

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



# Background before introducing RERDA 2016

# 1. What is RERA Act, 2016 ?

- a) The RERA is The Real Estate (Regulation and Development) Act, 2016.
- b) The Act has paved the way for setting up of Real Estate Regulatory Authority (RERA) for regulation and promotion of real estate sector while promoting transparency and equity in real estate transactions.



## 2. Need of RERA :

- a) To ensure accountability towards allottees and protect their interest.
- b) To infuse transparency, ensure fair-play and reduce frauds & delays.
- c) To introduce professionalism and pan India standardization.
- d) To establish symmetry of information between the promoter and allottee.

- e) Establish regulatory oversight mechanism to enforce contracts.
- f) Establish fast-track dispute resolution mechanism;
- g) Promote good governance in the sector which in turn would create investor confidence.

- e) Imposing certain responsibilities on both promoter and allottees.
- f) Establish regulatory oversight mechanism to enforce contracts.
- g) Establish fast- track dispute resolution mechanism;
- h) Promote good governance in the sector which in turn would create investor confidence.

# Synopsis of the whole ACT

The ACT is divided into 10 chapters and 92 Sections

# Real Estate (Regulation and Development) Act, 2016

Chapter 1: Preliminary (Sec 1 & 2)

Chapter 2: Registration of Real Estate Project and Registration of Real Estate Agents (Sec 3 to 10)

Chapter 3: Functions and Duties of Promoter (Sec 11 to 18)

Chapter 4: Rights and Duties of Allottees (Sec 19)

Chapter 5: The Real Estate Regulatory Authority (Sec 20 to 40)

Chapter 6: Central Advisory Council (Sec 41 & 42)

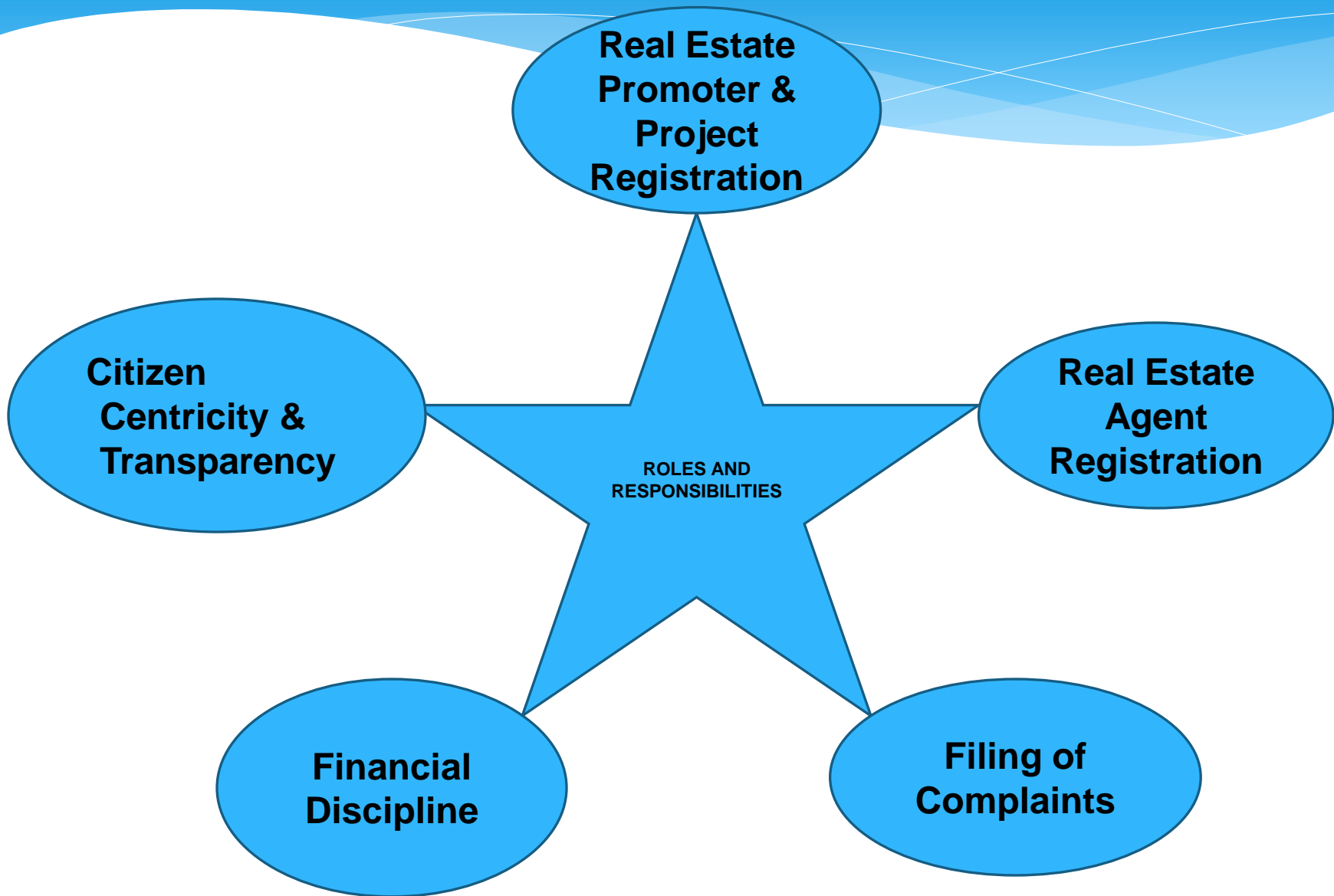
Chapter 7: The Real Estate Appellate Tribunal (Sec 43 to 58)

Chapter 8: Offences, Penalties and Adjudication (Sec 59 to 72)

Chapter 9: Finance, Accounts, Audits and Reports (Sec 73 to 78)

Chapter 10: Miscellaneous (Sec 79 to 92)







# **Main Opportunities under RERA**

- 1) Registration of Real Estate Project in MahaRERA**
- 2) Registration of Real Estate Agent in MahaRERA**
- 3) CA Certificate in form 3 in every quarter for all RERA registered project**
- 4) RERA Audit report in form 5 every year for each RERA registered projects on or before 30<sup>th</sup> September from the end of the financial year**
- 5) Quarterly updating website of the project registration with MahaRERA**
- 6) Drafting Allotment letters, Agreement for sale, etc. in compliance with MahaRERA Rules**
- 7) Appearing before MahaRERA Authority or Adjudicating officer and Real Estate Appellate Tribunal apart of filling complaints for an or behalf of Allottees or Promoters or any interested party**
- 8) Defending the opposite party as authorized representative before MahaRERA Authority or Adjudicating officer or Appellate Tribunal**



**9) Playing the Role of MahaRERA Advisor to the Promoters & Developers before the project registration or even after registration of the project**

**10) Professional services to flat buyers in searching appropriate details of flat or other premises including and litigations or other useful information for deciding making by buyer**



# PART 3

## **Major Protections & Safeguards for Allottees under RERA**

- 1) After implementation of RERA there is transparency between Promoters and the Allottees**
- 2) Aggrieved Allottees now have choice to file complaint with MahaRERA**
- 3) After receiving 10% or above of the agreed value promoters cannot harass Allottees for registering Agreement for sale its now obligatory on the part of Promoters to enter into Agreement for sale the movement they receive 10% consideration**
- 4) There is transparency in the area purchased by Allottees, prior to RERA there where various terminology being used by Promoters for e.g, Build Up, Super Build Up, Carpet Area, etc. After the RERA every builder has to specify RERA Carpet Area and they can charge best thereon only**
- 5) Allottees have now choice to see stage of construction progress & various approvals from different authorities which are now uploaded on the MahaRERA website**
- 6) There are various rights have been specified in the Act to protect the interest of the Allottees**

**7) There are various provisions which makes various things to do & comply by the Promoters and those obligations in turn protects the interest of the Allottees for E.g,**

- a) Promoters to take responsibilities of clear title of land on which construction has done**
- b) Taking insurance of the building by the Promoter**
- c) Displaying on MahaRERA website standard format with specific clauses in the Agreement for sale & Allotment Letter**
- d) Promoters cannot change the design & specification of the building without taking prior consent of 2/3 Allottees in the project**
- e) Promoters are having obligation to start the process of formation of society or any other format of association of the Allottees once the total booking of Number of units exceeds 51% in the under construction project**
- f) Builders has to execute conveyance deed within 4 Months of the OC in favor of the society**

- g) Promoters are penalized for giving false or wrong promises or information about the project to the intended buyers**
- h) Promoters can deal with either directly with the Allottees or through the registered Real Estate Agents**
- i) Promoters are held to be responsible for the construction quality of the Real Estate Projects even after handing over of possession of the flat till next 5 years**
- j) The MahaRERA Authority has formed conciliation forum to expedite redressal of disputes between the Developer & the Allottees without much cost time & documentation**



# Who is Promoter ?

# Promoter u/s 2(zk)

**"promoter" means,—**

- (i) 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**
  
- (ii) 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**
  
- (iii) 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,**

**(c) for the purpose of selling all or some of the apartments or plots; or**

**(iv) 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**

**(v) 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**

**(vi) such other person who constructs any building or apartment for sale to the general public.**

# What do you mean by Real Estate Project

# “Real Estate Project” U/s 2(zn)

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 appurtenances belonging thereto;

# Who is Allottee ?

## Allottee U/s 2(d)

**Allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, 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 building, as the case may be, is given on rent;**



# Apartment U/s 2(e)

- \* Apartment" whether called block, chamber, dwelling unit, flat, office, showroom, 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;

\*

Can Promoter sale flats/units after getting project approved from the planning Authority like BMC, MHADA, SRA, etc.

# Prior Registration with RERA

## U/s 3

# Project Registration

Every real estate promoter has to register the new project before going ahead of marketing or selling units

Every ongoing project which has not received occupation certificate shall also register within the period of three months from 1<sup>st</sup> May 2017.


Development Authorities and the Housing Boards, when involved in sale of apartments/ plots are covered under the Act

## 4. Registration Procedure under RERA

- a) Required **documents for registration such as Company details, Pan Card, Legal Title report, Title / Development Agreements, information related to encumbrance, Sanctioned Layout & Building Plans, information related to FSI, TDR, Recreational Ground, Parking spaces & final proposed design scheme.**
- b) Information about Architecture & Design Standards, Type of Construction Technology, Amenities & facilities.
- c) Information about formation of proposed Co-op. Hsg.



- d) Society/apartment/company & transfer of conveyance.  
Disclosure by promoter regarding project estimate consisting of land cost, cost of construction & other costs such as taxes, development charges etc.
- e) On receipt of the application, the Authority shall within a period of 30 days grant registration, including a Login ID and password.
- f) In absence of satisfactory documentation, the authority can reject the application, however, the promoter shall get an opportunity of being heard in the matter, within a period of 7 days of expiry of the said period of 30 days specified..

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- g) RERA to publish information submitted by promoter on the RERA website for public viewing.
  - h) The promoter may apply for withdrawal of application for registration of the real estate project before the expiry of the period of 30 days of its submission to Authority.
  - i) The registration fees will be refunded except the administrative charges.

# 5. Project registration fees

- a) The promoter shall pay a registration fee at the time of application through NEFT or RTGS or any digital mode of transaction as under,

Rs. 10/- per sq.m.	On land area
Minimum of Rs. 50,000/-	Subject to Max.of Rs.10 lakhs.

- b) In the event of failure to register the project before advertising or selling, a penalty upto 10% of the estimated project cost may be imposed.



# 6. Deposits and Withdrawals

- a) Developer has to **deposit 70%** of the amount realised for the real estate project from the allottees from time to time in the separate account in a scheduled bank to cover the cost of construction, the land cost and shall be used only for that purpose.
- b) For **on-going projects** the promoter also has to **deposit 70%** of the amount to be realised for the real estate project from the allottees from time to time in the **separate account** in a scheduled bank.



- c) Promoter shall deposit 100% of the amount to be realized from the allottees in the event where the estimated receivables of the on-going project is less than the estimated cost of completion of the project.
- d) The promoter can withdraw amounts from the separate account in proportion, to the percentage of completion of the project upon certification by an architect, an engineer and a chartered accountant in practice.
- e) The chartered accountant in practice certifying project expenditure for RERA & internal auditor of a promoter company shall be different.

i. **Land cost includes:**

Lease charges, premium paid against purchase of land/ development rights, cost towards TDR, premium FSI, Fungible FSI, Stamp Duty, Registration fees, overhead cost, marketing cost, legal cost & supervision cost, transit camp cost, cost of construction for Rehab building, Corpus fund, rent, transportation charges, brokerage, any other charges towards Rehab component in redevelopment.

ii. **Construction cost includes:**

All such costs, incurred by the Promoter, towards construction expenditure, Taxes, Fees, Charges, Premiums, salaries, overheads, machinery cost, interest paid or payable against capital raised for the construction cost, etc.

# 7. Formation of Legal entity

- a) The promoter shall apply for formation of Co-op. Housing society or a company or any legal entity within three months from the date on which 51% of the total number of allottees in such a building/wing have booked their apartments.
- b) In the case of a Layout, the promoter shall apply for formation of apex body within a period of three months from the date of receipt of occupation certificate of last building of the layout



**Section 13 "No deposit or advance to be taken by promoter without first entering into agreement for sale"**

## **Section 19 "Rights and duties of allottees"**

- (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.
- (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.

(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 for 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.