

**REAL ESTATE
(REGULATION AND
DEVELOPMENT)
ACT, 2016**

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**INDIAN PROPERTY SHOW AT LONDON
APRIL 2016**

Real Estate (Regulation and Development) Act, 2016

The primary objective of the Act is to protect the interest of the purchasers by promoting transparency, accountability and efficiency in the construction and execution of real estate projects by promoters/builders. The Act provides for provisions relating to registration of their projects by the promoters/builders. It also holds the promoters accountable for not registering their projects with the Real Estate Regulatory Authority (Regulatory Authority) or for providing insufficient information regarding their project.

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Salient Features:

- A state level regulatory authority called Real Estate Regulatory Authority (RERA) to be established under the Act. The promoters cannot book or offer these projects for sale without registering them with the regulatory body. Real estate agents dealing in these projects also need to register with RERAs.
- All projects, including the ongoing ones, need to be registered with the Regulator within 3 months to ensure compliance of the orders of the Regulatory authority.

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- Developers will be required to disclose all relevant information by uploading it on the website of RERA, including schedule of development works, land status, status of statutory approvals, pro-forma agreements, names and addresses of real estate agents, contractors and architects.
- It will be mandatory for the Developers to set aside 70 per cent of the sales proceeds from a project in an escrow account and obtain all compulsory approvals prior to the launch of any project. This will prevent them from diverting the sales income into their other projects, which till now, has been the major reason for delay in the completion of projects.

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- Developers will be required to submit personal details, photos of all promoters, location details with demarcation of land and time frame of completion.
- Also, the developers will be required to submit details of all projects launched by them in the previous five years, with present status and information about any legal cases pending against them.
- States will be required to create a web based online system for submitting applications for registration of projects within one year of the establishment of Regulatory Authorities.

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- Some states have enacted laws to regulate real estate projects. In case of inconsistencies, the provisions of this law will override the provisions of these state laws.
- All purchases will become more buyers' friendly. The enhanced accountability and transparency will prevent the simply buyers from being taken for a ride by the crafty developers and promoters.
- The penalty clauses on the developers will put pressure on them and help the buyers to easily take legal recourse against them in case of infringement of the agreement.

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- Disclosure of the carpet area before sale of a property has been mandatory, which will prevent the builders to confuse the buyers and fleece them of their hard earned money.
- The consent of two-third allottees will be mandatory to make any changes in the original project plan by the developer after booking of the property.
- Again, the consent of two-third allottees will be mandatory to transfer the majority rights of an ongoing project by the developer to a third party. For this purpose, one vote for each buyer, including bulk buyers has been provided.

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- The law mandates the formation of the Residents' Association by three months of the booking of majority of the properties by the builder, so as to increase the 'say' of the buyers during the intervening period till such time the properties are handed over.
- There is a provision for insurance of land title, which will benefit the buyers and the sellers if title is held invalid for some unforeseen reasons.
- The buyers will be free to withdraw their complete investment, with interest, in case the developer fails to deliver the project as per the agreement.

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- Penalty on builders for delay in handing over the project to the buyer will be same as on buyer for delayed payment of outstanding dues to the builder.
- Penalty payment of 10% of project cost will be levied for non-registration. Payment of additional 10% of project cost or 3 year imprisonment or both, if still not complied with.
- Incorrect disclosure of information or non-compliance of laid down requirements; a payment of 5% of project cost will be imposed.

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- Property brokers have been made accountable and any non-compliance of the orders of Regulatory Authority and Appellate Tribunals has been made punishable under this law.
- All promoters will be liable for structural defects for five years after it has been handed over to the buyer.
- Even the home buyers can be imprisoned for up to one year in case they do not abide by the orders of the Regulatory Authority or the Appellate Tribunal.

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- The regulatory authorities will have the power to cancel project registration in case of persistent violations and decide on the further course of action regarding completion of such projects.
- The names of such defaulting developers and blacklisted real estate companies will be displayed on the RERA website for information of all concerned.
- State level tribunals called Real Estate Appellate Tribunals will be established for appealing against the decisions of RERA, and other forms of dispute settlement.

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- Appeals against adjudicating officer and Regulatory Authority will lie with the Appellate Tribunals to be set up and final appeals will lie only with High Courts.
- Appellate Tribunals will now be required to adjudicate cases in 60 days as against the earlier provision of 90 days and Regulatory Authorities will have to dispose of complaints in 60 days.

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CONCLUSION

- The passing of the Real Estate Development and Regulation Bill in both houses of the Parliament comes as a huge relief for the home buyers who have been suffering from delays in delivery of projects by developers and inconsistency in fulfillment of promises made to them at the time of booking.
- This new legislation, will not only safeguards the interests of the residential and commercial investors, but, it will also result into some non-credible players exiting the sector because of the checks and balances that will come into place.

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