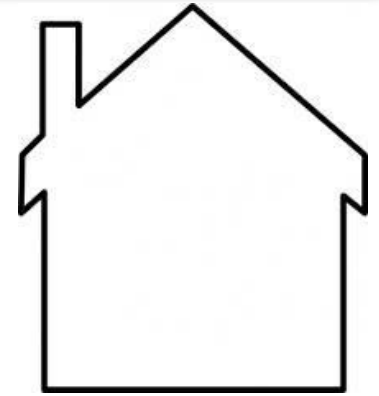


**OVERVIEW  
OF**

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

Presented by  
**CA Amit Mohare**  
M.Com. F.C.A.

# Why????



# Where????



- Civil Court under Specific Relief Act, 1963
- Consumer Court under Consumer Protection Act, 1986
- Criminal Court under MOFA, 1963
- High Court
- Supreme Court

# Issues.....

- Possession not given in time.
- Do not provide OC and Completion Certificate
- Demand Additional amount in cash
- Do not Form the Societies or give conveyance.
- Do not provide with all the agreed amenities.
- No accounts are provided for maintenance
- Fraud, cheating by unscrupulous builders
- Approved Plans, title deed not proved.
  - Highly unregulated sectors in spite of many laws.
  - Lack of transparency in projects
  - No proper information about the builder
  - Lack of Easy and Quick Redressal

# WORKING OF MOFA 1963

**DUTY OF BUILDER TO DISCLOSE  
VARIOUS DOCUMENT,  
PLANS ETC.**



Court Orders  
or Punishment

State Government  
Direction or Action



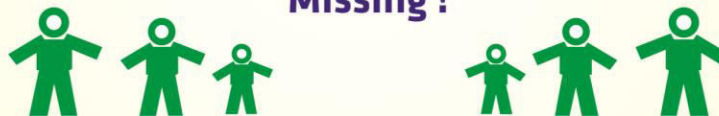
सत्यमेव जयते

1

**Enforcement & Delivery Mechanisms  
are Missing !**

2

**Compliance is  
Missing !**



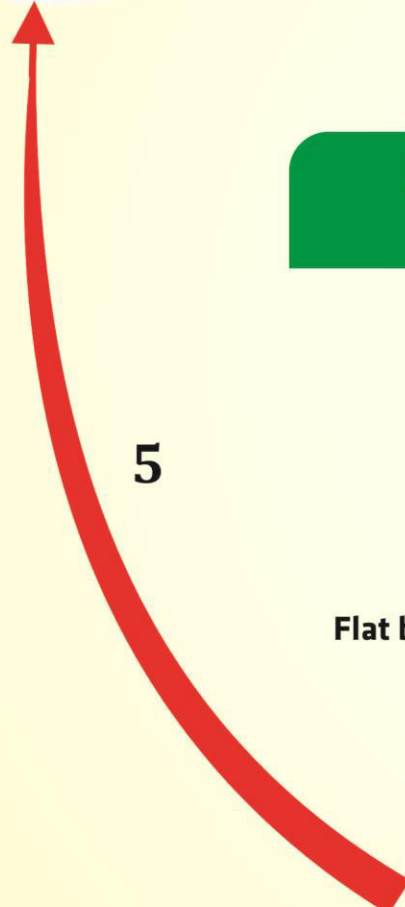
Flat buyer, RTI activist & common man may file RTI applications  
& write complaints to **GOVERNMENT**,  
and struggles to get orders passed against builder.

and / or

**Engages **LAWYER** and fights in  
**COURT** for several years**

5

3

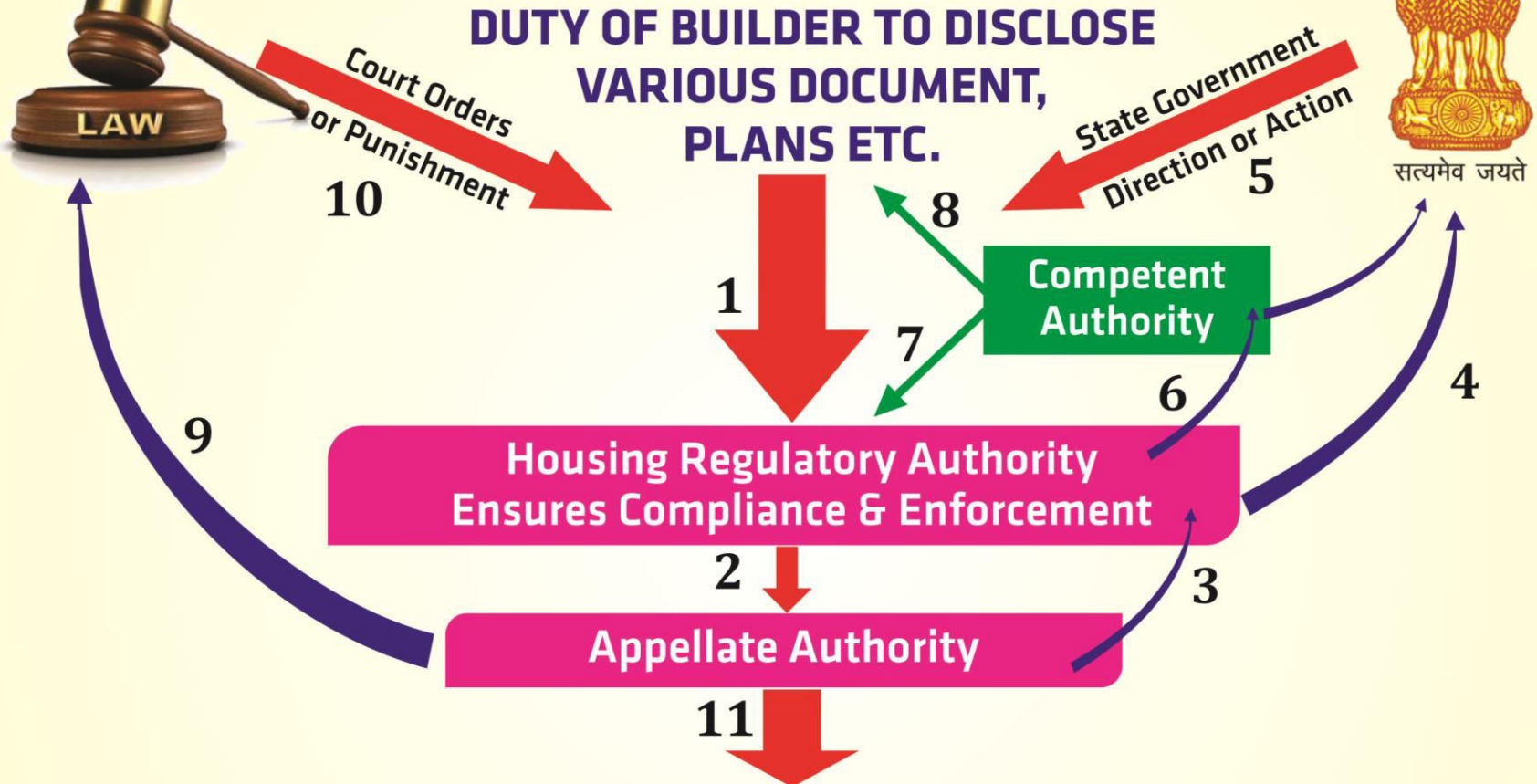


# WORKING OF RERA 2016

**DUTY OF BUILDER TO DISCLOSE  
VARIOUS DOCUMENT,  
PLANS ETC.**



सत्यमेव जयते



**Compliance & Service delivery as per Agreement  
Rules & Laws is Improved**



Flat buyer, RTI activist & common man may file RTI applications & write complaints to  
**REGULATORY AUTHORITY & APPELLATE AUTHORITY,**  
to get orders passed against builder.

# Build up to the Regulatory Act

- January 20, 2009 National conference of Ministers of Housing, Urban Development and Municipal Affairs of States and UTs proposing a law for RE sector
- March 10, 2016 Real Estate Bill, 2015 passed by Rajya Sabha
- March 15, 2016 Real Estate Bill, 2015 passed by Lok Sabha.
- March 25, 2016 The President of India accorded his assent to the Real Estate Bill, 2015.
- March 26, 2016 Real Estate (Regulation and Development) Act, 2016 published in the Gazette for public information

# Build up to the Regulatory Act

- RERDA-2016 is an Act of the Parliament of India Applicable to whole of India except Jammu and Kashmir
- Came into force : 1 May 2016 with 69 of 92 sections notified.
- As mentioned u/s. 84 of the Act The Central and state government to notify the Rules in six months and Establish the Real Estate Authority & Appellate Tribunal in 1 yr.
  - Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017.
  - Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of Complaints and Appeals, etc.,) Rules, 2017.



# **The Real Estate (Regulation and Development) Act, 2016**

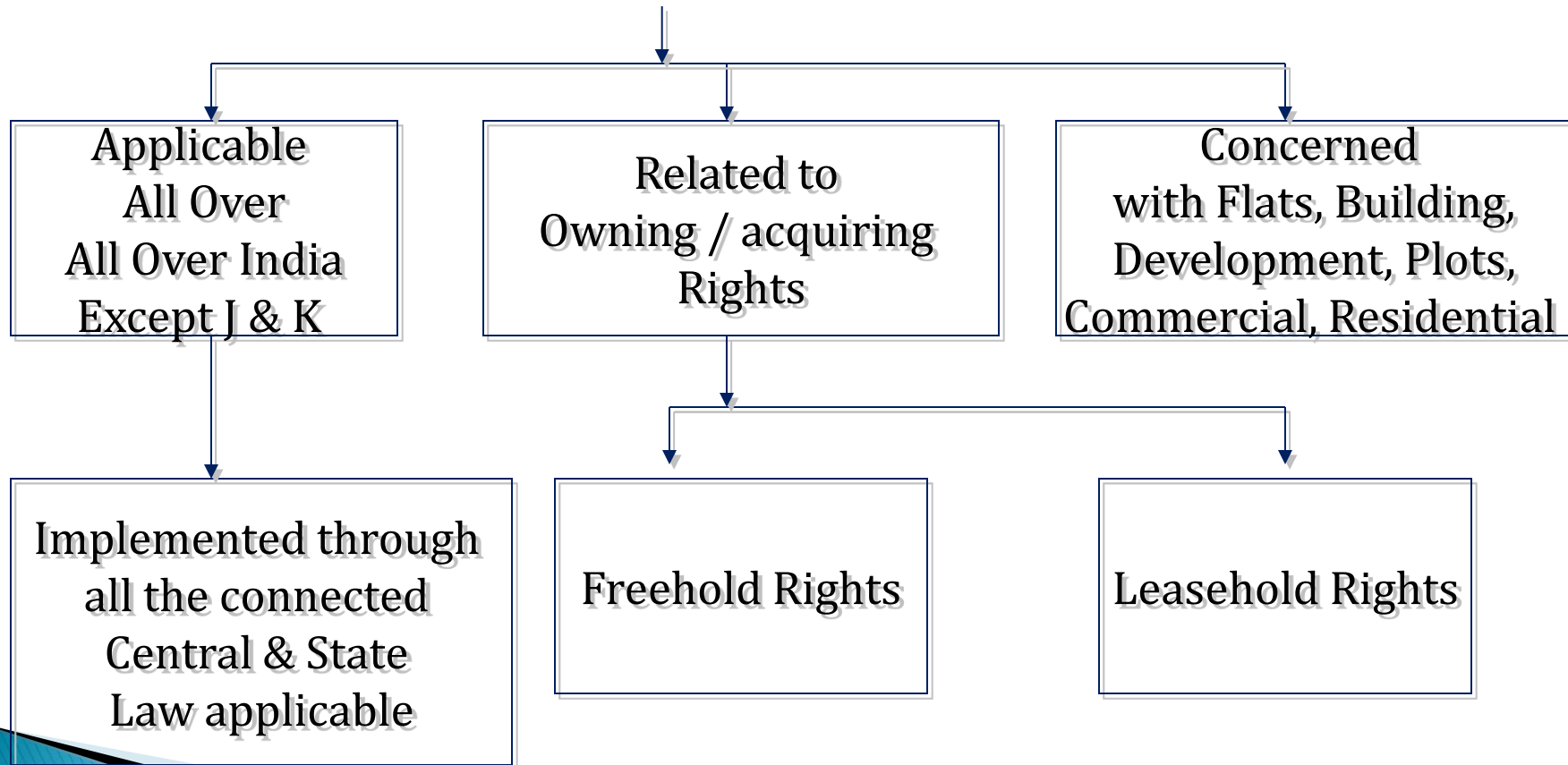
<b>Chapter I</b>	<b>: Preliminary</b>	<b>Sec. 1 and 2</b>
<b>Chapter II</b>	<b>: Registration Of Real Estate Project And Registration Of Real Estate Agents</b>	<b>Sec. 3 to 10</b>
<b>Chapter III</b>	<b>: Functions And Duties Of Promoter</b>	<b>Sec. 11 to 18</b>
<b>Chapter IV</b>	<b>: Rights And Duties Of Allottees</b>	<b>Sec. 19</b>
<b>Chapter V</b>	<b>: The Real Estate Regulatory Authority</b>	<b>Sec. 20 to 40</b>
<b>Chapter VI</b>	<b>: Central Advisory Council</b>	<b>Sec. 41-42</b>
<b>Chapter VII</b>	<b>: The Real Estate Appellate Tribunal</b>	<b>Sec. 43 to 58</b>
<b>Chapter VIII</b>	<b>: Offences, Penalties And Adjudication</b>	<b>Sec. 59 to 72</b>
<b>Chapter IX</b>	<b>: Finance, Accounts, Audits And Reports</b>	<b>Sec. 73 to 78</b>
<b>Chapter X</b>	<b>: Miscellaneous</b>	<b>Sec. 79 to 92</b>

# The Real Estate (Regulation and Development) Act, 2016

PROCEDURAL	BUSINESS/FINANCE	ADMINISTRATIVE
<i>I – Preliminary (1 -2)</i>	I-Definitions (2)	VI-Advisory (41-42)
<i>V- RER Authority (20-40)</i>	II-Registration (3-10)	IX-Audit (73-78)
<i>VII-Tribunal (43-58)</i>	III-Functions and Duties of promoter (11 - 18)	X-Miscellaneous (79-92)
	IV-Allottees (19)	
	VIII-Penalties (59-72)	

# MOTHER OF REAL ESTATE DEVELOPMENT LAW -

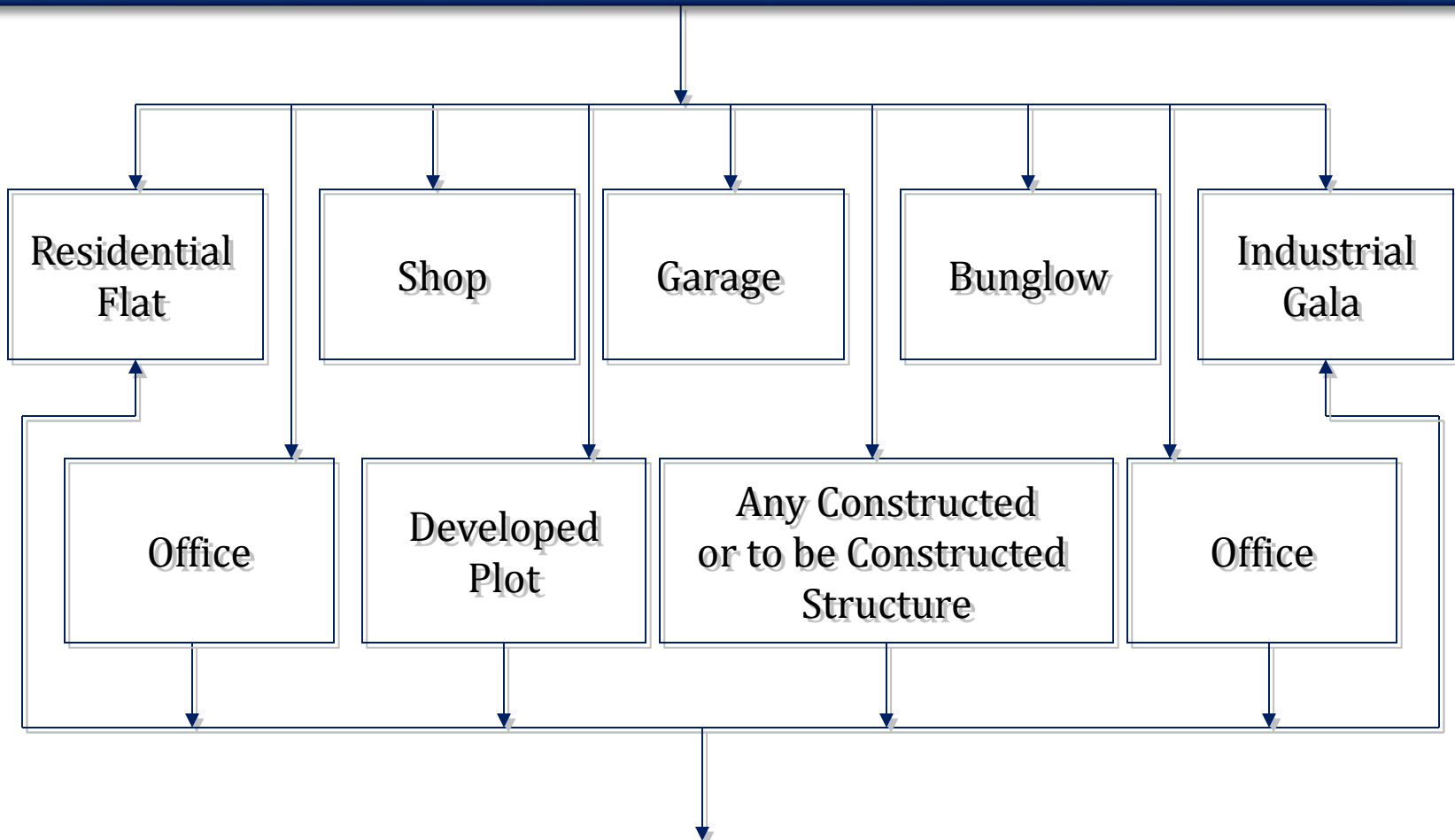
## Real Estate (Regulation & Development) Act, 2016



## 2(zn) - Real Estate Project

- "real estate project" means
  - the development of a building or a building consisting of apartments, or
  - converting an existing building or a part thereof into apartments, or
  - the development of land into plots or apartment, as the case may be,
  - for the purpose of selling all or some of the said apartments or plots or building, as the case may be,
  - and includes the common areas, the development works, all improvements and structures thereon,
  - and all easement, rights and appurtenance belonging thereto;

# Apartments = Independent Unit/Plot

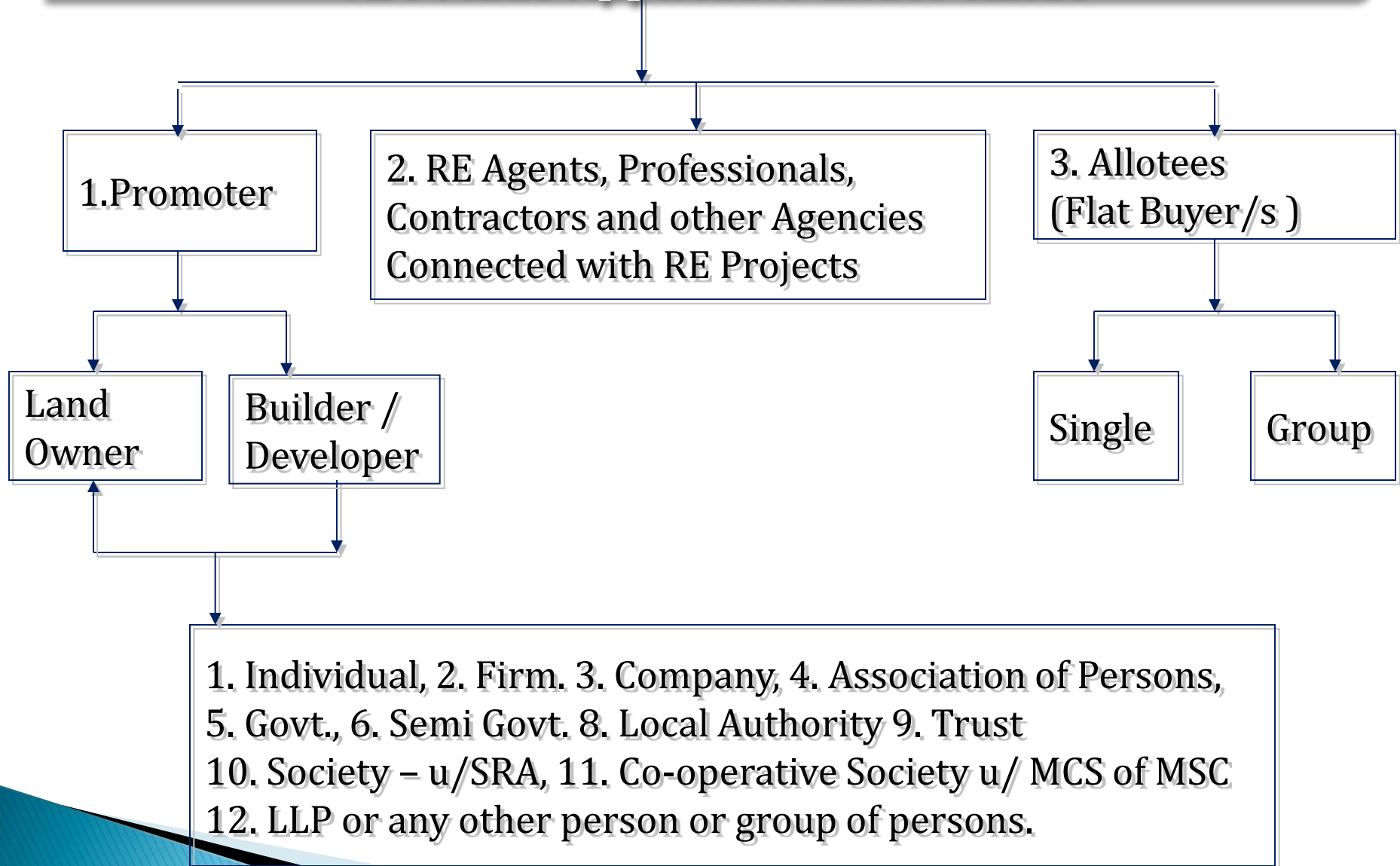


Provided or agreed to be provided by the **Promoter**  
To the Purchaser for a Consideration

## 2(e) - Apartment

- "apartment"
  - whether called block, chamber, dwelling unit, flat, office, show room, shop, godown, premises, suit, tenement, unit or by any other name,
  - means a separate and self-contained part of any immovable property,
  - including one or more rooms or enclosed spaces, located on one or more floors or any part thereof,
  - in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop showroom or godown or for carrying on any business, occupation, profession or trade or for any other type of use ancillary to the purpose specified;

# Parties On Whom Obligations Are Made Applicable under RERA



## 2(zk) - Promoter

- “promoter” means
  - a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or
  - a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or
  - any development authority or any other public body in respect of allottees of—
    - (a) buildings or apartments, as the case may be, constructed by such authority or body on lands



## 2(zk) - Promoter

- “promoter” means
  - any development authority or any other public body in respect of allottees of—
    - (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or
    - (b) plots owned by such authority or body or placed at their disposal by the Government;for the purpose of selling all or some of the apartments or plots, or
  - an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

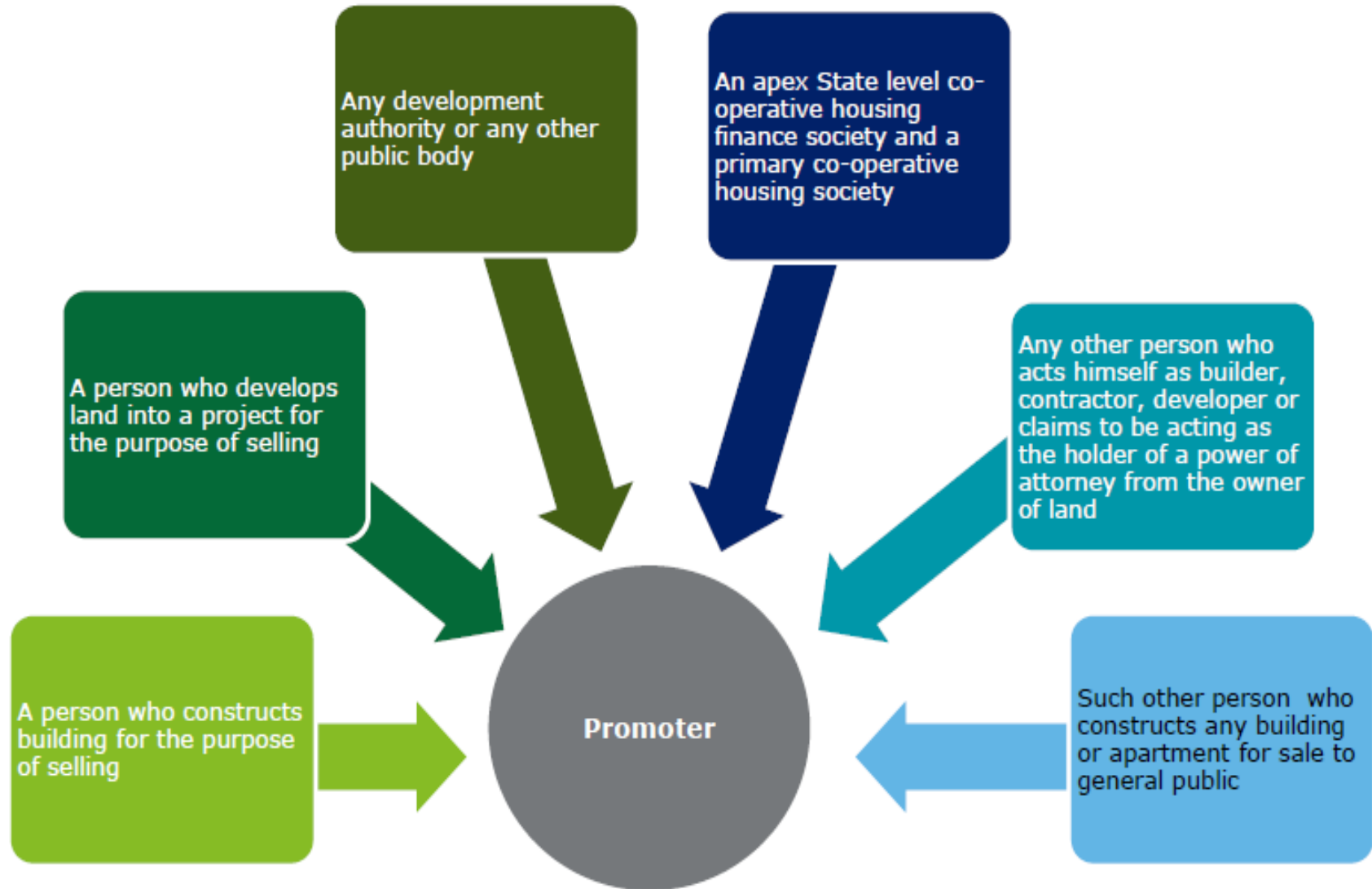
## 2(zk) - Promoter

- “promoter” means
  - any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or
  - such other person who constructs any building or apartment for sale to the general public.

## 2(zk) - Promoter

- “promoter” means
  - Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;

# Promoters



## 2(zm) – Real Estate Agent

- "real estate agent" means
  - any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

## 2(d) – Allottee

- “allottee”
  - in relation to a real estate project, means the person to whom a plot, apartment or buildings, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or buildings, as the case may be, is given on rent;

# Obligations of promoters

- Register the project with the authority before sale.
- Adhere to approved plans & project specifications.
- Publish complete details of projects on website.
- Deposit 70% of funds in a separate bank account, to be used for that real estate project only after certifying by Professionals.
- To refund moneys in cases of default;
- Update website with quarterly information on sale and progress
- Get the accounts Audited by CA within 6 months.
- Register the Agreement on receipt of 10% of amount
- To rectify structural defect or defect in workmanship.
- Obligation in case of transfer of real estate project to third party.
- Submit all the inform about project from time to time to RERA.

# Obligations of promoters

- U/s. 11(4)(e)  
enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable :

Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;



# Obligations of promoters

## ➤ U/s. 17(1)

The promoter shall execute a **registered conveyance deed in favour of the allottee** along with the **undivided proportionate title in the common areas** to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws.

# Obligations of promoters

## ➤ U/s. 17(1)

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter **within three months from date of issue of occupancy certificate.**

# Obligations of promoters

## ➤ U/s. 17(2)

After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to hand over the necessary documents and plans, including common areas, to the association of the allottees or the competent

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, **the association of the allottees** or the competent authority, as the case may be, **within thirty days after obtaining the occupancy certificate.**

# 3. Registration Of Real Estate Project

## For Development of

Any Immovable Property

In Phases Or Otherwise

All Pending Projects Where OC Is Not Received before 30.04.2017

## And

New Project Before Offer For Sale

## Registration Exempted

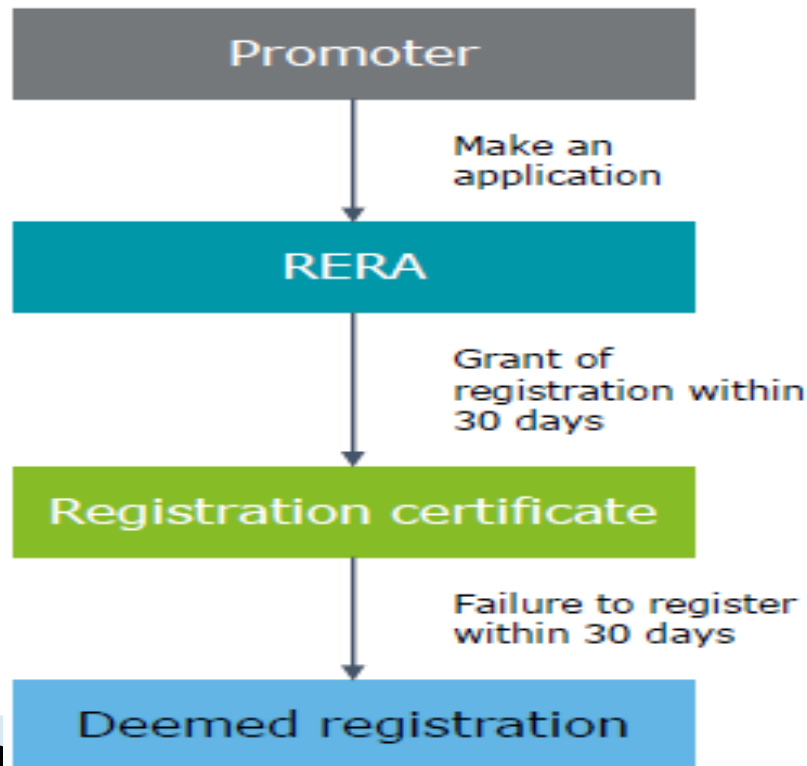
- Area does not exceed 500 Sq. Meters
- Or Number of apartments does not exceed 8
- All completed projects where O.C. is granted
- Renovation or repairs which does not involve re-allotment & marketing

# 4. Application process for Registration

- Application for registration to disclose:
  - Details of the enterprise including its name, registered address etc.;
  - Details of the projects launched, in past 5 years including current status, details of cases pending, if any;
  - Certified true copy of the commencement certificate from the appropriate authority (each phase);
  - Layout plan -whole project and each phase sanctioned by appropriate authority;
  - Development works plan and proposed facilities;
  - Sample agreements proposed to be signed with the allottees;
  - Number and the carpet area of apartments in the project;
  - Names and addresses of real estate agents, if any, for the proposed project;
  - Names and addresses of the contractors, architect, structural engineer, any other persons concerned with the development of the proposed project;

# 4. Application process for Registration

- Application for registration to disclose:
  - Declaration, supported by an affidavit, signed by the Developer or any person authorized by the developer, stating:
    - that the developer has a legal title to the land;
    - land is free from all encumbrances;
    - period for completion of project.



# Rights and Duties of Allottees Sec. 19

(1) The allottee shall be entitled to obtain the information relating to sanctioned plans layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter.

(2) The allottee shall be entitled to know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale.

# Rights and Duties of Allottees Sec. 19

(3) The allottee shall be entitled to claim the possession of apartment, plot or building, as the case may be, and the association of allottees shall be entitled to claim the possession of the common areas, as per the declaration given by the promoter under sub-clause (C) of clause (I) of sub-section (2) of section 4.

(4) The allottee shall be entitled to claim the refund of amount paid along with interest at such rate as may be prescribed and compensation in the manner as provided under this Act, from the promoter, if the promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement for sale or due to discontinuance of his business as a developer on account of suspension or revocation of his registration under the provisions of this Act or the rules or regulations made thereunder.



# Rights and Duties of Allottees Sec. 19

(5) The allottee shall be entitled to have the necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building as the case may be, by the promoter.

(6) Every allottee, who has entered into an agreement or sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.

# Rights and Duties of Allottees Sec. 19

(7) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6).

(8) The obligations of the allottee under sub-section (6) and the liability towards interest under sub-section (7) may be reduced when mutually agreed to between the promoter and such allottee.

(9) Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperative society of the allottees, or a federation of the same.

## Rights and Duties of Allottees Sec. 19

(10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or buildings the case may be.

(11) Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building, as the case may be as provided under sub-section (1) of section 17 of this Act.

# Obligation of allottee

- To make necessary payments;
- To make payment of interest in case of any delay;
- To participate in formation of association/society;
- To take possession within two months of issue of occupation certificate
- To participate in registration of conveyance deed.

# 7. Recovaction Of Registration Of Real Estate Project

On complaint  
by  
any Stakeholders

Suo moto based  
on any information,  
Audit Report etc

## 8 :Consequence of Revocation or Lapse

Debar the  
promoters  
from  
Execution &  
Accessing  
Website

Complete the  
Project by the  
association  
of allottees or  
in any other  
manner

Declare as  
Defaulter  
and Display  
Photographs  
In All States  
Website.

Freeze the  
Dedicated  
account and  
Transfer the  
balance to  
complete the  
project

# Penalties

If any promoter contravenes the provisions of registration - liable to penalty upto 10% of the estimated cost of project as determined by the Authority.

If any promoter does not comply with the orders, decisions or directions issued or violate the provisions of registration - punishable with imprisonment upto 3 years or with fine upto 10% of the estimated cost of the project, or with both.

If any promoter provides false information or contravenes the provisions of registration of real estate projects - penalty upto 5% of the estimated cost of the project.

If any promoter contravenes any other provisions of the Real Estate Act - penalty upto 5% of the estimated cost of the project as determined by the Authority

# Professional Opportunity under RERA for “CA”

- Proviso of Section 4 – Certification for withdrawal of amount collected from Allottees of Real Estate Project
- Proviso of Section 4 – Audit of Real Estate Project
- Section 56 – Right to legal representation
- Consultancy in RERA

# THANK YOU

Presented by:

**CA Amit A. Mohare**  
M. Com., F.C.A.