



CRITICAL ASSESSMENT OF FACTORS CONSTRAINING CESSSED PROPERTY REDEVELOPMENT IN ISLAND CITY OF MUMBAI

Jivita Kalambe, Shraddha Chavan,
Sandip University.

ABSTARCT

The growth of the Mumbai during the early part of the twentieth century triggered a demand for low-wage workers in the docks, textile mills, railways, government and trade, and attracted a large number of migrants to the city. To meet the demand an affordable form of housing emerged: one room tenements along a common access corridor with common toilets. These building are called as chawls majorly rooms are given on rent. Rental housing in India has witnessed a significant decline over the years. This could be attributed to various reasons including the nature of the rent control laws. The rent control law in Mumbai has created a shortfall in formal, affordable rental housing and, at a broader level, has contributed to the distortions in the land market. The gravity of building/ chawl collapses and loss of life each year impelled government to take on the responsibility of repairing or reconstruction rent-controlled buildings, even though in essence these were private properties.

Keywords: Cessed Property, Redevelopment, Development control Regulations 33(7), Rent Control act

INTRODUCTION

Mumbai is one of the largest cities of the country with a population of 12,44,22,373 over 437 Sq.km. as per census 2011 and it is known as financial hub of the country. History of growth of Mumbai as a city starts from back in early 20th century. With the expansion of industrialisation and growth of port, a massive influx of people from various parts of the country was observed in Mumbai for search of better livelihood. As a result of it, a huge demand for housing was created. These migrated people being not able to afford their own houses ended up residing in the rental houses in the island city. Due to enactment of rent controls, also called as 'first generation rent control' in the city by the government, the existing rental housing stock is deteriorated. Therefore, now government has been focusing on redevelopment of these buildings in order to provide better standard of living to the tenants and also, to supply housing units in the market. There have been attempts

made by the government for the same by making provisions for redevelopment in the development control regulations (DCRs). The research focuses on one of such DCR called 33(7) which came in 1991, facilitates redevelopment by the private developer by providing incentives them.

SIGNIFICANCE OF THE STUDY

Due to rent control act, around 4,00,000 households and 25,000 commercials are in around 20,000 buildings which are in dilapidated and require immediate repair or reconstruction. Besides these buildings, an additional 16,000 buildings which are under the rent control act are soon going to be fall under list of building requiring repairs (UNCHS -Habitat). Tenants are staying in these buildings either because of lack of money to buy new house or just don't want to lose the benefit of controlled rents. Redevelopment is really seen as a tool to enhance the city. As per the development plan 2014-2034, "most development in Mumbai is going to occur through redevelopment. Land for housing and public purposes can be obtained by through the process of redevelopment." Improved living condition of people living in the dilapidated and unsafe buildings, improved access to housing due to increased housing stock, better infrastructure facilities, access to open recreational space and amenities can be achieved through efficient implementation of redevelopment of the island city.

In India, developers are the main players in the housing market as they are the supplier of maximum dwelling units in the market. DCR 33(7) also focuses on redevelopment through private developer after witnessing the unsatisfactory results seen on attempts by the government. Therefore, it becomes very necessary to understand the entire process of redevelopment by the developers and issues faced by the related stakeholders in the same in order to reduce the stress on housing. This research highlights the loopholes in the current system and inefficient functioning of the process.

AIM

To assess the redevelopment of cessed properties in the island city of Mumbai

OBJECTIVES

- To find out the related acts and the legal procedures for the redevelopment of cessed properties and it's on ground implementation.
- To identify the issues faced by the related stakeholders in the process of redevelopment.
- To address the issues associated with existing process of redevelopment.

SCOPE OF THE WORK

This research aims to understand the framework of DCR 33(7) for cessed properties redevelopment v/s it's on ground implementation. This is achieved by carrying out case studies within the island city of Mumbai. It tries to understand the entire process of redevelopment from the developers' & tenants' point of view as they are the main stakeholders in the project. At the end, it aims to address the issues associated with existing process of redevelopment.

LITERATURE REVIEW

Many countries have at some point in time-imposed rent control (also called first generation rent controls) in order to protect tenants from unbridled rents. While several countries have abandoned the rent controls, some continue rent controls in a modified form, called second - generation rent controls. The success of rent controls or their repeal depends upon various factors such as the nature of housing markets, specific design of legislation of rent control, and indigenous conditions.

In all the international case studies and Mumbai, first generation rent control was introduced during almost the same period i.e. during Second World War. It was about the controlling the rents at a particular level. With the course of time, these cities have taken many actions to deal with it in their way which is called as second generation of rents. All cities have faced failure or success at some point while either controlling it or decontrolling or when it was completely abolished.

In case of Zurich, second generation rent actually make sure that rent does not increase abnormally as well as it allows rent increase to cover the maintenance and repair cost and also consider factors such as inflation and profit to the landlord etc. Other reasons for high proportion of rental housing were high construction quality standards, Limited availability of land for development, rigid mortgage underwriting criteria and heavy taxation of the owner-occupied houses. Manila and New York also adopted the similar approach to tackle it. Both the cities had second generation of rents which accounts inflation, repair and up gradation cost and newly built units were exempted from this act. On the other hand, Cairo and Georgetown dealt with by repelling it. In Cairo, rent control legislation came as second generation of rents. Under this legislation, rent control was repelled but it was phased out over time and it was gradually repelled. But Georgetown is an example of negative consequences of repeal of rent control in the city. It led to, a huge increase in rents and eviction of tenants started taking place. Eventually over the years, most of the poor tenants left the city.

Unlike other cities, approach of Mumbai has been very rigid and stringent about the rent control. As a result of this, there is constant decline in rental housing and owned houses have flourished. Despite being very unsuccessful, there is political will to remove it. This could be because protected tenants are large in number vocal and strong, and also, repel of the rent controls can be portrayed as anti-poor, although it is a questionable fact. Currently Mumbai is under Maharashtra rent control act, 1999 which has many flaws including inadequate returns to landlords and hence, failed to expand the rental housing in the city. This led to discouraging landlord to maintain those regulated units as the rents are kept very low. Over a period of time, dilapidated and obsolete units were created in the city. Over a period of time, dilapidated and obsolete rental units created in the city.

Table. Inter-city comparison of rent regulations and characteristics of rental housing

GOVERNMENT INITIATIVES TOWARDS THE CESSSED PROPERTIES REDEVELOPMENT

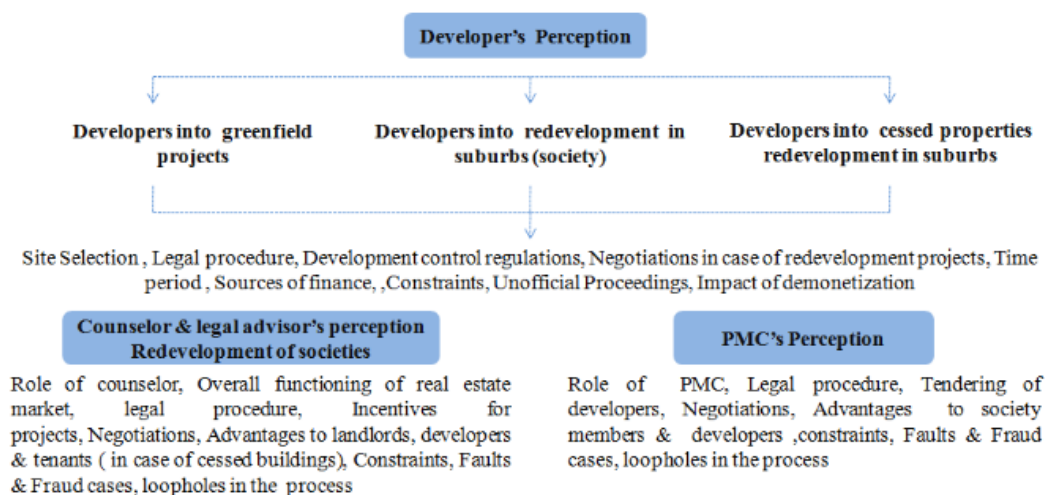
The island is spread over 70.96 Sq.km. of area and has 9 wards. Due to presence of congested tenanted buildings, average population density in some of the wards is as high as 800 PPH. There was no specific provision for redevelopment made in DCR for greater Mumbai published in the year 1967. However, considering the large-scale dilapidation and collapse of buildings 'Bedekar Committee' was constituted to care of this matter in 1969. As per committee's recommendations, Bombay building repair and reconstruction board (MBRRB) was formed under Bombay building repairs and reconstruction act in 1969. Responsibility of MBRRB is to carry out structural repairs to these old and dilapidated within the city. To generate finance for the repairs and reconstruction of these buildings, cess (tax) was taken from the landlord and tenants under building repair and reconstruction act. This cess is levied depending upon age of the structures and it increases periodically. Owners have to pay 10% of cess and rest is to be collected from tenants residing in the building. But, the amount of tax collected is very negligible compared to actual amount needed for the massive repairs and reconstruction of these buildings.

Later government decided to involve the private developers, tenants and landlords in order to improve the pace of redevelopment. The first guidelines for redevelopments were introduced by the housing department in year 1984. The guidelines allowed the construction consuming FSI 2. Later in 1991, development control regulations were formed for Mumbai city. Under these regulations, DCR 33(7) for redevelopment of cessed properties was introduced. As per 33(7). In case of redevelopment of cessed buildings by the landlords/cooperative housing societies of landlords /tenants, Permissible gross FSI is 3 or the FSI required for rehabilitation of existing tenants plus 50%-70%incentive FSI, whichever is higher. Under this regulation, developers are assured of getting minimum 50% of FSI for free sale. And also, it suggests that rehabilitation of tenants has to be done on the same plots. Hence, it prevents from the social dislocation. Tenants are entitled to get flat of minimum 300 Sq.ft. and maximum 753 Sq.ft. carpet

areas in the new building. And, tenants of commercial establishments are entitled to get an area equivalent their old area. Initially, there were 19,642 cessed buildings. As on March 2016, there are 14,375 cessed buildings in the island city as some cessed buildings have collapsed, some were demolished because of its dilapidated condition, some were reconstructed/ redeveloped and some were deceased. Till now, for 1933 NOCs for redevelopment projects by developers have been granted. Out of that, only 672 projects have been completely by and remaining 1261 either are in progress or yet to start.

CASE STUDIES OF CESSED PROPERTIES REDEVELOPMENT IN THE ISLAND CITY

Before starting with the data collection for the redeveloped sites in the island city, a few stakeholders involved into the real estate market were interviewed in order to develop understanding about the Mumbai's real estate market and its dynamics so that it provides fair and logical reasoning while selecting the case studies. These stakeholders include developers into different kinds of projects i.e. greenfield projects, redevelopment in suburbs essentially housing society redevelopment and cessed properties redevelopment, Project management consultant (PMC) and redevelopment counsellor and legal advisor were interviewed. Below figure explains the types of information gathered from the various stakeholders.



Further based on the site location and scale of the projects, 3 sites are selected within the island city of Mumbai.

- Project at Dongri involving rehabilitation 60 tenants (57 Residential units and 3 shops)
- Project at Dadar is small scale project involving 8 residential tenants
- Project at Kalbadevi involving 126 tenants (100 residential units and 26 shops) by amalgamating 6 plots and is carried out 2 phases.

The case studies explain the old building design, negotiation between developer and tenants and landlord, design of new redeveloped building and financial viability of the projects. These case studies also highlight developer and tenants' perspective about the project.

CONCLUSIONS

From the case studies it is very evident that redevelopment is undoubtedly a huge profitmaking business. Size and location of the project are the prominent factors which affects the profit. In some cases, developers make profit of almost double the amount of the investment. But yet, it only 672 projects are completed after the implementation of DCR 33(7) in 1991. There are still 14,375 cessed properties are there in the island city as on March 2016 as per MBRRB. This is clearly indicating that there are definitely some factors or issues faced by developers and tenants which are not been addressed under DCR 33(7). The

redevelopment of cessed properties through additional incentive FSI is not enough to attract the developers for these projects and therefore, its on-ground implementation is not as efficient as it was envisaged.

Issues faced in the redevelopment projects

- **Small size of the plots**

Around 45% of cessed properties are in ward C and D. These wards are occupied by the populated and congested areas such as Kalbadevi, Chira bazar, Bhuleshwar and Grant Road etc. Most of the plot's sizes are as small as 300 -400 Sq.M. or even smaller. Top of that, clause of leaving a minimum distance of 6 m. between building and road unless plot is adjacent to the road leaves developers with very small space for built.

- **Cumbersome legal procedures**

There are number of approvals are required in case of cessed properties redevelopment from MHADA and BMC. There are around 40 NOCs which are required take by the developers. On an average, it takes almost 2-3 years to all the required approvals and to start the construction of the project. And also, due to corruption, a huge amount is demanded by the government officials.

- **Negotiations with the landlords and tenants**

It is actually difficult to bring all the tenants with different demands on the board for the redevelopment. Some of them do agree, some of them don't out of fear of becoming victim of frauds by losing their existing tenanted units or just to get more benefits from the developers.

- **Congestion and Narrow roads**

Road widths are as narrow as 3 m. in these areas and efficient carriage way even reduces further due to vehicles being parked on the roads. It is a difficult for the developers and contractors to transport construction materials in heavy vehicles to these areas.

- **Informal practicing of Pagdi system**

In case of redevelopment, old tenants who had surrendered his tenancy also come to picture claiming tenancy in the building and hence, process gets stuck.

- **Financial viability of the redevelopment projects in various areas of the island city**

Based on developers' interview, it is found that in case of small-scale redevelopment project involving around 15 tenants, they expect profit of minimum of 55-60% whereas in case of medium scale project involving around 50 tenants, they expect profit of minimum of 70%. Above both cases with 15 tenants and 40 tenants, areas such as Kalbadevi, Grant road, Byculla and Mahim have profit less than the developers' expectations. These are those areas where the maximum cessed properties are located. It clearly indicates that redevelopment gives more profit but, in some areas, it does not match the developers' expectations.

RECOMMENDATIONS

Considering the existing dilapidated condition of cessed properties and its larger impact on the real estate, there is urgent need to revive the existing rental housing stock or cessed properties. This can be done through taking two objectives into the considerations. First, upgrading the existing

cessed properties and second, the redevelopment of the cessed properties. Each of them needs different strategy that considers the interests of all stakeholders.

- **Up gradation of the existing cessed properties or rental housing stock**

Currently, households belonging to various income groups are enjoying the benefit of the protection. Unfreezing of rents and upgrading could start by removing those tenants who don't deserve it or don't need it. Policies may suggest the arrangements between landlords and tenants for cooperation in the maintenance and up-gradation of the rental units. Income levels of tenants can be traced and housing vouchers or incentives can be provided to those who actual need it so that landlord does not have to subsidize the tenants. And meanwhile, rents may increase gradually until they reach a level which reasonably proportion of market rents. By doing gradual increase in rent will eventually help in abolishing the protection.

- **Redevelopment of the cessed properties**

Current DCR 33(7) only focuses on giving the additional incentive FSI to developer. It is kind of generalised in nature as it does not consider on ground issues into the consideration which are the actually being the cause for not attracting the developers and hence, not leading to redevelopment.

- **Sharing of construction cost of rehabilitation units between developer and tenants**

Redevelopment being much more tedious, cumbersome, riskier and time-consuming project, it is fair on developer to expect proportionately higher profit than any green field project. In order to attract the developers specifically in these areas, there could provision of sharing construction cost of rehabilitation units between developers and tenants which can reduce burden on the developer.

- **Varying incentive of additional FSI**

It is observed that areas such Kalbadevi, Grant Road, Byculla and Mahim do not give profit as per the developers' expectations. The current incentive of additional FSI in these areas is not enough to attract the developer. Therefore, a detailed analysis of micro market of the island city may be carried out and based on that, varying incentive of additional FSI and other provision can be made for different areas. Areas giving lesser profit could have extra incentives to make it more profitable for developers to involve in the redevelopment.

- **Third party intervention as a mediator**

As a third party, government, firms or institute into the real estate, Project management consultant, NGO may be suggested in the process by including in the DCR. Third party may play a role of a mediator by communicating with the stakeholders and making sure no stakeholder expecting unreasonably out of the project. This could actually help in gaining tenants trust because of third party being involved, the chances of becoming victims of frauds reduces. And also, better amenities can be provided to the end users through the amalgamation of the plots. Third party may intervene in deciding rents during transition period, corpus fund and other charges in the negotiation by defining the minimum and maximum charges by considering the locality and its residential property prices.