

ABSTRACT

The Real Estate Sector had become huge in terms of large number of transactions and its contribution to the overall GDP of the country. Lately, due to non-standardised and unregulated practices, the fragmented sector has been in the limelight for all the wrong reasons, further impacting its image. There was a dire need of a supervisory body to oversee the operations of the sector. The RERA Act has the impact of changing the entire landscape of the real estate sector and redefining the process of how real estate sales happen in the country. This has not only impacted the developers' community, but all the stakeholders in the sector. Every stakeholder - right from the government, banker, and consumers - is unlearning the old ways of operating and getting aligned to the new systems which are RERAFied. Therefore a need arise to examine this regulatory framework. In this paper a thorough literary survey has been made by citing different sources which will be useful for understanding the developments in the topic.

Keywords: RERA, GDP, STAKEHOLDER, LANDSCAPE

1. INTRODUCTION

1.1 GENERAL

Due to the unregulated nature of India's real estate sector, fundamental problems associated with dispute resolution and delayed project deliveries had long skewed the balance in favour of supply-side stakeholders. Growing consumer agitation on social media, increasing complaints against builders and outreach to quasi-judicial commissions forced the government to sit up and take notice of the aggrieved homebuyers' plight. With this objective to safeguard consumers' interests, the Government of India enforced the Real Estate (Regulation and Development) Act, 2016 nationwide on 1 May 2017. For a sector that did not have any regulatory structure governing the behaviour of its participants, this historic move was heralded as an inflection point that will change the manner in which real estate is transacted in India. Provisions such as mandatory disclosures by promoters were targeted to weed out flyby-night operators and bring financial discipline, which will spike investors' interest. Most importantly, it was aimed to allow a grievance resolution platform to homebuyers. While consumers heaved a sigh of relief momentarily, on the ground realities are very different. Maharashtra is the only state that notified the real estate rules timely and subsequently implemented it statewide by 1 May 2017. Thereafter, in a bid to implement RERA at the eleventh hour, hasty notification of real estate regulations by many states came under the scanner for perceived dilution of central guidelines. Delayed notification of real estate rules put consumers in a dilemma regarding ascertaining the eligibility of projects under RERA. A major bone of contention is the interpretation of the term "ongoing project" by some states, which provide many relaxations to builders. Consequently, homebuyers in states like Karnataka, Haryana, Tamil Nadu, Telangana and Uttar Pradesh are disappointed as a vast proportion of underconstruction projects will now not come within the purview of the Act.

1.2 NEED OF RERA ACT IN CONSTRUCTION INDUSTRY

For long, home buyers have complained that real estate transactions were lopsided and heavily in favor of the developers. RERA and the government's model code, aim to create a more equitable and fair transaction between the seller and the buyer of properties, especially in the primary market. RERA, it is hoped, will make real estate purchase simpler, by bringing in better accountability and transparency, provided that states do not dilute the provisions and the spirit of the central act.

The RERA will give the Indian real estate industry its first regulator. The Real Estate Act makes it mandatory for each state and union territory, to form its own regulator and frame the rules that will govern the functioning of the regulator.

2. CONCEPTUAL BACKGROUND

2.1 GENERAL

The construction industry faces a distinct challenge when it comes to customer service. Few other businesses have the customer standing right in front of them while the product in question is being assembled. Yet that's the case in construction, where many owners pay regular site visits to monitor and sometimes micromanage the Building process. For this reason, it can benefit contractors to pay close attention to customer service and, if necessary, think creatively for ways to avoid costly conflicts. One approach taken by central government of India by enforcing the RERA Act.

2.2 REVIEW OF REAL ESTATE INDUSTRY

Real Estate sector ranks second to agriculture in providing employment in the country. The population in the country is estimated to touch 600 billion in 2030. Hence there is a huge demand and need for housing and infrastructure in the next one half decades. Real estate is a capital intensive and manpower intensive sector which is estimated to grow at more than 25% in the next two decades. The size of the Indian realty market by the year 2020 is predicted to be 180 billion USD. The contribution of the housing sector to Gross domestic Product of the country is over 5 per cent. The Department of Industrial Policy and Promotion has reported an inflow of 25 Billion USD into the Indian Realty market in the past 15 years. The Real Estate sector comprises of Housing, Commercial, Retail and Hospitality. The growth of the real estate sector is dependent on the economic factors which determine the inflow of funds into the sector. Higher per capita income and better investment cycles enable the individuals and business entities to invest in the real estate. It is a necessary investment which cannot be avoided by many as housing is essential for the growing population.

2.3 KEY CHALLENGES TO THE INDIAN REAL ESTATE INDUSTRY

In the construction sector, the problems faced by the different stakeholders not only relates with the cost and time overruns but also dealt with different challenges; some are as follows,

Approvals and Procedural difficulties: There are almost 50 approvals or more that need to be taken for starting a real estate project and further these approvals are required from different govt departments or authorities. This is one of the major causes of delays and high amount of corruption in real estate sector. Consequently corruption and delay cause inconvenience to customers only.

Lack of clear land titles: The land titles are not clear because of poor record keeping and division of land in many parts till independence. The slow pace of modernization of land records is further aggravating the problem.

Speculation in Land and Real Estate Prices: The prices of land and real estate in India has increased exponentially in last decade and causes overpricing of commercial or residential property. In recent times, real estate is the most favorable destination for investment in India and far ahead than equity or gold. Further real estate agents or brokers buy or sell property frequently with their own investments and cause surging of prices in property.

Sources of Finance: Finance is the key for development of any industry. Due to poor image of Real Estate sector, banks are becoming reluctant to provide loans and making regulation tougher to avoid bad loans. Alternate sources of finance are very costly and ultimately impact total cost of the project.

High Input Cost: Real estate is a capital and labour intensive industry; thus rise in cost of labour and construction material due to inflation poses many problems to real estate industry. Further real estate builders many times raise the question about unfair practices in cement industry for rise of price more than 50% in quick time.

3. REVIEW OF LITERATURE

MARZUKHI MORLYALA, DASIMAH et.al.(2012)

The paper is based on literature review in proposing the strategic regulatory framework for sustainable development. The paper deals with current understanding of the legislative framework where assessment of the principles of planning laws and land laws were studied.

The paper also presents the identification of present legislative framework and approach between Town and Country Act 1976 and National Land Code 1965.

It is concluded that the fragmented laws and division of power over land matters will prevent the implementation of sustainable development in the country.

O.E.NILS, GUNNAR LEIKVM (2015)

The development of real estate can be described as a creative process focused on value added. This paper discussed how agile method can be applied to real estate development. This paper discusses how agile method can be applied to real estate project. This paper investigates whether this iteration aspect in IT-models could contribute to a better description of real estate development project. The study includes six different cases from three different developers, where the key elements in agile methods are incremental delivery, embracing change and involving the customer. Different phases studied for the development of iterative model. As per explain above, this paper studied different model for real estate development in which agile methods give the iterative nature of real estate development process.

IROHAM, CHUKWUEMEKA OSMOND,et.al (2014)

This research therefore aims at examining the practice of real estate agency amongst the professionals' viz-a-viz curriculum of study obtained while they were undergoing training. 159 Estate Surveying firms and 91 Property Development Companies in Lagos were studied. Relative Importance Index and Chi-Square test set at the 0.05 level of significance were adopted for the analysis. It was found that multiple agency was the most practiced which was also fraught with inefficiencies. The study thereby advocated a modification of agency practice through review of curriculum and commitment of both agents and principals in order to eradicate the identified inefficiencies. It also called for focus on the neglected real estate agency research among Nigerian researchers.

HAMIZAH YAKOB, FATIMAH YUSOF et.al (2012)

Sustainability can be achieved through housing development as it could promote social equity, generate economic growth, and promote environmental conservation through its planning, construction, design and management. The paper describes the issues of non-compliance such as illegal change of land use zoning and conflicts in development plans. Paper study the identification of the issue pertaining non compliance may discourage the implementation of sustainable development especially in housing sector. The intend of this paper is to review how land use planning regulations such as Acts, development plans and planning guidelines may affect the achievement of a sustainable urban housing development in the Klang Valley.

HALLUR GIRI, FIRKE VINITA, et.al (2014)

This study aims at studying and analyzing the regulatory framework of four sector regulators in India namely Odisha Electricity Regulatory Commission (OERC), Insurance Regulatory and Development Authority (IRDA), and Telecom Regulatory Authority of India (TRAI). The study highlights the diversity and similarity in institutional frameworks across the different sectors. It broadly covers two important aspects of regulatory study, Institutional Framework and Autonomy to the Regulator. The research methodology used is qualitative comparative analysis (QCA) case-based research of three regulators. Among the three regulators, it is found that the TRAI is relatively less empowered in terms of reporting structure, tenure of the Chairman, funding mechanism and capacity building. As a result of this study, participation of DoT in TRAI consultation process, publication of minutes of meeting and the need for institutions for capacity building in telecom regulation come out as the key recommendations for TRAI.

KANSE V. PRAMOD (2015)

The paper presents the review of different rules and regulatory act to maintain discipline and safety performance of any act for a desired output. It describes how strict enforcement can develop a country, which is governed by Development

control regulatory for that region. Paper gives a brief description of Indian regulatory document which includes National Building Code (NBC), Maharashtra Regional Town Planning Act 1966, Development Control Rules Navi Mumbai Municipal Corporation, CIDCO Development Control Regulation – 1984 Model Guidelines For Development & Building Construction Including Safety Provisions for Natural Hazards in Rural Areas. International Regulatory Document Hong Kong Code Of Practice for Fire Safety, The Statues of The Republic Of Singapore – Building Control Act Chapter-29.

VASUNDHARA PATIL

The paper describe the present market value of construction sector in India is projected to expand up to INR 11954 billion by 2017 and study of housing demand which is more likely to increase a current level of 29 million households to more than 38million households by 2030. This paper aims to study Real Estate (Regulation and Development) Act 2016 (RERA act 2016). This is forward step by the Government to use a regulatory authority to deal with the present unorganized housing sector. A much awaited transparency and accountability of the developers towards its consumers is the major highlight. The real estate agents/ brokers have for the first time being recognized in the law, making them also accountable. This act will have its impact not only on the all stake holders i.e. the builders, developers, buyers, brokers but also will impact the construction sector. After the passing of the act, the incomplete projects are being speedily completed and the long delay in handing over the possession of the houses to the buyers is becoming a concept of the past. A welcome change to the consumer. In this paper intend to study all the positive effects as well as the limitations of the law. Is this law really a dragon which will punish all the wrong doers from the developer community? Will it really make the Real estate sector a transparent one as expected? Will the implantation of the new RERA law user a new beginning in Real estate sector?

KADAM V. ADITYA (2018)

Housing sector is one of the top contributors to country's GDP and employment creation. Surprisingly, in spite of being such an important part of the economy, the real estate sector has remained by and large unregulated. The Real Estate sector is, to a limited extent, controlled and regulated at the local government's level with every state government having its own set of rules and regulations for real estate development. Taking benefit of country's abysmal judicial system, the developers have been taking property buyers for a ride, and putting real estate sector on the bottom of customer protection and satisfaction pyramid. With the things getting bad to worse, it has let to big hue and cry, making urgent need for a unified regulatory legal framework to protect customers' interest.

SHRIPAD S. MERCHANT (2018)

This paper aims at analyzing the Rules passed by the States in India for implementing The Real Estate (Regulation and Development) Act (RERA), 2016 passed by the Parliament. The law is passed to protect the interest of the consumers. However, many States have diluted the provisions of the law and notified the Rules. The provisions regarding the definition of on-going projects, payment schedule, liability for non-compliance, norms for escrow withdrawal have been diluted jeopardizing the consumer's interest. In certain cases, the Rules lack clarity on these aspects. Whether the dilutions made by the States are within their power or not have been examined. The research paper analyses the shortcomings of the diluted Rules in favour of the developers and the steps to be taken by the central government to enforce the law in its true spirit.

PATEL BIMAL

Cities in developing countries seldom consider the cost increases that regulations impose on development. To build legal housing, developers must meet a high minimum cost threshold established by mandatory standards. Many standards impose costs on building construction, make them less affordable to low-income households, deprive them access to legally built housing, and fuel the formation of slums. This study analyses the impact of relaxing a few mandatory building and site planning regulations on the cost of small two-room homes in Ahmadabad by developing two alternative layouts for the same site, one in accordance with prevalent regulations, and another after modifying a few regulations. It shows that rationalizing regulations can reduce housing cost by 34% and increase supply by as much as 75% without significantly lowering quality or compromising safety. It also shows that for a large portion of poor households, the costs imposed by mandatory standards are not trivial and have a high impact on the affordability of legally built housing. It recommends that if municipal authorities are interested in tackling the rapid growth of slums by expanding the supply of affordable housing, they should critically examine their building regulations and modify them to address the housing needs of their low-income residents.

PETER O. AKADIRI (2012)

This paper presents a conceptual framework aimed at implementing sustainability principles in the building industry. The proposed framework based on the sustainable triple bottom line principle, includes resource conservation, cost efficiency and design for human adaptation. Following a thorough literature review, each principle involving strategies and methods to be applied during the life cycle of building projects is explained and a few case studies are presented for clarity on the methods. The framework will allow design teams to have an appropriate balance between economic, social and environmental issues, changing the way construction practitioners think about the information they use when assessing building projects, thereby facilitating the sustainability of building industry

SARMA et al (n.d)

According to **Sarma et al (n.d)** buying real estate is habitually the biggest, most important purchase people make in their life spans. Per se, customers have great degrees of participation and investment in their decisions. There is higher stress than ever on word- of-mouth information, incorporating online reviews. Presently, the developers of Indian residential real estate do not have a customer state of mind. This has resulted in poor promotion, with very few customers saying they will suggest the projects of a developer to a colleague or a friend. The expectations from residential apartments of a customer have also rapidly changed. Known that several residential projects take more than five years from conceptualization to give up, developers should expect what customers would need i.e. a span of three to five years of construction time in the future, and then start building that in the present day.

4. CONCLUSION

A very positive impact is expected in the future as the Act becomes more intact. The above study provides necessity of regulation of Real Estate Sector. It is necessary to study the impact of RERA Act in terms of both the parties which are Homebuyer and Promoter.

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