



SEMINAR ON

REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016

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Introduction- The Real Estate (Regulation and Development) Act, 2016

- RERDA-2016 is an Act of the Parliament of India Applicable to whole of India except Jammu and Kashmir
- The bill was passed by the Rajya Sabha on 10th March, 2016, by the Lok Sabha on 15-03-2016 & Notified on 26-03-2016
- Came into force :1 May 2016 with 69 of 92 sections notified.
- The Central and state Govt to notify the Rules in six months and Establish the Real Estate Authority & Appellate Tribunal in 1 yr.
- Real estate regulatory authority (RERA) is the Regulator
- The law is not Retrospective but applicable to all on going projects and new projects. Commercial, residential, plotting etc

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EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

WORKING OF MOFA 1963

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



**Court Orders
or Punishment**

**State Government
Direction or Action**



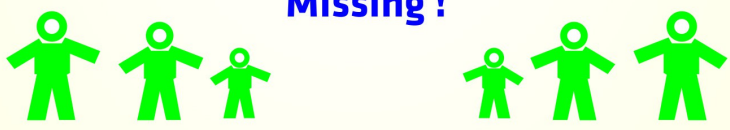
सत्यमेव जयते



**Enforcement & Delivery Mechanisms
are Missing !**



**Compliance is
Missing !**



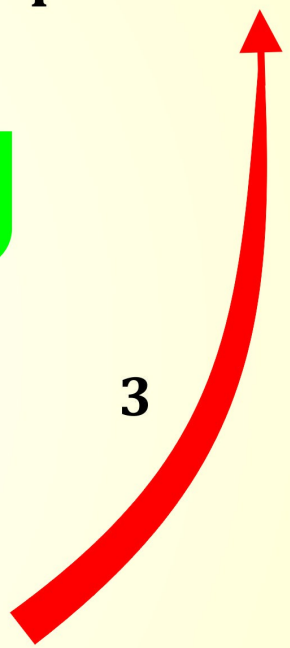
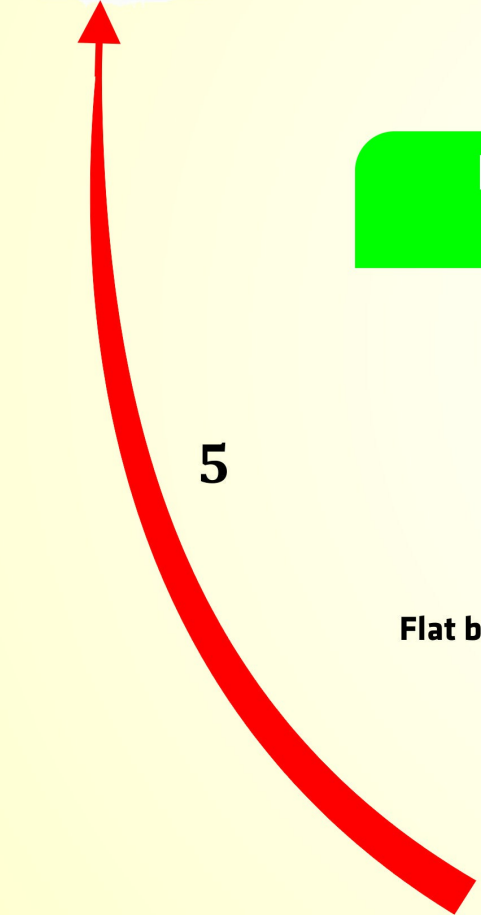
Flat buyer, RTI activist & common man may file RTI applications
& write complaints to **GOVERNMENT**,
and struggles to get orders passed against builder.

and / or

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

3

5





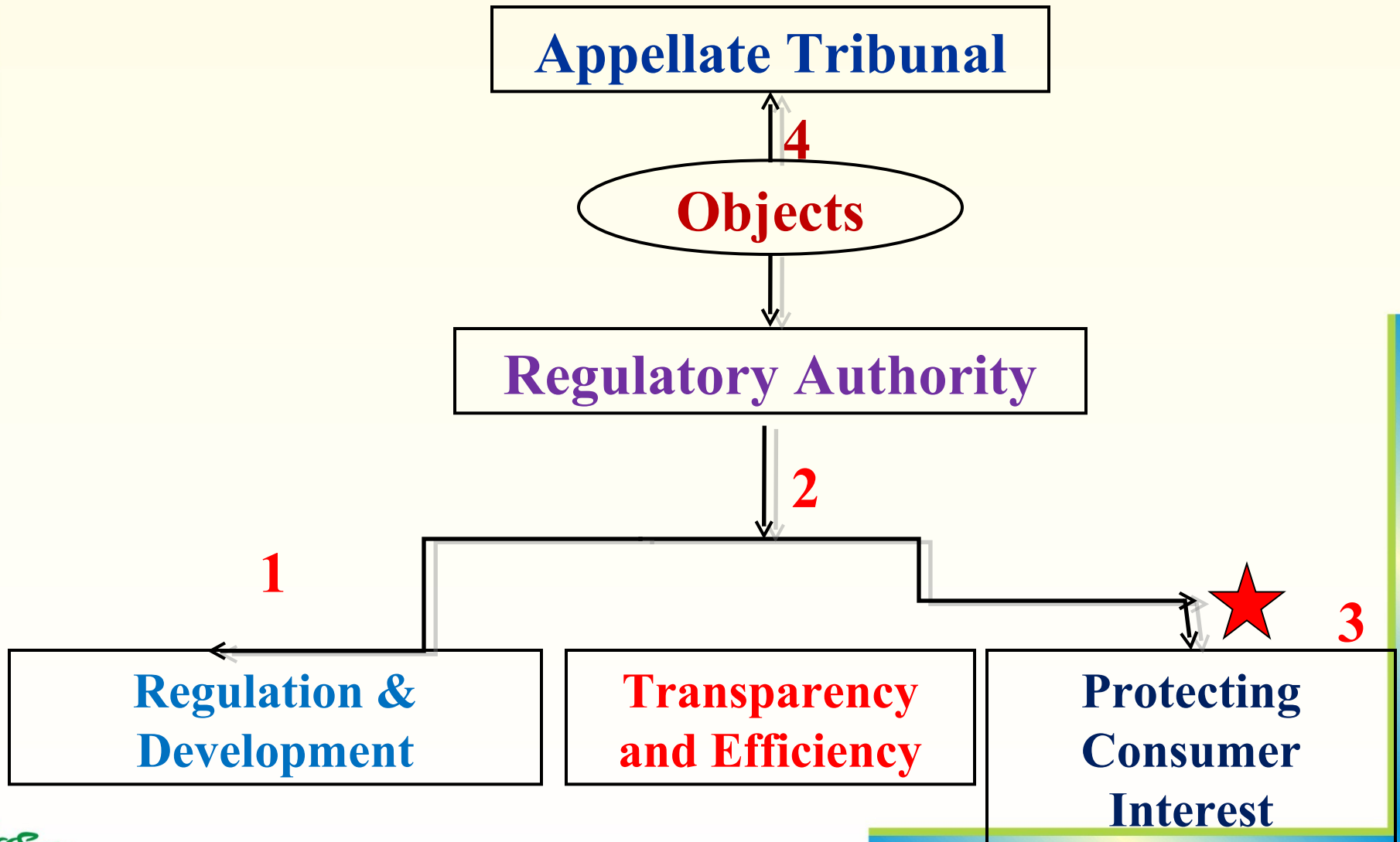
Objective and Purpose of the RERDA-2016

- Restore confidence in the Real Estate Sector & Protect Stakeholders
- Promote regulated and orderly growth through efficiency, professionalism and standardization, Fair practice, accountability,
- Bring transparency, fairness, reduce frauds and delays significantly
- To establish mechanism to enforce disclosure
- To provide adjudication machinery for disputes
- To establish a Real Estate Regulatory Authority
- To Establish an Real Estate Appellate Tribunal
- To ensure consumer protection, without adding another stage in the procedure for sanctions



THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT , 2016

Objects of the Real Estate(R &D) Act, 2016



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.

The salient features of the RERDA-2016

- **To Establish a Regulator** : by Appropriate Govt:
 - For each State by respective State Govt
 - For Union Territories by Central Govt
- **Accreditation** : By Mandatory registration of :
 - Real Estate Projects by Promoters &
 - Real Estate Agents
- **Mandatory public disclosure norms** :
 - Details of developer,
 - Details of the project,
 - land status ,
 - statutory approvals and
 - contractual obligations;

The salient features of the RERDA-2016



- **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 CA, Engr and Arch.
- 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
- Submit all the inform about project from time to time to RERA.

- **Obligation of allottee :**

- to make necessary payments and
- payment of interest in case of any delay;



The salient features of the RERDA-2016

- **The Authority to act as the nodal agency :**
 - To co-ordinate efforts in development of the sector
 - To render advice to the appropriate Government to ensure the growth and promotion of a transparent, efficient and competitive real estate sector;
 - To establish dispute resolution mechanisms for settling disputes between promoters and allottees/ buyers;
- **Powers to make Act, Rules, Regulations ,Direction etc:**
 - Central Act uniform across India except J & K;
 - States to have powers to make rules
 - Regulatory Authority to make regulations;
 - Central Government to issue directions to States.

The salient features of the RERDA-2016

- **Dispute resolution mechanisms:**
 - Adjudicating officer to assess damages
 - Regulatory Authority to settle any Disputes
 - Real Estate Appellate Tribunal to hear appeals
 - Jurisdiction of Civil Courts barred
 - Consumer Courts to continue.
- **Penal provisions :**
 - To ensure compliance of Provisions of Act
 - To Comply with orders of the Adjudicating officer, Authority and Tribunal

Opportunities for Chartered Accountants.

**COMPLIANCE
UNDER THE
ACT & RULES**

**ADVISORY
ROLE**

**DRAFTING OF
VARIOUS
DOCUMENTS**

**OPENING OF
BANK
ACCOUNTS &
REGULATING
DEPOSITS &
WITHDRAWAL**

**STATUS REPORT
OF EVERY
PROJECT**

**AUDIT UNDER
THE ACT AND
RULES.**

CONSTITUTIONAL FRAMEWORK

- Part XI of the **Indian constitution** defines the power distribution between the federal government (the Centre) and the **States in India**.
- This part is divided between legislative and administrative powers. The legislative section is divided into three lists: Union list, States list and Concurrent list

Constitutional Framework-Sch VII-(Article 246)



Union List-I-100

- arms and ammunition, atomic energy,
- foreign affairs,
- war and peace,
- citizenship,
- extradition,
- Railways, shipping and

State List-II-66

- administration of justice,
- prisons,
- local government,
- public health and sanitation,
- agriculture, animal husbandry
- water supplies

Concurrent List-III-47

- (6.) Transfer of property other than agricultural land,
- (7) Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land

The constant blurring of Legislation Making jurisdiction between the Centre & the States has necessitated multiple Constitutional challenges

Constitutional Framework-Sch VII-(Article 246)



Union List-I-100

- banking, insurance,
- control of industries, regulation and development of mines, mineral and oil resources, elections, audit of Government

State List-II-66

administration of justice, prisons, local government, public health and sanitation, agriculture, animal husbandry, water supplies and irrigation, land

Concurrent List-III-47

- Adulteration of foodstuffs,
- (46) Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List

The constant blurring of Legislation Making jurisdiction between the Centre & the States has necessitated multiple Constitutional challenges

Chapter I : Preliminary : Sec 1 and 2

**Chapter II: Registration Of Real Estate Project And
Registration Of Real Estate Agents – Sec 3 to 10**

Chapter III : Functions And Duties Of Promoter – Sec 11 to 18

Chapter IV : Rights And Duties Of Allottees - Sec 19

Chapter V: The Real Estate Regulatory Authority- Sec 20-40

Chapter VI : Central Advisory Council - Sec 41 and 42

Chapter VII : The Real Estate Appellate Tribunal : Sec 43 to 58

Chapter VIII : Offences, Penalties And Adjudication: 59 to 72

Chapter IX : Finance, Accounts, Audits And Reports: 73 to 78

Chapter X : Miscellaneous : Sec 79 to 92

As per Section 84 RERDA –Rules by Mah. Govt.

- 1. The Maharashtra Real Estate(Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2016**
- 2. The Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable,Forms of complaints and Appeal, etc.) Rules, 2016**
3. The Maharashtra Real Estate Regulatory Authority, Officers and Employees (Appointment and Service Conditions) Rules, 2016
4. The Maharashtra Real Estate Appellate Tribunal, Officers and Employees (Appointment and Service Conditions) Rules, 2016
5. Rules regarding budget and keeping of records is in the process of being vetted by Comptroller and Auditor General office and Finance Department of Government of Maharashtra

SEC. 2 DEFINITIONS

In this Act, unless the context otherwise requires-

(a) "adjudicating officer" means the adjudicating officer appointed under sub-section (1) of section 71;

(b) "advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

SEC. 2 DEFINITIONS

(c) "agreement for sale" means an agreement entered into between the promoter and the allottee;

(d) "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;

SEC. 2 DEFINITIONS

(e) "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;

SEC. 2 DEFINITIONS

(h) "architect" means a person registered as an architect under the provisions of the Architects Act, 1972;

(i) "Authority" means the Real Estate Regulatory Authority established under sub-section (1) of section 20;

(j) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;

SEC. 2 DEFINITIONS

(k) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment;

Explanation.— For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

SEC. 2 DEFINITIONS

(l) "Chairperson" means the Chairperson of the Real Estate Regulatory Authority appointed under section 21;

(m) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an

SEC. 2 DEFINITIONS

immovable property, as per the sanctioned plan;

(n) "common areas" mean—

- (i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase the entire land for that phase;
- (ii) the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;
- (iii) the common basements, terraces, parks, play areas, open parking areas and common storage spaces;

SEC. 2 DEFINITIONS

- (iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;
- (v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;
- (vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;

SEC. 2 DEFINITIONS

- (vii) all community and commercial facilities as provided in the real estate project;
- (viii) all other portion of the project necessary or convenient for its maintenance, safety, etc. and in common use;
- (o) "company" means a company incorporated and registered under the Companies Act, 2013 and includes,—
 - (i) a corporation established by or under any Central Act or State Act;
 - (ii) a development authority or any public authority established by the Government in this

SEC. 2 DEFINITIONS

behalf under any law for the time being in force;

(p) "competent authority" means the local authority or any authority created or established under any law for the time being in force by the appropriate Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(q) "completion certificate" means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority

SEC. 2 DEFINITIONS

certifying that the real estate project has been development according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;

(r) "day" means the working day, in the concerned State or Union territory as the case may be, notified by the appropriate Government from time to time;

(s) "development" with its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the

SEC. 2 DEFINITIONS

making of any material change in any immovable property or land and includes re-development;

(t) "development works" means the external development works and internal development works on immovable property;

(u) "engineer" means a person who possesses a bachelor's degree or equivalent from an institution recognised by the All India Council of Technical Education or any University or any institution recognized under a law or is registered as an engineer under any law for the time being in force;

SEC. 2 DEFINITIONS

(v) "estimated cost of real estate project" means the total cost involved in developing the real estate project and includes the land cost, taxes, cess development and other charges;

(w) "external development works" includes roads and road systems landscaping, water supply, sewage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;

SEC. 2 DEFINITIONS

- (x) "family" includes husband, wife, minor son and unmarried daughter wholly dependent on a person;
- (y) "garage" means a place within a project having a roof and walls on three sides for parking any vehicle, but does not include an unenclosed or uncovered parking space such as open parking areas;
- (z) "immovable property" includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, standing crops or grass;

SEC. 2 DEFINITIONS

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.—For the purpose of this clause—

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and

SEC. 2 DEFINITIONS

interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

(zb) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal water conservation, energy management, fire protection and fire safety requirements, social

SEC. 2 DEFINITIONS

infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

(zc) "local authority" means the Municipal Corporation or Municipality or Panchayats or any other Local Body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;

(zd) "Member" means the member of the Real Estate Regulatory Authority appointed under section 21 and

SEC. 2 DEFINITIONS

includes the Chaiperson;

(ze) "Notification" means a notification published in the Official Gazettee and the expression "notify" shall be construed accordingly;

(zf) "occupancy certificate" means the occupancy certificate, or such other certificate by whatever name called issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;

SEC. 2 DEFINITIONS

- (zg) "Person" includes,—
- (i) an individual;
 - (ii) a Hindu undivided family;
 - (iii) a company;
 - (iv) a firm under the Indian Partnership Act, 1932 or the LLP Act, 2008, as the case may be;
 - (v) a competent authority;
 - (vi) an association of persons or a body of individuals whether incorporated or not;
 - (vii) a co-operative society registered under any law relating to co-operative societies;
 - (viii) any such other entity as the appropriate Government may, by notification, specify in this behalf;

SEC. 2 DEFINITIONS

(zh) "planning area" means a planning area or a development area or a local planning area or a regional development plan area, by whatever name called, or any other area specified as such by the appropriate Government or any competent authority and includes any area designated by the appropriate Government or the competent authority to be a planning area for future planned development, under the law relating to Town and Country Planning for the time being in force and as revised from time to time;

SEC. 2 DEFINITIONS

(zi) "prescribed" means prescribed by rules made under this Act;

(zj) "project" means the real estate project as defined in clause (zn);

(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

SEC. 2 DEFINITIONS

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

SEC. 2 DEFINITIONS

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

(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

SEC. 2 DEFINITIONS

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.

Explanation.—For the purposes of this clause, where the person who constructs or converts a building into

SEC. 2 DEFINITIONS

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;

(zl) "prospectus" means any document described or issued as a prospectus or any notice, circular, or other document offering for sale or any real estate project or inviting any person to make advances or deposits for such purposes;

SEC. 2 DEFINITIONS

(zm) "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

SEC. 2 DEFINITIONS

may be, and includes property dealers, brokers, middlemen by whatever name called;

(zn) "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;

SEC. 2 DEFINITIONS

(zo) "regulations" means the regulations made by the Authority under this Act;

(zp) "rule" means the rules made under this Act by the appropriate Government;

(zq) "sanctioned plan" means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are

SEC. 2 DEFINITIONS

approved by the competent authority prior to start of a real estate project;

(zr) "words and expressions used herein but not defined in this Act and defined in any law for the time being in force or in the municipal laws or such other relevant laws of the appropriate Government shall have the same meanings respectively assigned to them in those laws.

ARRANGEMENT OF CLAUSES

CHAPTER II

REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

3. Prior registration of real estate project with Real Estate Regulatory Authority.
4. Application for registration of real estate project.

U/S. 3 COMPULSORY REGISTRATION OF REAL ESTATE PROJECT

**FOR DEVELOPMENT
OF
ANY IMMOVABLE PROPERTY
IN PHASES OR OTHERWISE
And
All Pending Projects where
OC is not received within 3 months**

**REGISTRATION
EXEMPTED**

**AREA DOES
NOT
EXCEED 500
SQ.METERS OR
Less than 8 Units**

**All Completed
Projects Where
OC is Granted.**

**RENOVATION
OR REPAIRS
WHICH DOES
NOT INVOLVE
REALLOTMENT
& MARKETING**

U/S. 3 COMPULSORY REGISTRATION OF REAL ESTATE PROJECT

- 1. THE PROMOTER CARRYING ON REAL ESTATE BUSINESS SHOULD APPLY WITHIN 3 MONTHS FROM THE COMMENCEMENT OF THE ACT FOR ALL ONGOING PROJECTS AND WHERE OC IS NOT OBTAINED.**
- 2. ONCE APPLICATION IS MADE PROMOTER TO CARRY ON BUSINESS UNTIL CERTIFICATE OF REGISTRATION OF THE PROJECT IS GRANTED OR HIS APPLICATION FOR REGISTRATION IS REJECTED**

U/S. 4 DISCLOSURE OF INFORMATION BY THE PROMOTER

By Registration of the Project for development of immovable property in specified form by paying prescribed fees and by submitting information.

No & Size of
Layout, phases

Proposed
Project &
facilities

Approvals
for each phase

Declaration by
Promoter

He has Title &
land is free from
encumbrances

Project to be
Completed
as per Terms
of Registration
And schedule of
completion

Project to be
Completed
Within the period
Of sanction by
Competent
Authority

70% of Realized
amt to be deposited
in a separate a/c
In Sch. Bank
For meeting cost
Of project

ARRANGEMENT OF CLAUSES

5. Grant of registration.-Within 30 days
6. Extension of registration.
7. Revocation of registration. – On default
8. Obligation of Authority consequent upon lapse of or on revocation of registration.
9. Registration of real estate agents.
10. Functions of real estate agents.

CHAPTER III

FUNCTIONS AND DUTIES OF PROMOTER

11. Functions and duties of promoter.
12. Obligations of promoter regarding veracity of advertisement or prospectus.

ARRANGEMENT OF CLAUSES

13. No deposit or advance to be taken by promoter without first entering into agreement for sale.
14. Adherence to sanctioned plans and project specifications by the promoter.
15. Obligations of promoter in case of transfer of a real estate project to a third party.
16. Obligations of promoter regarding insurance of real estate project.
17. Transfer of title.
18. Return of amount and compensation.

CHAPTER IV

RIGHTS AND DUTIES OF ALLOTTEES

19. Rights and duties of allottees.

OBLIGATION OF THE DEVELOPER

Contractual Obligations

1. Enter into Agreement
2. Registration of Agreement
3. Receive the Flat Consideration
4. Hand over the Possession of flat as agreed

Statutory Obligations

1. Register Agent on Receipt of Advance
2. Complete the Building in all respect
3. Provide O.C., B.CC.
4. Provide Common Facilities
5. Water Connection
6. Electric connection
7. Disclose the information
8. Provide all Documents
9. Registration of Society / Legal Body
10. Providing Conveyance

FORMATION OF LEGAL ENTITY .

TO MANAGE COMMON SERVICES, AREA & FACILITIES
AS PER LOCAL LAW OR WITHIN 3 MONTHS OF OC

Society or
Federation

Company

Condominium

Other
Legal Entity

Mah.Co-op.
Soc.Act, 1960
At Dy. Repr.

Companies Act,
1956 at ROC

Mah. Appt.
Own. Act, 1970
At Sub-Repr.

Association
u/SRA, 1860

Trust
u/BPT,1950

Firms
u/IPA, 1932

PSU & GU
u/Act of Pimt

Others
LLP etc.

TO CONVEY LAND AND BUILDING TO THE LEGAL ENTITY DELIVER RELEVANT DOCUMENTS AS PER LOCAL LAW OR WITHIN 3 MONTHS OF REGISTRATION OF ENTITY

**Present Legal Remedies
as per MOFA**

**As per Real Estate (Development
and Regulation) Act, 2016**

**Civil Court
U/Specific Relief
Act, 1963**

**Consumer Court
U/ Consumer
Protection Act, 1986**

**Criminal Court
U/S-13 of
MOFA 1963**

**Regulatory
Authority
&
Appellate Tribunal in
place of Civil Court
/Criminal Court**

**Execution of Deemed Conveyance as per MOFA
through Competent Authority /Dy.Dist.Regr,
C.S**

**Consumer Court
Deemed Conveyance
To continue as per
MOFA 1963**

CH-IV : SEC. 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

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

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

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

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 Act.

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

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.

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

(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.

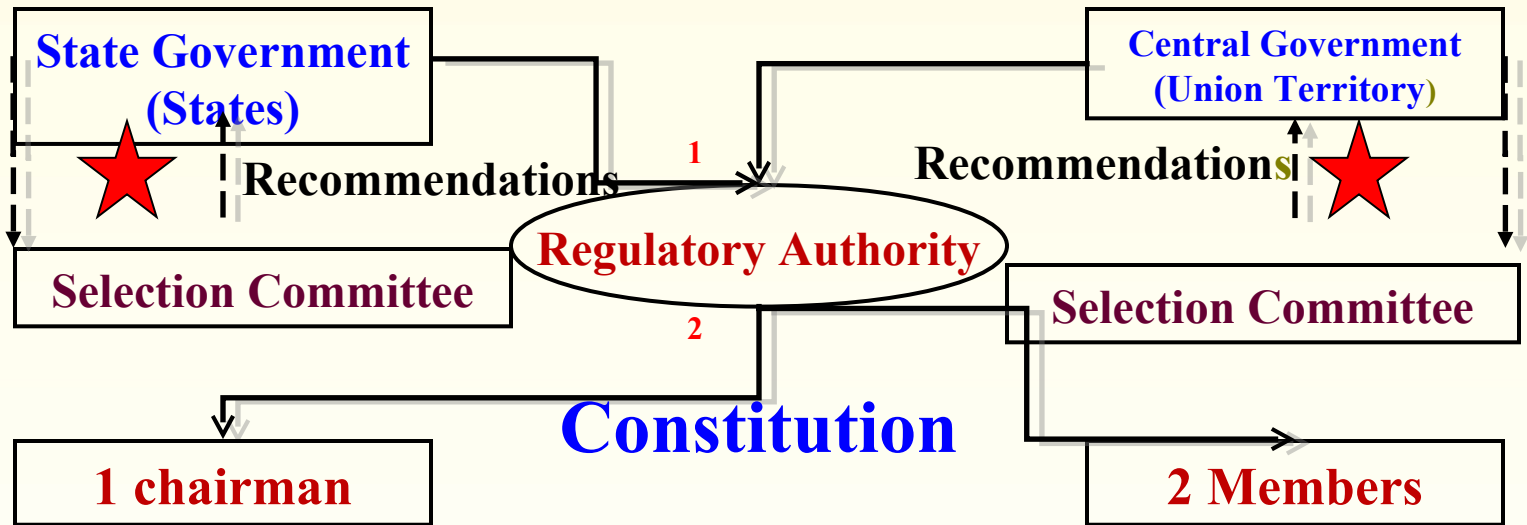
SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

(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.

CH-V Establishment of Regulatory Authority

Appropriate Government



A person with at least 20 yrs of experience

Or

Secretary to CG or any equivalent post in CG or SG

A person with at least 15 yrs of experience

Or

Secretary to SG or any equivalent post in CG or SG

Functions of Regulatory Authority

ADJUDICATION

Settle disputes amongst allottee themselves

Settle disputes b/w allottee & promoters

Recovery of Penalties

DEVELOPER

Granting Registration

Maintain Website

compliance of obligations

Enter names of Defaulter Developers on the website

Functions of RA

REGULATORY & RULE MAKING

Ensure compliance of Directions

Recommendations

Advise to Appropriate Govt.

Making Enquiries

CONSUMERS

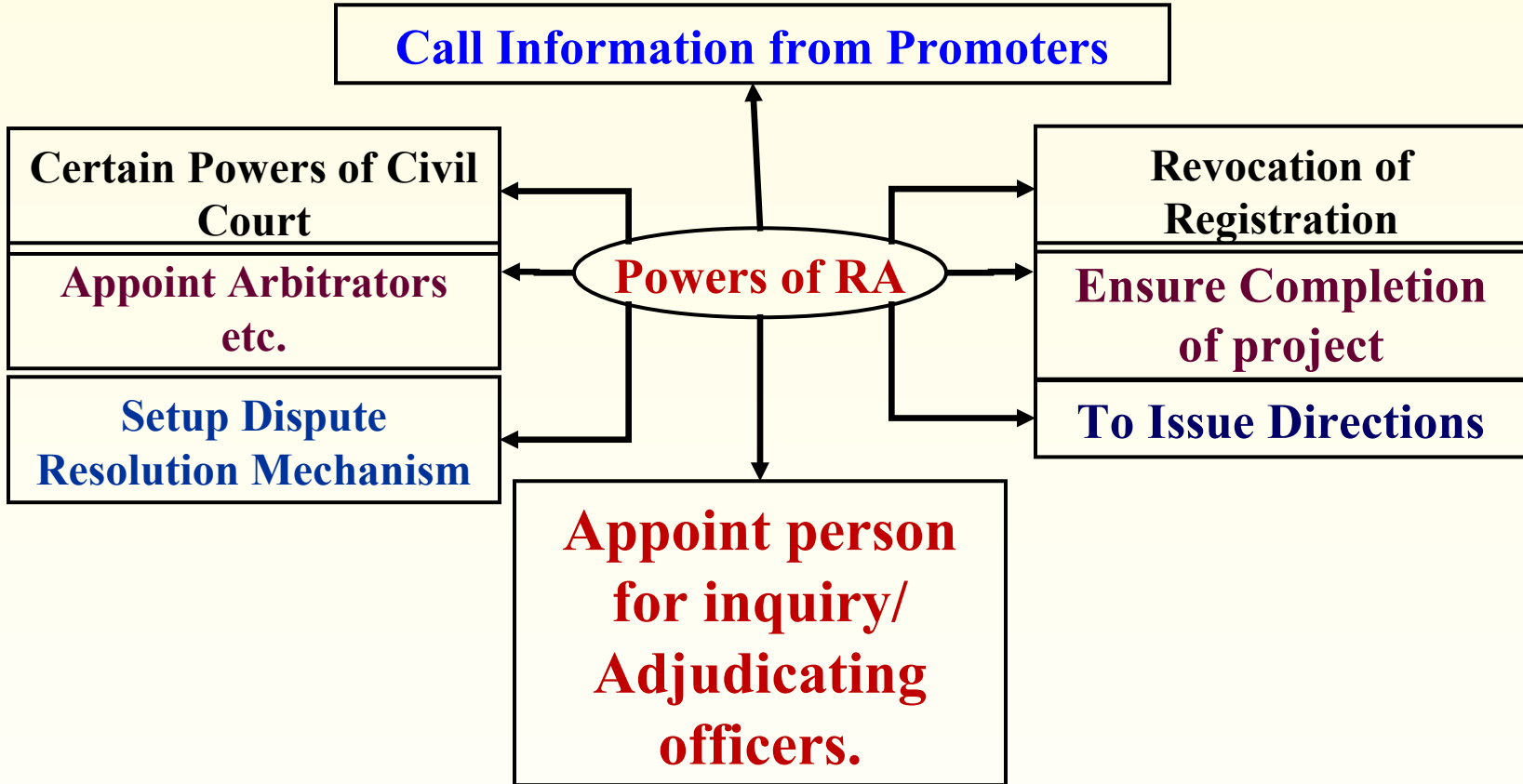
To fix charges levied on allottee

Ensure construction of Affordable Housing

Standardization of construction

Promote transparent, efficient & competitive real estate sector


Powers of Regulatory Authority



ARRANGEMENT OF CLAUSES



CHAPTER V THE REAL ESTATE REGULATORY AUTHORITY

20. Establishment and incorporation of Real Estate Regulatory Authority.
 21. Composition of Authority.
 22. Qualifications of Chairperson and Members of Authority.
- 

ARRANGEMENT OF CLAUSES

23. Term of office of Chairperson and Members.
24. Salary and allowances payable to Chairperson and Members.
25. Administrative powers of Chairperson.
26. Removal of Chairperson and Members from office in certain circumstances.
27. Restrictions on Chairperson or Members on employment after cessation of office.
28. Officers and other employees of Authority.
29. Meetings of Authority.
30. Vacancies, etc., not to invalidate proceeding of Authority.


ARRANGEMENT OF CLAUSES

31. Filing of complaints with the Authority or the adjudicating officer.
32. Functions of Authority for promotion of real estate sector.
33. Advocacy and awareness measures.
34. Functions of Authority.
35. Powers of Authority to call for information, conduct investigations.
36. Power to issue interim orders.
37. Powers of Authority to issue directions.
38. Powers of Authority.
39. Rectification of orders.
40. Recovery of interest or penalty or compensation and enforcement of order etc.

ARRANGEMENT OF CLAUSES



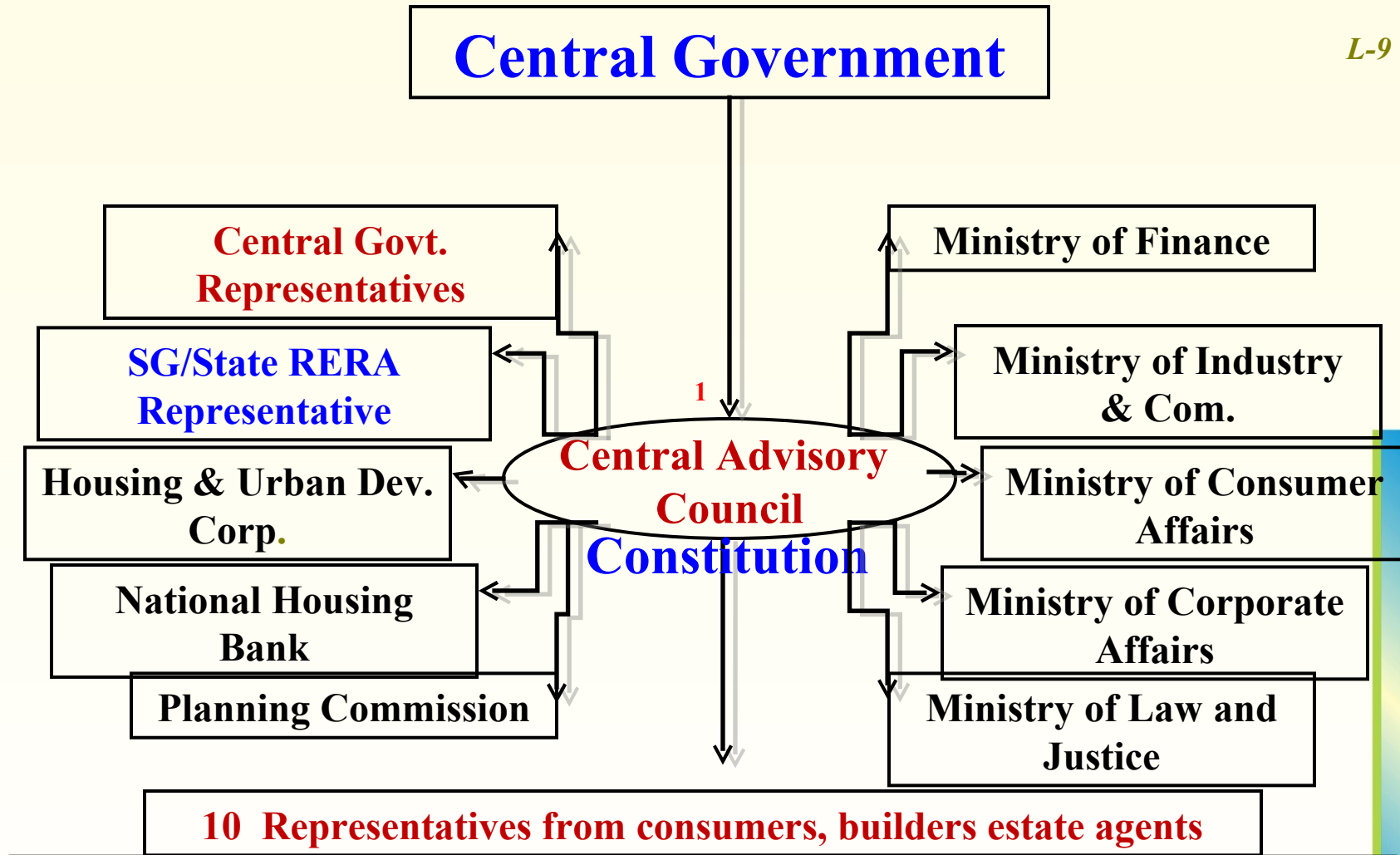
CHAPTER VI CENTRAL ADVISORY COUNCIL

41. Establishment of Central Advisory Council.
 42. Functions of Central Advisory Council.
- 



Establishment of Central Advisory Council

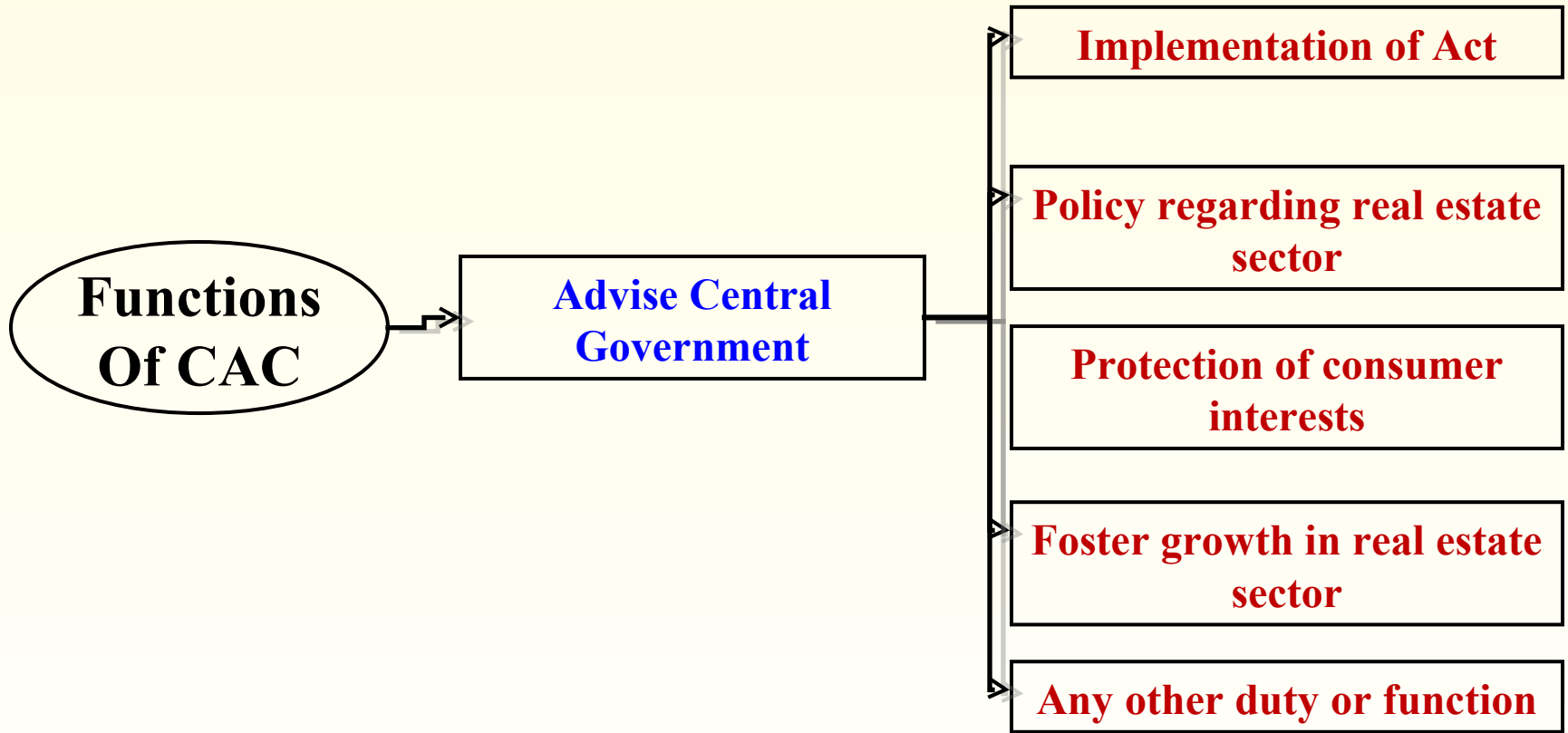
L-9



1. Central Government to appoint Central Advisory Council.



Functions of Central Advisory Council



ARRANGEMENT OF CLAUSES

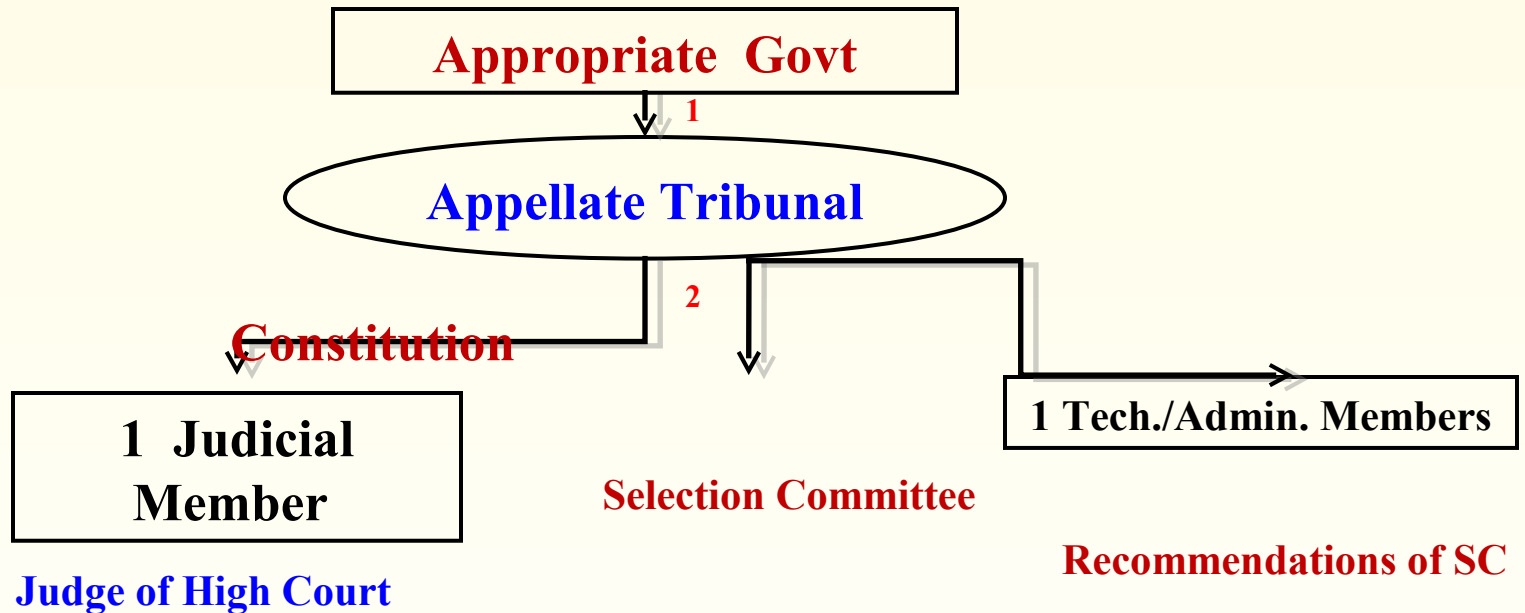
CHAPTER VII : THE REAL ESTATE APPELLATE TRIBUNAL

43. Establishment of Real Estate Appellate Tribunal.
44. Application for settlement of disputes and appeals to Appellate Tribunal.
45. Composition of Appellate Tribunal.
46. Qualifications for appointment of Chairperson and Members.
47. Term of office of Chairperson and Members.
48. Salary and allowances payable to Chairperson and Members.
49. Removal of Chairperson and Member from office in certain circumstances.
50. Restrictions on Chairpersons or Judicial Member or Technical or Administrative Member on employment after cessation of office.

ARRANGEMENT OF CLAUSES

51. Officers and other employees of Appellate Tribunal.
52. Vacancies.
53. Powers of Tribunal.
54. Administrative powers of Chairperson of Appellate Tribunal.
55. Vacancies etc. not to invalidate proceeding of Appellate Tribunal.
56. Right to legal representation.
57. Orders passed by Appellate Tribunal to be executable as a decree.
58. Appeal to High Court.

Establishment of Appellate Tribunal



Judge of High Court

Judge of Supreme Court

Or

Chief Justice of High Court

Recommendations of SC

A person with 20 yrs experience in field of urban development, housing, real estate etc.

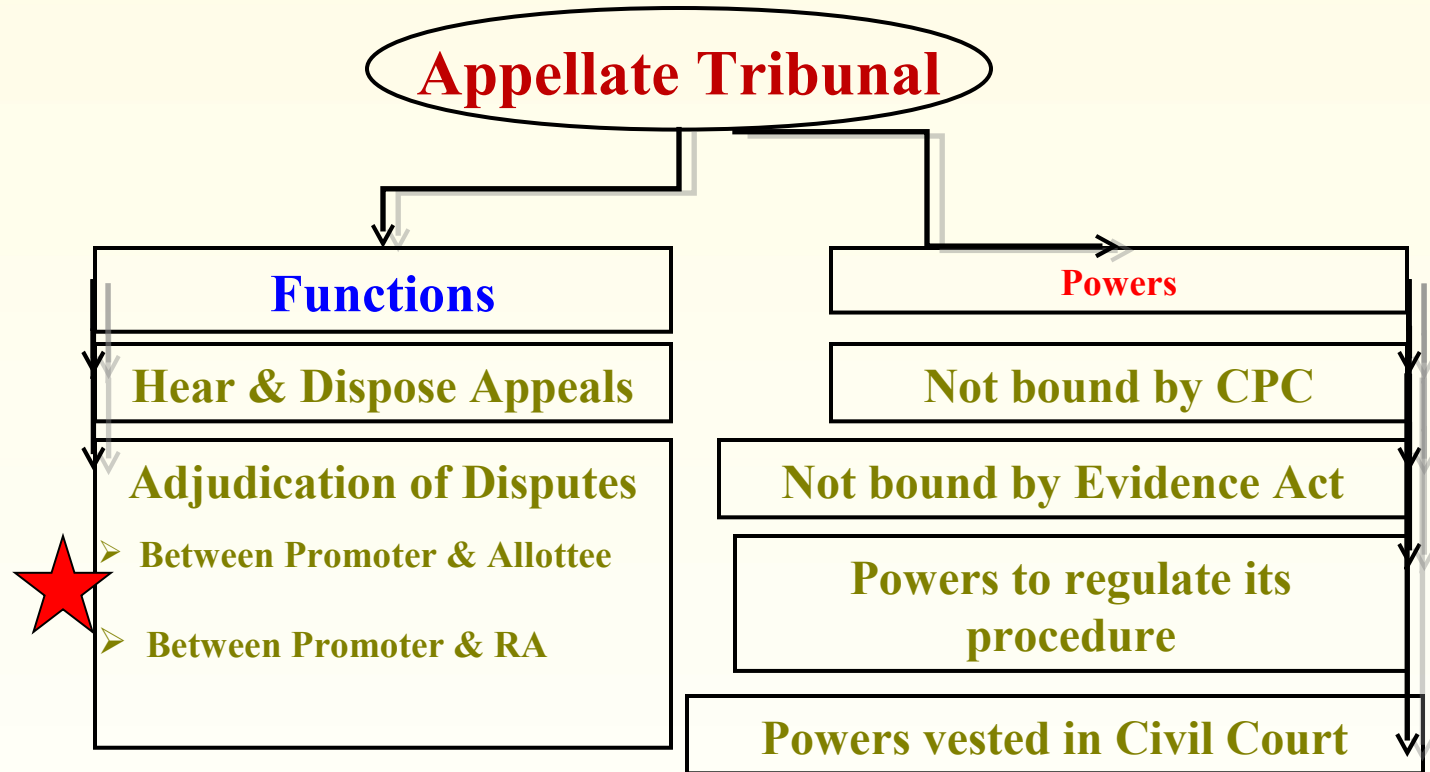
Or

Secretary to GOI or an equivalent post in CG or SG



Powers & Functions of Appellate Tribunal

L-8



Appeal to be preferred to AT against order of RA (within 30 days).

Appeal to be decided by AT within 60 days.

Order of AT to be executed as Decree of civil court.



CHAPTER VIII

OFFENCES, PENALTIES AND ADJUDICATION

59. Punishment for non-registration u/s 3.
60. Penalty for contravention of section 4.
61. Penalty for contravention of other provisions of this Act.
62. Penalty for non-registration and contravention under sections 9 and 10.
63. Penalty for failure to comply with orders of Authority by promoter.
64. Penalty for failure to comply with orders of Appellate Tribunal by promoter.

ARRANGEMENT OF CLAUSES

65. Penalty for failure to comply with orders of Authority by real estate agent.
66. Penalty for failure to comply with orders of Appellate Tribunal by real estate agent.
67. Penalty for failure to comply with orders of Authority by allottee.
68. Penalty for failure to comply with orders of Appellate Tribunal by allottee.
69. Offences by companies.
70. Compounding of offences.
71. Power to adjudicate.
72. Factors to be taken into account by the adjudicating officer.



Offences and Penalties

Section	Offence	Penalty
59(1)	Contravention of S-3 i.e. failure to obtain registration.	Upto 10% of cost of project as per RERA.
59(2)	Contravention of any other provision of (other than S-3) or of rules made there under.	Punishable with a term extended upto 3 yrs. Or with fine which may extend upto further 10% of the cost of project or with both.



Offences and Penalties

L-11

Section	Offence	Penalty
60	Provides false information or contravenes the provisions of sec.4 – Application for registration with RERA	Penalty upto 5% of cost of project.
61	Contravention of any other provisions of the Act.	Penalty upto 5% of cost of project.

Offences and Penalties

Section	Offence	Penalty <i>L-11</i>
62	Non Registration by Estate Agents or contraventions of section 9 and 10 regarding registration of estate agents with RERA	Rs.10,000/- during which such default continues which may cummulatively extend upto 5% of cost of plot/flat/ Apt for which sale and purchase has been facilitated as per RERA.
63	Failure to comply with the orders of Authority by the Promoter	Penalty for every day during which the default continues, which may be cummulatively upto 5% of cost of project.

Offences and Penalties

Section	Offence	Penalty <i>L-11</i>
64	Failure to Comply with the Orders of Appellate Tribunal by Promoter	Punishable with imprisonment for a term which may extend upto 3 years or with fine for every day during which such default continues, which cumulatively extend upto 0% of the estimated cost of project.
65	Failure to comply with the orders of Authority by the Real Estate Agent.	Penalty for every day during which the default continues, which may be cummulatively upto 5% of cost of plot/flat as the case may be for which sale /purchase done.

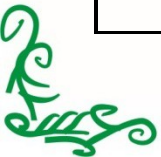
Offences and Penalties

Section	Offence	Penalty <i>L-11</i>
66	Failure to Comply with the Orders of Appellate Tribunal by real estate agent	Punishable with imprisonment for a term which may extend upto 1 year or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost of flat/Apt as the case may be done.
67	Failure to comply with the orders of Authority by the Allottee.	Penalty for every day during which the default continues, which may be cummulatively upto 5% of cost of plot/flat as the case may be for which sale /purchase done.

Offences and Penalties



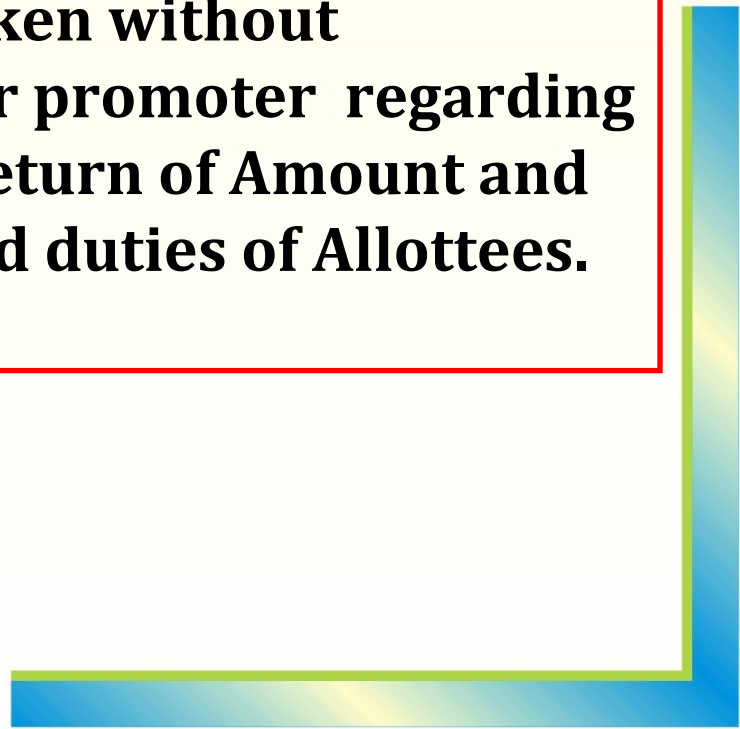
Section	Offence	Penalty <i>L-11</i>
68	Failure to Comply with the Orders of Appellate Tribunal by the allottee.	Punishable with imprisonment for a term which may extend upto 1 year or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost of flat/Apt as the case may be.
69	Offence committed by Company- Every officer at the relevant time and also the company shall be liable to pay the penalty.	Every Director officer or manager who is liable to discharge the duties shall be considered as committed the offence and shall be accordingly committed.





CH- VIII: OFFENCES, PENALTIES AND ADJUDICATION

- 70: Compounding of Offences: The offences may be compounded not withstanding anything contained in the Code of Criminal Procedure , 1973.**
- 71. Power to Adjudicate: For adjudicating compensation under section : 12(Amount taken without Agreement, 14(Obligations for promoter regarding insurance of the project 18(Return of Amount and Compensation, 19((Rights and duties of Allottees.**



ARRANGEMENT OF CLAUSES



CHAPTER IX

FINANCE, ACCOUNTS, AUDITS AND REPORTS

73. Grants and loans by Central Government.
74. Grants and loans by State Government.
75. Constitution of Fund.
76. Crediting sums realised by way of penalties to Consolidated Fund of India or State account.
77. Budget, accounts and audit.
78. Annual report.




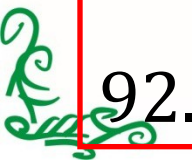
CHAPTER IX

FINANCE, ACCOUNTS, AUDITS AND REPORTS

73. Grants and loans by Central Government.
74. Grants and loans by State Government.
75. Constitution of Fund.: Grants, Fees, Int and applied for salaries, Allowances, Members and all administrative expenses.
76. Crediting sums realised by way of penalties to Consolidated Fund of India or State account.
77. Budget, accounts and audit. : to be prepare by the RERA, Audited by Comptroller and Auditor General of India –Annually and lay before Parliament or the State Assembly.
78. Annual report. In such form and such items as may be prescribed by the Appr.Govt.

CHAPTER X - MISCELLANEOUS

79. Bar of jurisdiction : Bar of Civil Court
80. Cognizance of offences. : Not Court other than Authority and Not court inferior to Metropolitan Magistrate or Judicial Magistrate of First Class.
81. Delegation. Power other than Rules making may be delegated to any officers for any purpose.
82. Power of appropriate Government to supersede Authority.
83. Powers of appropriate Government to issue directions to Authority and obtain reports and returns.
84. Power of appropriate Government to make rules.

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85. Power to make regulations with Authority
 86. Laying of Rules –Central Govt before Parliament and for state Govt – before assembly for 30 days.
 87. Members, etc., to be public servants-U/s. 21 of Indian Penal Code.
 88. Application of other laws not barred: This is in addition to and not derogation of the Provisions of any other law for the time being.
 89. Act to have overriding effect.
 90. Protection of action taken in good faith.
 91. Power to remove difficulties.: Central Govt may notify any order for 2 years to remove difficulties.
 92. Repeal.. Mah. Hsg(R&D) Act, 2012

The features of The Maharashtra Real Estate(Regulation and Development)(Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2016 includes :

- a. Definition of Parking Space has been added :
to give details of Parking Spaces by the Promoter
(Rule 2(o))
- b. The Promoter is required to furnish the details while registering the project :
 - i) Title Report of the land to be submitted by the practicing Advocate reflecting the flow of the title:
(Rule 3(2)(c))





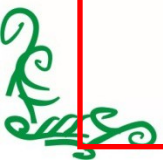
ii) Disclosure by the Promoter about his intention of consuming the FSI :


It is the general practice that the approvals to the Real Estate Projects are available in stages/phases. Hence approved plan does not reflect the total development proposed by the developer on the project land. The consumer must be informed about the total development which the developers intend to carry. (Rule 3(2)(e))

iii) Use of construction Technology and Design Standards

iv) Nature of organization of Allottees to be constituted.



- 
- v) The Authority may ask for more information or documents
 - vi) Registration Fees for Real Estate Project
 - Rs. 1 per Square Meter for project where area of land proposed to be developed is less than 1000 Square Meter
 - Rs.2 per Square Meter for projects where area of land proposed to be developed is more than 1000 Square Meters (rule 3(5))
 - vii) Registration exempted for renovation, repairs or redevelopment which does not involve marketing, advertisement, selling or new allotment of any apartment or structural repairs, rehabilitation buildings being constructed under any scheme of law (rule 3(6))
- 





Viii) Withdrawal charges would be determined by regulations (Rule 3(7))

ix) The Promoter has to disclose land cost, cost of construction and estimated cost of the real estate project as required under the Act :

Since penalty is levied on the cost of the project these information is necessary (rule 3(8))

x) All projects where occupancy certificates to all the building under sanctioned Plan not received needs to be registered with Authority (rule 4(1))







xi) Status of ongoing projects be disclosed as per **the last sanctioned plan** and also about the status of development of common areas along with expected period of completion to be disclosed.

xii) CA to certify the amount of receivables in respect of sold/allotted apartments and estimated receivables calculated on ASR rates for unsold apartments(rule 4(2))

xiii) **Cannot sell** the apartment if Promoter has not registered within 90 days from the date of notification of Section 3 of the Act(rule 4(4) 2nd Proviso)

xiv) Withdrawal of amounts deposited in the separate account on the basis of certificate issued by the engineer, architect and chartered accountant about the extent of project completed vis-à-vis the estimated cost of the project (rule 5(1)(b))







xv) In case of ongoing projects : If estimated cost of receivable is less than the estimated cost required for completing the project then he has to deposit 100 percent in separate account (rule 5(1)(ii))

xvi) Land cost incurred and cost of construction has been defined in detail in explanations under the rule 5

xvii) Registration period includes the period where actual work could not be started due to specific orders from any court of law, Competent Authority, Tribunal etc or such circumstances as may be decided by the Authority(Rule 6(a))

xviii) Extension to the real estate project may be granted by Authority depending upon documents furnished, and on same charges as required for registration of the Project (rule 7)








xix) Revocation of Projects cannot be made unless all the parties who have created third party interest are heard (rule 8(2))

xx) Transfer of Title : in case of Only one building in layout, then within two months from the date of occupation certificate, In multiple buildings within two months from the date of receipt of occupation certificate for last building in the layout.(rule 9(1))

xxi) Deemed conveyance under MOFA exists(9(3))
Conveyance in case of Statutory Bodies like MHADA, CIDCO, NIT etc would be as per the provisions of the respective acts related to them(9(4))




- 
- xxii) Fees for Registration of Real Estate Agents
Rs, 10,000 for individual, Rs. 25 lakhs for companies registered under companies act and Rs, one lakh for other entities besides companies act (rule11)
- xxiii) Rate of interest payable for Promoter as well as Allottees is SBI Prime Lending Rate plus two percent
- xxiv) Fees for filing a complaint with the Authority is Rs. 10000/- (Rule 23(1))
- xxv) Fees for filing a complaint with Adjudicating Officer is Rs. 10000/- (rule 24(1))
- xxvi) Forms for various purposes, application and certification Form 'A' to Form 'M'
- 

xxvii) Annexure 'A' Agreements

1. Parking spaces can be sold by the Promoter at consideration (Point 1.a of the Agreement)
2. Earnest Money Deposit is 10 percent of purchase consideration and further amounts as per the stages of physical completion

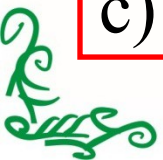
3. Any breach of conditions of the Agreement be cause of termination of agreement by the Promoter by sending email by giving 8 days notice and if allottee fails to rectify the breach, then Promoter is free to terminate the contract and return the amount received from allottee within 6 months adjusting all dues payable to him (clause 6.3 and 6.4) without any interest.



The Salient Features of The Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of complaints and Appeal, etc.) Rules, 2016

- a) Recovery of interest or penalty would be recovered as arrears of land revenue as provided in Maharashtra Land Revenue Code (Rule 3)

 - b) Compounding of Offences under section 59, 64,66,68 of the Act has been varying from 2 percent to 10 percent of the project cost (rule 5)

 - c) Fees for filing appeal is Rs. 5000/- (Rule 9)
- 

KEY CENTRAL LEGISLATIONS PERTAINING TO REAL ESTATE ARE

- **Indian Stamp Act**: Deals with the amount of duty to be paid on the prescribed instruments including instruments transferring interest in any immovable property.
- **Indian Easements Act, 1882**: Deals with the easementary rights of parties, such as right to access etc.
- **Indian Contract Act, 1872 (“ICA”)**: Deals with the contractual rights and obligations of the parties.

Types of rights over land recognised in India?

-Purely contractual between the parties

- (i) **Freehold** – absolute ownership; the owner has the right to use the real estate for any lawful purpose and sell when and to whom he decides.
- (ii) **Leasehold** – exclusive use; the lessee has the right to possess and use the immovable property for a fixed period as per the terms of the lease agreement executed with the lessor.
- (iii) **Licence** – the licensee has the right to use the property as per the terms of the licence executed with the licensor..

Types of rights over land recognised in India?

-Purely contractual between the parties

- ((iv) **Easements** – the right which an owner of land has over another piece of land which is not his, for e.g. right of way, light, air etc.
- (v) **Adverse possession** – a special right obtained through open, continuous, and uninterrupted possession in defiance of the real owner's title of private land, for more than 12 years (for government property, this period is 30 years).
- Apart from the above, the parties can contractually have certain rights on the property for e.g. right of first refusal, pre-emption rights etc.

ACTS & RULES APPLICABLE

- **Transfer of Property Act, 1882,**
- **REGISTRATION ACT, 1908 – For registration of Conveyance deed**
- **MAHARASHTRA STAMP ACT, 1958 – For Stamp Duty Verification and calculation**
- **M.C.S. ACT, 1960- under which society is registered, Companies Act etc.**
- **INCOME TAX ACT, 1961 – To Verify Tax Liabilities of the Vendor**
- **MAH. OWNERSHIP FLATS ACT, 1963- Under which Flats are purchased and local law.**

ACTS & RULES APPLICABLE

- **ULC-** For verifying any violations under the Act or any other land related legislations.
- **Criminal Procedure Code / Civil Procedure Code and Consumer Protection Act**– For proceeding against the builder
- **BMC – Development Control Rules-For Legality of the Building construction.**
- **LAND REVENUE CODE –** Where Land Records Order kept
- **BYE-LAWS:** Applicable to all the societies

DEPARTMENT TO BE VISITED

- **City Survey Office – for Property Card**
- **Collector of Stamps – For Stamp Duty**
- **Sub Registrar – For Registration of Copy**
- **Assessment Dept– For Change in the Prop. Tax Bill**
- **Collector office : For N.A. Order**
- **Revenue Dept : ULC order**
- **Many more dept on case to case basis**



Disclaimer

All the efforts are made to cover the important provisions of the law. The material contained herein is not exhaustive, and contains certain generalizations. The latest Provisions and Notifications must be viewed. The presenter is not responsible for any loss incurred on the actions taken based on the material presented.





What is all this empowering us to do? Innovate, Get involved & Solve social problems for financial inclusion and better India through Co-ops!

Thank you for Getting involved in the discussion!

CA RAMESH PRABHU ,

CHAIRMAN

MAHARASHTRA SOCIETIES WELFARE ASSOCIATION, MEMBER OF TASK FORCE FOR NPOS & CO-OPS OF MAHARASHTRA, CONVENER TO PREPARE GUIDANCE NOTE ON AUDIT OF DISTRICT AND STATE CO-OP BANKS -PUBLISHED BY PDC OF ICAI, CO-OPTED MEMBER OF CO-OP COMMITTEE (MAHARASHTRA) OF WIRC OF ICAI.





Presented By :

CA. Ramesh S Prabhu

(Chairman) M S WA

**Thank
YOU!!**

