



OVERVIEW OF OFFENCIES & PENALTIES UNDER RERA


ONLINE RERA REFRESHER COURSE, 07th July, 2021

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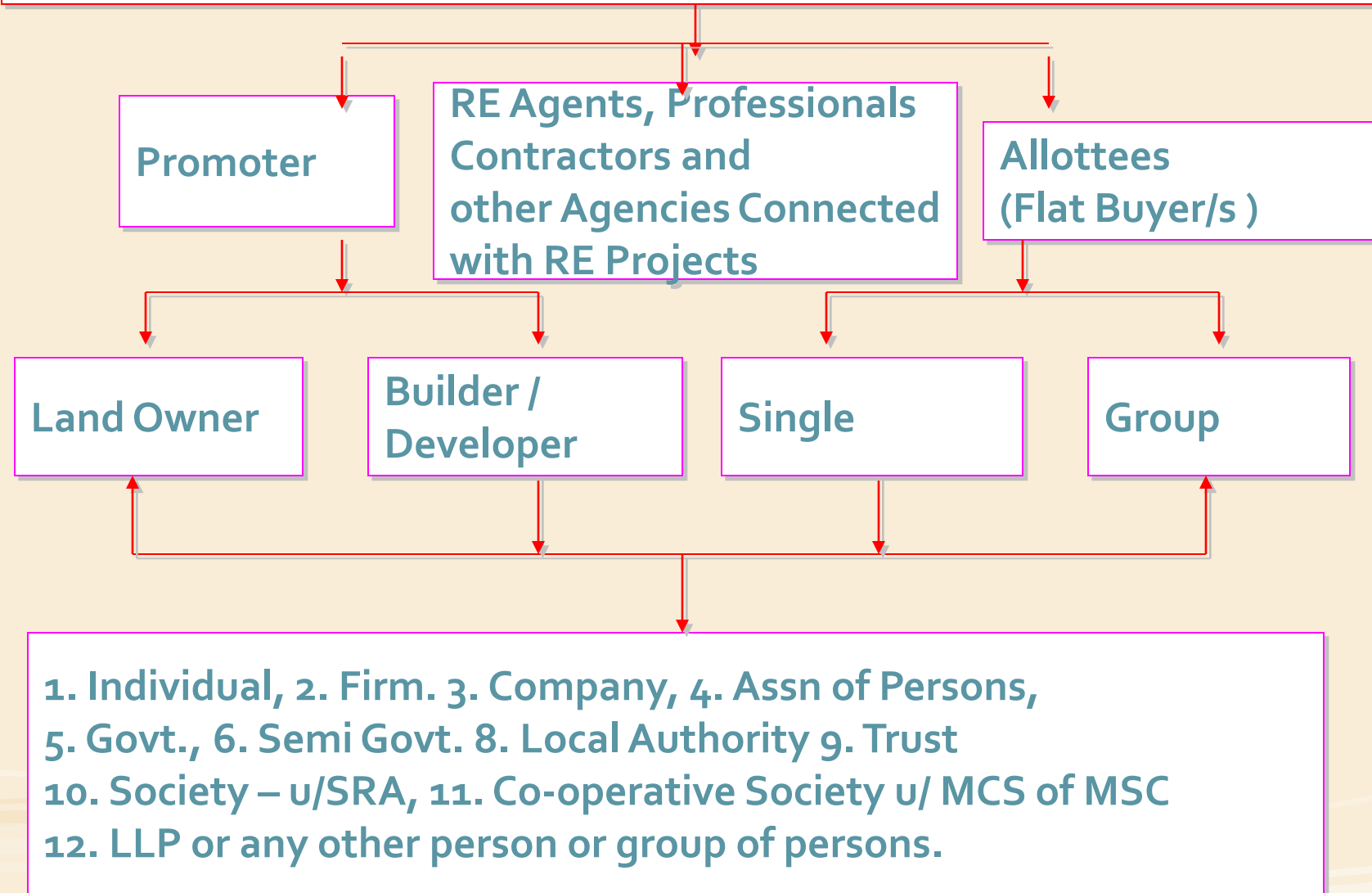
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Wish list for today

- Overview of offences under RERA
 - Provisions for penalties under RERA
 - Q & A
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PARTIES TO WHOM RERA IS APPLICABLE



RERA has a strong mechanism for penalties

Penalties will act effectively as a deterrent.

Compensation is paid to the aggrieved party

The penalties are deposited in the government Treasury.

The offences under may be committed by:

- Promoter
- Allottees
- Estate Agent
- Professionals and connected agencies like contractor, Lender etc
- To whom the RERA is made applicable.

Penalties are levied when parties fail to perform their duties

- Promoters may be treated as committed offence when they fail to perform their obligations as cast under RERA
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- Allottees when they fail to perform their duties cast under RERA
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- Agents when they Fail to perform their duties case under RERA
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- Professionals and others fail to perform the duties as cast under them under RERA

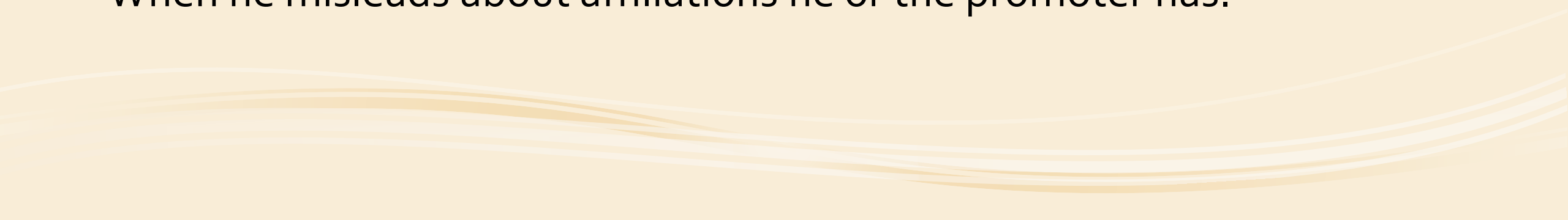
PROMOTERS

1. The promoter fails to register the project when they are liable.
2. The promoter provides false or incomplete information while registering the project
3. Fail to declare encumbrance on the land in the registration application.
4. Fail upload mandatory documents like Commencement Certificate, etc.
5. Arbitrarily changes to the plan without obtaining 2/3rd allottees consent.
6. Advertises or launches or sells a project without registering the project with RERA.
7. The advertisements donot contain the prominatly RERA number and RERA website address.

- 8. Fails to declare other ongoing projects at the time of registration of new project.
- 9. Fails to register the agreement after accepting more than 10% agreed sale consideration.
- 10. When the promoter sells the flat to a new buyer without refunding the original allottee.
- 11. When the promoter fails to form an association of allottees when 51% flats have been booked.
- 12. When the promoter fails to compensate the allottee as directed by the Authority, Adjudicating Officer or Tribunal.
- 13. Fails to comply with the order of the Authority, Adjudicating officer or Appellate Tribunal.

PROVISIONS FOR PROMOTERS


SEC	DESCRIPTION	QUANTUM
59(1)	Punishment for non-registration under Sec 3	Penalty upto 10% of estimated cost of the REP
59(2)	P does not comply with the orders, decisions or directions issued under sub-section (1) or continues to violate the provisions of section 3	Punishable with imprisonment up to 3 years or with a fine up to further 10% of the estimated cost of the real estate project or both
60	Penalty for contravention under Section 4	Penalty up to 5% of the estimated cost of the real estate project
61	Penalty for contravention other provisions of the Act	Penalty up to 5% of the estimated cost of the real estate project
63	Penalty for failure to comply with orders of Authority by promoter	Penalty for every day during which the default continues, cumulatively extend up to 5% of the estimated cost of REP
64	Penalty for failure to comply with orders of Appellate Tribunal by promoter	Punishable with imprisonment up to 3 years or a fine for every default continues, cumulatively up to 10% of the estimated cost of REP /both
69	Offences by companies	Every director, officer or manager who is liable to discharge the duties shall be considered to have committed the offence and shall be punished

- **Following are some of the offences under RERA that may be committed by Agent**
 - **1.** When a real estate agent facilitates sale or purchase of a plot, apartment or building which is part of a registered real estate project(REP)
 - When a real estate agent represents a particular grade or standard which he knows to be false
 - When a real estate agent makes misleading representation regarding services to be offered by him.
 - When he misleads about affiliations he or the promoter has.
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PROVISIONS FOR REAL ESTATE AGENT

SEC	DESCRIPTION	QUANTUM
62	Penalty for non-registration and contravention under Section 9 and Section 10	Penalty of Rs.10,000 per day during which such default continues which may cumulatively extend up to 5% of cost of the plot, apartment or building for which sale or purchase has been facilitated
65	Penalty for failure to comply with orders of Authority	Penalty for every day during which the default continues, which may cumulatively extend up to 5% of the estimated cost of the plot, apartment or building for which sale or purchase has been facilitated
66	Penalty for failure to comply with orders of Appellate Tribunal	Punishable with imprisonment up to 1 year or with a fine for every day during which such default continues, which may cumulatively extend up to 10% of the estimated cost of the plot, apartment or building for which sale or purchase has been facilitated or with both

- **DUTIES OF ALLOTTEES**

- Allottee shall make necessary payments in manner and within specified time in the agreement for sale
 - Allottee shall pay interest if there is a delay in payment
 - Every allottee shall participate formation of society or association of allottees
 - Every allottee shall take possession of apartment plot or building within 2 months of receipt of occupancy certificate
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PROVISIONS FOR ALLOTTEES

SE C	DESCRIPTION	QUANTUM
67	Penalty for failure to comply with orders of Authority	Penalty for every day during which the default continues, which may cumulatively extend up to 5% of the cost of plot, apartment or building for which sale or purchase has been facilitated
68	Penalty for failure to comply with orders of Appellate Tribunal	Punishable with imprisonment up to 1 year or with a fine for every day during which such default continues, which may cumulatively extend up to 10% of the estimated cost of the plot, apartment or building for which sale or purchase has been facilitated or with both

QUANTUM OF PENALTY LEVIED WILL BE BASED ON

- Source information of unregistered projects
- Source complaints
- Complaints u/s 31 with prayers to levy penalty
- Complaint for non-execution of the orders
- Suo-motto complaints by the Authority
- The hearings are done by giving the show cause notice by the Authority/ Appellate Tribunal

CASES

SR NO	PROMOTER/REAL ESTATE AGENT	PENALTY	REASON
1	SAI ESTATE CONSULTANT CHEMBUR PVT. LTD	The Authority imposed a penalty of Rs 10000 per day for the violation period of 12 days	Property broker had put up hoardings and advertising of unregistered project which should have been registered.
2	MAHIMKAR BUILDERS & DEVELOPERS Pvt LTD	Penalty of Rs 70 lakhs imposed. Penalty of Rs 30 lakhs The promoter was asked to refund the excess GST collected along with interest at 2% above SBI's highest MCLR.	Failure to register the real estate project Failure to form association of allottees

CASES

SR NO	PROMOTER/REAL ESTATE AGENT	PENALTY	REASON
3	GODREJ PROPERTIES LTD	Rs 1 lakh per billboard for 30 billboards	Advertising, offering for sale, pre-launch offer in an unregistered project
4	RUNWAL CONSTRUCTIONS	Rs 5 lakh each for 2 non-disclosed IODs	Failed to declare all essential disclosures
5	PIRAMAL GROUP/GLIDER BUILDCON REALTORS (suo-motto)	Rs 50 lakh	Failure to display the MahaRERA no. prominently in advertisement and failure to mention MahaRERA website address.

• *Thank you*

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