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Are home buyers secured financial creditors or unsecured creditors under IBC?

ET CONTRIBUTORS | Aug 10, 2018, 09:00 AM IST

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The ordinance has sought to bring a sense of security and protection to the allottees.

By Aditya Khadria and Sivaprakasam Babu

On June 6, the Insolvency and Bankruptcy Code, 2016 (IBC) was amended through the [Insolvency and Bankruptcy Code \(Amendment\) Ordinance, 2018 \(Ordinance\)](#). Following the ordinance, [home buyers](#) and allottees under the [Real Estate \(Regulations and Development\) Act, 2016 \(RERA\)](#) got the status of [financial creditors](#) under IBC (pursuant to the amendment to the definition of financial debt).

This will enable the home buyers and other allottees (refers to buyers and long-term lessees under real estate projects) to be able to invoke Section 7 of IBC (which allows financial creditor(s) (either individually or jointly) to file an application in NCLT for initiating corporate insolvency resolution process against a defaulting company) against defaulting promoters. Further, they have representation in the committee of creditors through an authorised representative (the authorised representative being a resolution professional appointed by the National Company Law Tribunal, as per the stated process).

The amendments made by the Ordinance inter alia brings IBC in closer sync with Section 18 of RERA which gives the allottees the right to demand i) refund of the entire amount paid by the allottees (together with interest at prescribed rates), and ii) interest to be claimed for any delayed possession.

Secured financial creditor vs financial creditor

Suppliers, customers, contractors etc. are generally operational creditors and mostly operational creditors are unsecured. While banks and lenders are generally financial creditors and can be secured financial creditors or unsecured financial creditors. Under IBC the difference between secured financial creditors and unsecured financial creditors

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mostly has an implication on the priority of payments upon liquidation.

Are allottees secured financial creditors?



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The ordinance has sought to bring a sense of security and protection to the allottees. Now, however, the question which needs to be addressed is whether the allottees can be treated as a secured creditor given the fact that they have similar rights under RERA and that their payments are now recognised as financial debt under IBC or will they be treated as an unsecured financial creditor who stands much below in line (as compared to secured financial creditors) when it comes to distribution of the proceeds recovered upon liquidation of a company. For this we may examine certain provisions of RERA.

- As per section 11 (4) (h) of RERA, mortgage cannot be created over units in respect of which agreement to sell has been executed by the promoters/developers and even if such mortgage is created the same shall not affect the right and interest of the concerned allottee.
- Also, as per the second proviso of section 8 of RERA, in case of revocation of registration of a real estate project under RERA, the association of allottees have the first right of refusal for carrying out the remaining development work.

While the provisions of RERA as mentioned above read with the definition of 'Security Interest' under IBC is wide enough to ensure that allottees are treated as secured creditors, the interpretation may still be debatable.

Clarifications are needed

It would also be interesting to note how the same is interpreted in different circumstances, i.e., depending on the stage of construction, whether agreement to sell is executed or not and if only allotment letters were given by the promoter/developer who would be a corporate debtor, whether an association of the allottees have been formed or not.

Additionally, in cases where a single larger project of the corporate debtor has various association of persons for separate buildings or phases registered with RERA or if there if only one representative shall be allowed or different representatives shall be permitted for each phase registered under RERA, remains unclear.

Other financial creditors have to be more conscious of the rights of allottees

The amendments made under IBC through the ordinance read with the above provisions of RERA may place the allottees in a better position than other financial creditors to the extent that the mortgage held by secured financial creditors shall be subject to the rights of the allottees.

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This may consequently have an effect on other financial creditors who will now have to be more conscious about the rights of the allottees during the process under IBC and ensure that the rights of allottees are taken care of from a larger perspective.

A viewpoint from financial institutions who fund home buyers

Another interesting aspect would be to see how the banks and financial institutions who fund the allottees for purchase of units react to this. There may be instances where the loans are being repaid by the allottees on time, however, one needs to also examine it from another aspect- wherein the loans are under default and such financial institutions want to step in as allottees by invoking their rights.

In conclusion

While the ordinance has secured the home buyers and allottees under IBC as financial creditors, the most pertinent issue, which will play out in time is whether the home buyers/ allottees would be treated as secured financial creditors.

(Authors are Aditya Khadria, Associate Partner, and Sivaprakasam Babu, Partner at Economic Laws Practice)

(Disclaimer: The opinions expressed in this column are that of the writer. The facts and opinions expressed here do not reflect the views of www.economictimes.com.)

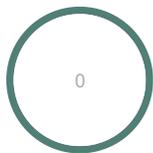
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- 1 In Karats
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Appellate tribunal of MahaRERA in place

By Nisha Nambiar, TNN | Updated: May 16, 2018, 12.25 PM IST

0 Comments



Officials believe that the permanent appellate tribunal will help prevent consumers and developers from approaching the high court.

Pune: The Maharashtra Real Estate Regulatory Authority tribunal is finally in place with the state government approving an appellate authority of three members.

Retired high court judge Justice Indira Jain has been appointed its president. IAS officer S S Sandhu and Sumant Kolhe, associated with the judiciary earlier, have been appointed as members, administration/technical and judicial, respectively.

Sandhu is slated to retire on June 30. He will become the member of the appellate tribunal after retirement.

A search committee headed by Justice Shantanu Kemkar, additional chief secretary (housing) Sanjay Kumar and principal secretary of law and judiciary AM Jamadar was formed to set up the tribunal.

The permanent appellate tribunal will hear appeals against the orders passed by the Maharashtra Real Estate Regulatory Authority (MahaRERA). Homebuyers and developers can approach it for overruling an order given by the MahaRERA.

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A MahaRERA official said, "If a homebuyer or a developer is not satisfied with the RERA order, s/he can make an appeal to the appellate board instead of approaching the high court."

MahaRERA officials hailed the formation of the appellate tribunal, stating a permanent appellate authority was the need of the hour, as prescribed in the act. "We had a temporary one operating from the revenue tribunal. The formation of the permanent panel even after a year should help both consumers and developers," said an official.

MahaRERA has been operative from May 1, 2017. Till the permanent appellate authority was constituted, the temporary appellate tribunal disposed of nearly 58 cases. Officials believe that the permanent appellate tribunal will help prevent consumers and developers from approaching the high court.

Shirish Deshpande of Mumbai Grahak Panchayat said, "We welcome the full-fledged appellate tribunal. Till now, there was a temporary tribunal. This is a tribunal for all MahaRera orders. So, finally the justice has been done."

Deshpande had earlier written to the chief minister, requesting for speedy appointment of the appellate tribunal because many developers and consumers were approaching the high court.

Credai president Shantilal Kataria said though the state was first in setting up MahaRERA and its website, the formation of the tribunal was pending. "This will truly help developers and consumers because it will not only ensure speedy disposal of cases but will be cost-effective," he said.

Several consumers feel while the appellate tribunal can address the cases, implementation of the orders issued by MahaRERA is more important.

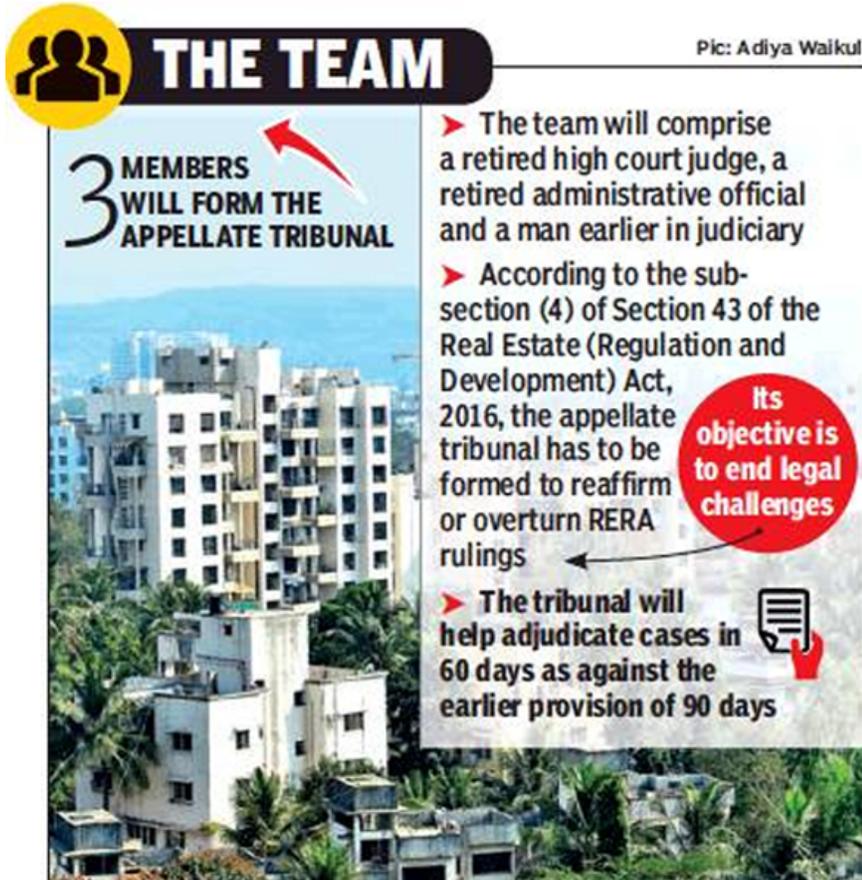


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THE TEAM Pic: Adiya Waikul

3 MEMBERS WILL FORM THE APPELLATE TRIBUNAL

- The team will comprise a retired high court judge, a retired administrative official and a man earlier in judiciary
- According to the sub-section (4) of Section 43 of the Real Estate (Regulation and Development) Act, 2016, the appellate tribunal has to be formed to reaffirm or overturn RERA rulings
- The tribunal will help adjudicate cases in 60 days as against the earlier provision of 90 days

Its objective is to end legal challenges

HIGH EXPECTATIONS

- Speedy disposal and execution will ensure welfare of consumers
- Maharashtra was the first state to appoint a temporary appellate tribunal that disbursed nearly 70 cases
- Last week, the state appointed a permanent tribunal under a retired judge

GOOD FOR BUYERS

“ All states will have to get the appellate tribunal in place. It will help prevent cases from going to the court. While Maharashtra and Madhya Pradesh have registered appellate tribunals, other states will have to follow suit. This will help homebuyers. It is good that things are falling in place

Abhay Upadhyay | FIGHT FOR RERA AND CENTRAL ADVISORY COUNCIL MEMBER

REGISTRATION REALITY

(MAHARERA REGISTRATION FIGURES)

➤ PROMOTER	16,536	16,412	
➤ AGENT	14,486	14,377	
➤ TOTAL	31,022	30,789	
	NO. OF APPLICATIONS	REGISTRATION GRANTED	

(This article was originally published in The Times of India)

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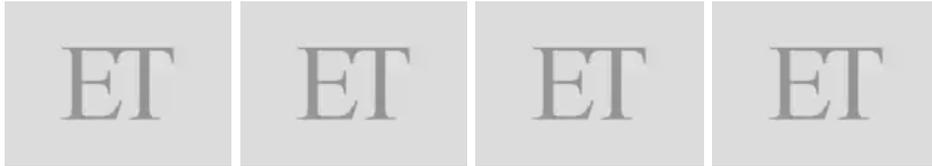
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'Pagdi' buildings may be brought under RERA

By *Kailash Babar*, ET Bureau | Updated: May 09, 2018, 10.03 AM IST

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Once brought under the RERA, these tenants would be entitled to compensation, among other benefits, in case of project delays.

MUMBAI: The government is planning to bring tenanted or cessed buildings and tenants of such buildings under the Real Estate (Regulation & Development) Act, 2016 (RERA), providing for the first time the same protection to these consumers as those available to other home buyers.

The tenanted or cessed buildings that dot the landscape of many cities, especially Mumbai, house people who have been living for several decades and paying cheap and artificially depressed prices. Known as the

Pagdi system in Mumbai, tenants are not covered under the authority.

The Pagdi system, which has been in existence since pre-independence era across many parts of the country, is a rental model. While it is similar to most of the lease models, there is one crucial differentiating factor that makes the tenant a part owner of the house, excluding the land.

“There are various issues including Pagdi and redevelopment and these issues need to be looked into. The state and central governments are considering this,” said a senior government official.

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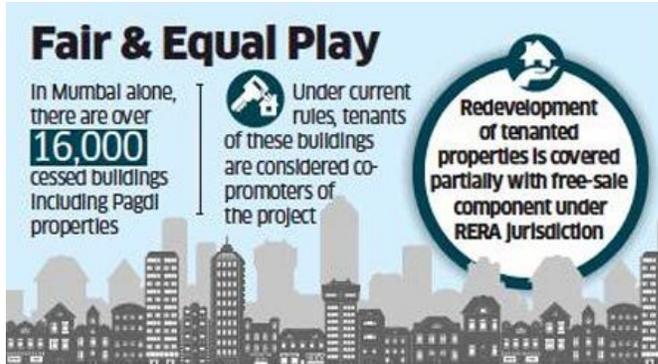
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Under the current RERA rules, tenants of these buildings are considered as copromoters of the project given that they are expected to get part of the project as compensation for their rights. So, they don't enjoy the same rights as other home buyers.



Once brought under the RERA, these tenants would be entitled to compensation, among other benefits, in case of project delays.

In Mumbai alone, there are around 16,000 cessed buildings including [Pagdi properties](#). Tenants in these properties pay a tax to the [Maharashtra](#) Housing and Area Development Authority (MHADA) that makes provision for repairs of such properties.

According to a MahaRERA official, a realty developer usually redevelops the entire project in phases and keeps the rehabilitation part and free-sale component separate. This allows them to not register the project with the regulator as it is seen as compensation and not a sale, which falls under the RERA purview.

“Even in the current system, tenants can get the RERA protection needed if they ask the developer to register the project in entirety than in putting it under phases,” he said.

Last year, Maharashtra along with [Madhya Pradesh](#) and Punjab were among the first few states to notify rules under the RERA. The state government established the MahaRERA after all sections of the Real Estate (Regulation & Development) Act, 2016, came into force on May 1, 2017. According to the regulation, all projects that are yet to receive Occupation Certificate (OC) and are being sold or marketed is required to be registered with the authority.

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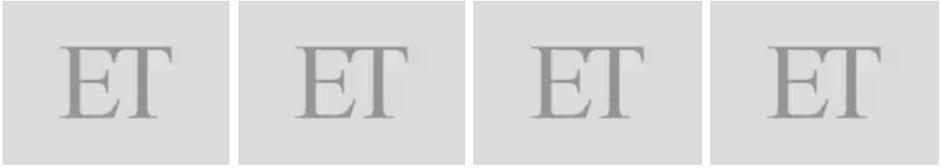
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Maharashtra RERA calls for action against 293 projects lacking requisite nods

By [Kailash Babar](#), ET Bureau | May 05, 2018, 10.01 AM IST

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Over the past one year, MahaRERA has received about 9,000 e-mails giving details of such projects. Of this, about 7,300 emails were found to be valid.

The [Maharashtra](#) Real Estate Regulatory Authority (MahaRERA) has asked various planning authorities in the state to act against 293 real-estate projects that are being developed without requisite permissions, said a top official of the authority.

Interestingly, the regulator has gathered information about these projects through emails sent by various people on a specific email id floated to find out about projects that need registration but have not been

registered.

"Most of these cases are from the jurisdiction outside of [Mumbai](#). Some are from places

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Most of these cases are from the jurisdiction outside of Mumbai. Some are from places like Bhiwandi and places that fall under gram panchayats. They do not have approvals in place from the competent authorities, like the town planning department," said Gautam Chatterjee, chairman of MahaRERA.

Over the past one year, MahaRERA has received about 9,000 e-mails giving details of such projects. Of this, about 7,300 emails were found to be valid. The total number of projects that were reported through these emails stood at 706, of which 77 were registered by the authority after levying a penalty. While there are 89 projects yet to be registered, the authority found that 293 projects were under development without any approvals.

This essentially means that more than 290 buildings are being constructed without permissions from the respective authorities and action needs to be taken on these illegal constructions.

Maharashtra was among the first few states, besides Punjab and Madhya Pradesh, to notify rules under the RERA. Maha RERA was established after all sections of the Real Estate (Regulation & Development) Act, 2016, came into force on May 1, 2017.

According to the regulation, all projects that have not received Occupation Certificate and are being sold or marketed must be registered with the authority. Of all the state regulators, MahaRERA has achieved the highest number of registrations - of about 16,000 projects - out of a total 27,000 registered across the country so far.

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One year of RERA: Tardy implementation restricts gains

IAN S | May 01, 2018, 02.36 PM IST

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By Vinod Behl

Two years after the Centre notified the [Real Estate Regulation and Development Act \(RERA\)](#) of 2016 to empower and protect property consumers and make property transactions fair and transparent by regulating the sector, the sluggish and flawed implementation of the progressive act, has put a big question mark on the gains of [RERA](#).

RERA, besides empowering and protecting consumers, has put grievance-redressal on the fast track.

RERA was passed by both the houses of Parliament in March 2016 and on May 1, 2016 a majority of the sections of the Act came into force. Under this model Act, every state was required to set up its regulatory authority within a year (by May 1, 2017). And in

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the next one year, the states were mandated to make their RERA websites operational for the benefit of [home buyers](#). Other sections were notified in April 2017 and on May 1, 2017 the full act became operational.

Today, two years after RERA became an Act, only 20 states have notified rules. What's more, except for the states of Maharashtra, Punjab and Madhya Pradesh, which have permanent regulators, all other states are making do with interim regulators.

Under RERA, all developers need to register to launch projects, which get registered only after all necessary permissions and land for the project are in place. They are required to provide all the mandatory information to be up on the official website of RERA to help buyers take an informed decision about buying property.

RERA's performance on this front is also dismal as 15 states are without an operational RERA website. Even on the functional websites, the projects information is either incomplete or questionable, with no way to check its authenticity. As a result of the weak and faulty implementation of RERA, home buyers are deprived of the gains and protection guaranteed under the Act.

Notwithstanding the criticism about flawed and slow implementation of RERA, this progressive regulation has helped in project execution and delivery, boosting demand and sales, in turn contributing to the revival of residential real estate, though the gains are limited.

As RERA takes root -- along with low interest rates, stable property prices and the government's loan subsidy for affordable housing -- its positive impact is already visible. There has been an eight per cent hike in housing demand in Q1, 2018, compared to Q4, 2017. Home sales registered a 33 per cent rise in the top nine cities during this period. In fact, housing sales exceeded new supply by five per cent during the last two years.

It's another matter that buyers have so far not developed complete confidence and prefer ready homes to avoid development risks. The preventive and penal provisions of RERA have made developers focus on deliveries, readying a good pipeline of completed homes for sale.

Besides various other factors, fund constraint has been the prime reason for large-scale delivery defaults. But RERA, aided by other key reforms like GST, FDI liberalisation, ease of doing business and demonetisation, have brought in much-needed transparency, fair play and financial discipline by regulating realty, in turn giving a boost to the confidence of global investors.

Statistics speak for themselves. PE investments witnessed 52 percent rise since 2014. PE investments grew 17 percent in 2017 to Rs 42,800 crore, as against Rs 36,590 crore last year, with residential realty attracting highest investment of Rs 15,600 crore.

RERA, besides empowering and protecting consumers, has put grievance-redressal on the fast track. It was following the enactment of RERA that a group of aggrieved home buyers could directly approach the National Consumers Dispute Redressal Commission (NCRDC), thereby bypassing lower consumer courts to ensure fast-track justice. It is also because of RERA that the government, development authorities and the judiciary have become pro-active in coming to the rescue of aggrieved home buyers of stalled projects.

The much publicised cases of Jaypee Infratech and the Amrapali Group are cases in point where developers are facing the ire of about one lakh home buyers. In both cases, the companies are staring at insolvency and the Supreme Court has come down heavily on

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the errant developers, saying it is committed to safeguard the interests of home buyers in terms of project completion and refunds.

Meanwhile, it is also the result of the pressure created by RERA that home buyers are set to get relief under the Insolvency and Bankruptcy Code (IBC) as the government plans an ordinance to treat home buyers as financial creditors to facilitate refunds.

Considering the pros and cons, RERA needs to cover a lot of ground for its effective implementation, in order to serve its desired purpose. And according to Dr Samantak Das, Chief Economist, Knight Frank India Property Advisory, in the current scenario, the sentiment that drives the purchase of residential property is unlikely to change. He may sound too negative. But one thing is certain: The patchy implementation of RERA has delayed the revival of real estate, especially residential realty.

Gautam Chatterjee, Chairperson of the Maharashtra RERA, the front-runner in the implementation of the Act, believes that this "transition pain of RERA" may last at least a couple of years. And Anuj Puri, Chairman of Anarock Property Consultants, sums up the scenario well, saying that although real estate recovery under RERA will be gradual, yet it will be extremely durable -- and based on very sound market dynamics.

The author is Founder & Editor, Ground Real(i)ty Media, a real estate content consultancy. Disclaimer: The opinions expressed in this column are that of the writer. The facts and opinions expressed here do not reflect the views of www.economictimes.com.

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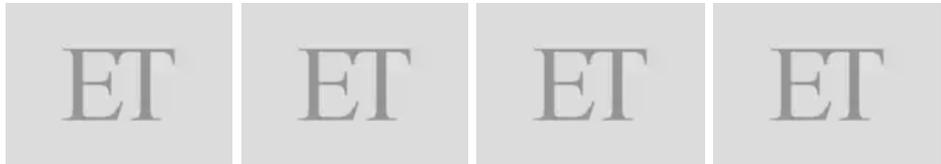
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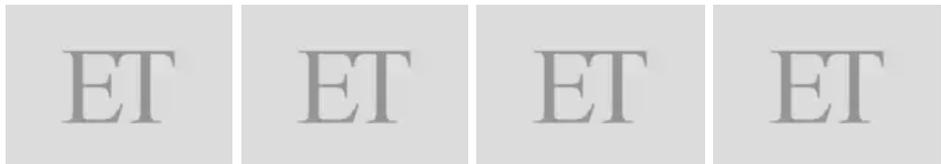
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74% home buyers unaware of RERA compliance check process: Report

IANS | Updated: Apr 30, 2018, 04.32 PM IST

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Since a large number of states are yet to get their act together, consumer awareness too is low.

NEW DELHI: Around 74 per cent home buyers in India are unaware of the online process to check a realty project's compliance status under the [Real Estate](#) Regulatory Act, a Magicbricks report said here on Monday.

"Seventy four per cent of respondents do not know that it is mandatory to check if the project is registered with the state Real Estate Regulatory Authority (RERA) and how to go about checking it on the [RERA](#) website," said the Magicbricks Consumer Choice Poll.

"For a law which is aimed at protecting consumer interest and promote fair play in real estate transactions, this is a poor number," the report said.

"States where the governments have been proactive and got the website and the machinery going have also seen a large number of consumers using it to check the legality of their project. However, since a large number of states are yet to get their act together, consumer awareness too is low," said E. Jayashree Kurup, Head, Editorial and Advice, Magicbricks.

According to the report, Maharashtra and Madhya Pradesh were the first states to set up the [RERA authority](#) and concerned websites on May 1, 2017, when the law was completely enacted.

"Maharashtra's real estate developers are registering their projects with RERA authority websites and mentioning the registration number in their advertisements. Where it is not followed, the RERA regulators have been penalising them and publishing the same," it said.

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On the other hand, in Gurugram, more than 150 projects are registered but due to unavailability of an operational website to verify the projects' compliance claims, consumers cannot check approvals or completion status, as per the report.

"However, the authorities are now set up and consumers can either mail or physically visit the offices in Gurugram and Panchkula and get their problems and doubts cleared," it added.

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RERA remains a work in progress after one year: View

ET CONTRIBUTORS | Apr 30, 2018, 04:14 PM IST

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The biggest lacunae of RERA is absolving statutory authorities in granting permissions.

By **Surendra Hiranandani**

The Indian realty entered a new paradigm last year with the implementation of the [Real Estate \(Regulation and Development\) Act, 2016](#) or RERA. It is undoubtedly a path-breaking law that has revived buyers' confidence and made developers cautious in the short term. While the Act is sure to benefit all stakeholders, there are teething issues to be sorted out in the near term. The implementation of [RERA](#) remains an issue as many states have not yet implemented it fully

and most are even yet to appoint full time regulators. At present only a few states in India have a functional RERA website so there is a lack of necessary supporting infrastructure. However, we must compliment Maharashtra for implementing RERA most effectively and setting an example for other States to follow. Only effective implementation of the Act will help us achieve the desired objectives.

On the positives, it has increased transparency and credibility leading to higher domestic and foreign investments as investors are now looking at Indian real estate with renewed vigour. The realty market is experiencing consolidation as unorganized players are struggling to cope with stringent compliance norms under RERA. It is now clear that only credible developers who conduct their business with transparency will survive in the future and will be able to navigate the roadmap. This is good from a buyer's perspective as one is assured of a quality product within stipulated timelines.

With RERA in place, home buyers can also hope for a risk-averse journey. Under RERA, the developer has to provide a written affidavit to the buyer stating that the legal title to the land on which the construction is planned contains legitimate documents of ownership. Title insurance is a form of indemnity insurance which insures against financial loss from claims in title to real property. While other form of insurance provides protection against future loss, this provides cover for an event in the past which has resulted in disputes. Title insurance will lead to renewed confidence among buyers and will certainly impact the real estate market favourably. The availability of title insurance products will also boost private equity investment in Indian real estate. There will be increased interest in the sector which will ensure a win-win situation for all the stakeholders in the sector.

Though the implementation of RERA has seen a deceleration in new launches, the demand for well-thought out products continue to be robust in the market and established [builders](#) having proven track record continue to find buyers for their projects irrespective of the market conditions. For the reputed developers it may be noted that RERA now has become a routine paperwork and is a part of the plan at of doing business.

The biggest lacunae of RERA is absolving statutory authorities in granting permissions. We must have a single-window disbursement of all regulatory approvals which has been a long standing demand of the real estate sector. The builders are presently at the mercy of state

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agencies which are in charge of granting approvals at various stages of a development project.

We need a RERA authority monitoring the process of statutory approvals. India ranks a very low 181 out of 189 countries in ease of getting construction permits. This is what frustrates developers rendering projects unviable. It is extremely important to deregulate and not over regulate the sector, provide faster approvals and clearance which will boost productivity in the future. The government must look at addressing the shortcomings plaguing the real estate sector at the earliest if it wants to ensure success of its housing policies.

The author is CMD, House of Hiranandani.

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1 year of RERA: Not much has changed for the homebuyer

By [Sunil Dhawan](#), ET Online | Updated: Apr 28, 2018, 07.27 PM IST

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Most states only have an interim regulator while only 3 states Maharashtra, Madhya Pradesh and Punjab have established a permanent one so far.

On May 1, the [Real Estate](#) (Regulation and Development) Act, 2016 or [RERA](#) will turn a year old. Although certain sections of the Act were introduced on May 1, 2016, it came into force in its entirety on May 1, 2017.

Before RERA, there was no real estate regulator in the country due to this many builders took [homebuyers](#) for a ride. Delays were rampant and homebuyers usually did not have a reliable source to address their grievances.

Hence RERA was enacted with the objective to 'set in motion the process of making necessary operational rules and creation of institutional infrastructure for protecting the interests of consumers and promoting the growth of real estate sector in an environment of trust, confidence, credible transactions and efficient and time bound execution of projects.'

However, on RERA's first anniversary, the progress so far, may not be much to write home about. Releasing a whitepaper on RERA completing a year, real estate consultancy firm, Knight Frank India states, "The progress on RERA compliance across the country still presents a gloomy picture. As the first anniversary of RERA draws closer, so does the knowledge that the implementation across states is nowhere close to its goal."

Here is look at some of the hits and misses of the real estate Act that was supposed to bring about transparency in real estate and protect the interest of homebuyers.

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Has the homebuyer benefitted from RERA?

Before RERA, most builders took buyers for granted, swindled funds to different projects thus leading to delayed delivery across several cities. Many buyers, especially those who had booked after 2012-13, are still awaiting possession.

Now with RERA in place, both new and [ongoing projects](#) are to be brought within its fold. State RERA authorities need to be more stringent and not let a single ongoing project remain outside the purview of the Act. In a recent development, the Haryana Real Estate Regulatory Authority imposed a fine of Rs 10 lakh on a developer for its failure to register one of its ongoing projects. Once an ongoing project is registered, the homebuyer at least have a fighting chance for a quick delivery of their home.

However, this is not the case with several states. Some have diluted the definition of 'ongoing projects' and thus many properties remain outside the ambit of RERA. Sadly, because of this, homebuyers still continue to suffer with non-delivery of their home or below-par quality of construction.

On the price front, the runaway prices movement on fresh bookings may have come to a pause in most cities. According to real estate research and analytics firm PropEquity, "Housing prices fell by an average 7 per cent during January-March in nine major cities over the previous quarter as developers cut property rates to boost their sluggish sales."

As it is the supply of ready-to-move in unsold properties is still high and new project launches have been low across cities barring a few. Instead of cutting prices, builders have been offering goodies to lure in buyers like free parking, club memberships, and furnished homes to unload their unsold inventory. Going by property consultant ANAROCK, "Housing sales rose by 12 per cent in seven major cities to 49,200 units during January-March period over the previous quarter on better demand from end-customers post enactment of new realty law RERA." The resale market might have seen this activity in the last one year also because goods and services tax (GST) is not applicable on ready-to-move in homes.

This is how Knight Frank sums up the real estate price movement in its whitepaper: "In the past one year, RERA compliance in some markets has been a prominent factor for price rationalisation in the [residential](#) segment as it has put a break on pre-sales activities and fund mobilisation by developers' at the once popular "soft launch" stage. There have been instances where developers have resorted to selling inventory at a marked discount in a bid to raise finances as no sales at pre-launch stage are allowed now."

So why is it still business as usual in the real estate sector despite the introduction of RERA? The lackadaisical attitude of the authorities could be a reason.

State progress report

Each state and union territory (UT) were supposed to have their state rules notified, have a state regulatory authority (RA) and appellate authority established, and also have a state-specific RERA website by July 31, 2017. However, not all states have established the permanent RA as yet and some of them have even diluted the original provisions as per the central Act.

RERA Status*		
1	Andhra Pradesh	Notified
2	Bihar	Notified



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3	Uttar Pradesh	Notified
4	Gujarat	Notified
5	Haryana	Notified
6	Karnataka	Notified
7	Kerala	Notified
8	Madhya Pradesh	Notified
9	Maharashtra	Notified
10	Odisha	Notified
11	Punjab	Notified
12	Rajasthan	Notified
13	Tamil Nadu	Notified
14	Uttar Pradesh	Notified
15	Uttarakhand	Notified
16	Telangana	Notified
17	Assam	Notified
18	Himachal Pradesh	Notified
19	Jharkhand	Notified
20	Goa	Notified
21	Arunachal Pradesh	Not Yet Notified
22	Manipur	Not Yet Notified
23	Meghalaya	Not Yet Notified
24	Mizoram	Not Yet Notified
25	Nagaland	Not Yet Notified
26	Sikkim	Not Yet Notified
27	West Bengal	Not Yet Notified
28	Tripura	Not Yet Notified
	Except for the State of Jammu and Kashmir	
	All 7 UT's have notified * As on April 28,2018	

Shishir Baijal, Chairman and Managing Director, Knight Frank India, says, "The Real Estate (Regulation and Development) Act, 2016 that became a reality last year is a path-breaking law, with immense potential to revive buyers' confidence and drive momentum in the residential real estate market. States such as Maharashtra, which implemented the regulation in true letter and spirit, witnessed signs of uptick in residential sales and overall consumers' sentiments. While it has been observed that just over one out of 10 state governments showed the political will and gravity in executing the Central act, we believe that other states would soon follow suit. We have maintained in the past that the resurrection of the Indian real estate rests on the long-term benefits of such structural reforms."

On July 31, 2017, out of 28 states, only 15 states had notified the rules. Here's what the status is as of today: RERA is applicable across 28 States (except Jammu and Kashmir) and 7 UTs. After a year, additionally only 5 have notified them with 8 states still remaining out of the RERA ambit.

According to the whitepaper, "The RERA rules have not yet been notified in West Bengal, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura. Further, most states only have an interim regulator while only 3 states Maharashtra, Madhya Pradesh and Punjab have established a permanent one so far."

State regulatory authority

It is not just implementation of RERA, not all states even have the permanent RA in place and continue to function with interim regulators. As per the report, "Only Maharashtra, Madhya Pradesh and Punjab have established a permanent one so far."

	STAGE I Rules Notified	STAGE II Establishment of Real Estate Authority	STAGE III Functional Portal	STAGE IV Establishment of Real Estate Appellate Tribunal
Number of States	20	20	14	10
Number of Union Territories (UTs)	7	7	5	5

Source: Knight Frank Research

Note: The table above includes states and UTs with both Permanent and Interim Real Estate Regulators and Appellate Tribunals
As per information on April 23, 2018.

Information on websites

One of the tasks of the state RA is to maintain a website with information regarding all real estate projects for which registration has been given. On the state RERA website, one can either search for RERA registered projects and also for projects handled by registered real estate agents.

Out of the states where RERA is notified, 4 states - Assam, Chhattisgarh, Haryana and Odisha - and 1 UT Delhi National Capital Territory (NCT) do not have a website till date. The kind of information that is available even on most of the websites is abysmal and hardly anything can be used for taking a buying decision.

Here's a list of all the 13 states that have their websites.

Gujarat RERA website: <http://gujrera.gujarat.gov.in/home#contact>

Karnataka RERA website: <http://rera.karnataka.gov.in/home>

Kerala RERA website: <http://www.rerakerala.org/Content/log.aspx>

Madhya Pradesh RERA website: <http://rera.mp.gov.in/>

Maharashtra RERA website: <https://maharera.mahaonline.gov.in/>

Rajasthan RERA website: <http://www.rera-rajasthan.in/>

Tamil Nadu RERA website: <http://www.tnrera.in/index.php>

Uttar Pradesh RERA website: www.up-rera.in

Punjab RERA website: <http://rera-punjab.gov.in/>

Himachal Pradesh RERA website: <http://www.hprera.in/WebSite/Home>

Jharkhand RERA website: <http://rera.jharkhand.gov.in/>

Goa RERA website: <https://rera.goa.gov.in/reraApp/Rules>

Bihar RERA website: <https://nagarseva.bihar.gov.in/rerabihar/>

RERA's tough stand

In the past one year, not all state regulators have taken a tough stand against errant builders. [Here](#) is how Maharashtra RERA fined a builder for violation of rules. Further, Karnataka RERA had recently said that the provisional registration number initially allotted to builders was only to be treated as an acknowledgement for the Application for RERA registration. For new sales effective April 1, the approved RERA registration number shall be required to be taken from RERA.

What should a homebuyer do?

As a new buyer in the re-sale market, make sure that the promoters of the project you are buying into have received the completion/occupancy certificate. For fresh bookings, the

one single piece of information that can prove to be the saviour to a large extent will be the project's permanent registration number provided by the state's Regulatory Authority. Ask for it even before you make a visit to the project site.

The litmus test will occur when the builder is able to deliver the project as per the timeline submitted to RERA. It is still few years away. There are enough provisions within the Act to compensate the homebuyers in case of a default or delayed delivery which all remains to be tested. In the meantime, state authorities need to take stringent steps in order to restore the confidence of the buyers. Making the builders upload relevant and complete information on the state RERA website about the projects is just one small step towards it.

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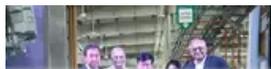


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One year of RERA: 14 states still have no portals

By [Prabhakar Sinha](#), TNN | Apr 27, 2018, 11.08 AM IST

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Maharashtra, Madhya Pradesh and Punjab have appointed permanent regulators under RERA.

NEW DELHI: The implementation of the Real Estate Regulation (and Development) Act, 2016, in the country is woefully short of expectations even almost a year after all its sections became law on May 1, 2017.

Of the 28 states (the act is not applicable in J&K) where the act is to be enforced, only three have appointed a permanent regulator, only 14 states have functional web portals, and only 20 states have notified the rules. All seven Union Territories, however, have notified the rules.

Maharashtra, Madhya Pradesh and Punjab have appointed permanent regulators under RERA. All other states where RERA is being implemented are functioning with interim designated regulators, a report by real estate consultancy firm Knight Frank said.

To enable customers to easily access project information, RERA says all states must maintain a web-based portal where all developers will upload project information. But states like Haryana, Assam, Kerala, Telangana and Orissa do not have these portals.

Even in states like Uttar Pradesh, Bihar, Rajasthan and Andhra Pradesh, among others, where web-based portals have been launched, the information uploaded by developers is so scanty that it is practically of no use, said Knight Frank chief economist and national director (research) Samantak Das.

At the same time, the state RERA rules, wherever implemented, are not very clear about registration of on-going projects launched before all sections of the RERA Act became law on May 1, 2017. The law came into effect with 59 of 92 sections notified on May 1, 2016. Exactly a year later, the remaining sections came into force.

This has left large number of buyers unprotected and with heartburn. All ongoing projects had to be registered with RERA by August 2017. But even today a number of projects which have not secured occupation certificates from the authorities remain unregistered with RERA.

The report said states like West Bengal have not even notified the Act. The seven north-eastern states, too, have not notified RERA because of certain constitutional obligations.

The appointment of an authority under RERA in every state was expected to go a long way towards regulating the sector and making it transparent.

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Under the Act, no project can be launched without being registered with RERA, and this can be ensured only after the project has secured approvals from all the authorities concerned. Once registered with RERA in the state, developers can market a project.

(This article was originally published in *The Times of India*)

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ET View: Amend IBC to bring it in sync with RERA

ET Bureau | Apr 23, 2018, 02:47 PM IST

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The government must amend the IBC to recognise the legitimate claim of home buyers.

A paper by industry lobby [Assocham](#) surmises that the [Insolvency and Bankruptcy Code](#) and the Real Estate (Regulation and Development) Act are pitted against each other, with the former offering relief to lenders and the [RERA](#) protecting home buyers. The surmise is not incorrect, but this contradiction can be easily resolved. All that is required is to bring the two laws in sync with each other. For this, the government must amend the [IBC](#) to recognise the legitimate claim of home buyers. After all, they use their lifetime savings to invest in a house.

Today, the IBC allows the proceeds from the sale of assets to be distributed to banks and secured lenders, to pay off workmen's dues for 24 months before the liquidation commencement date, to pay wages and any unpaid dues owed to employees other than workmen, and to clear financial debts owed to unsecured creditors (in this order). The insolvency regulator had amended rules to let home buyers to stake a claim on the money they had paid to realtors. But they also need to have a legal right.

A blue print is ready. An expert panel chaired by corporate affairs secretary Injeti Srinivas is said to have recommended an amendment in the IBC to treat damages for a breach of contract as financial debt. This will ensure that (legal rights) are created in favour of home buyers, in sync with RERA. The point is the IBC is still evolving, and the aim is to minimise the haircut for lenders, reduce the tab of recapitalisation on the government and deploy the asset to those who can create maximum value. A tweak in the rules to achieve these goals make sense.

To amend IBC, we also need Parliament to run.

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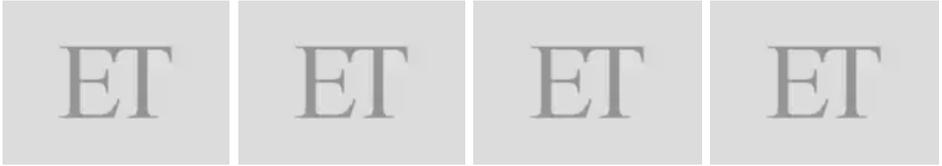
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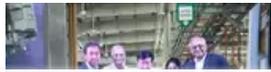
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Appellate Tribunal asks MahaRERA to initiate action against architect for incorrect certificate

By [Kailash Babar](#), ETRealty | Apr 13, 2018, 12.20 AM IST

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The tribunal held that a responsible authority who is also a licensed surveyor is not expected to sign blindly when the project is incomplete. (Representative image)

MUMBAI: The [appellate tribunal](#) of [MahaRERA](#) has asked the secretary of the regulatory body to initiate action against an architect for issuing factually incorrect certificate to a project.

While hearing an appeal, the tribunal found out that a [builder](#) during a hearing in [MahaRERA](#) had said that building has occupation certificate. However, it was found by the tribunal that the amenities, lift, staircases and other facilities were yet to be completed.

The tribunal held that a responsible authority who is also a licensed surveyor is not expected to sign blindly when the project is incomplete. It also added that such factually incorrect endorsement calls for condemnation and action.

"The secretary [MahaRERA](#) is requested to independently initiate action under the provision of [RERA](#) against [Manoj Dubal](#) for issuing factually incorrect certificate," said the order passed by judge [K.U. Chnadiwal](#).

The case pertains to delay in possession by a developer named [Sea Princess Realty](#), to homebuyers in his project [Gundecha Trillium](#) in [Borivali](#) suburb of [Mumbai](#). A group of homebuyers had originally complained to [MahaRERA](#) for delay in possession of apartments and amenities that was promised to them by [December 2016](#), and the authority had ordered in [January](#) that the developer shall pay interest for the six months delay. However, the case went to appeal in the [MahaRERA's appellate tribunal](#).

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