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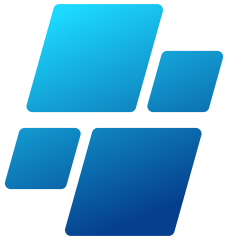
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Dear Members,

Greetings!!!

We are very happy to share with you this Eighth Newsletter on RERA.

The Real Estate (Regulation and Development) Act, of 2016 is aimed at protecting homebuyers. To this end, it vests power in the hands of customers to help them make informed decisions, seek solutions and get the required compensation for any injustice meted out to them by sellers. Along with making builders accountable for delivery timelines, the Act offers the following benefits to homebuyers:

1. Access to detailed information about the Promoters, Project, and its timelines for completion.
2. Increased transparency
3. Fair compensation for project delays
4. Fair pricing and refund policy
5. Fast-tracking of grievance Redressal

The Registration of Projects with RERA is mandatory if the Project is commenced after the RERA Act is notified. However, the Registration of the Project is not required if the Promoter has obtained a Completion certificate before the notification of the RERA act. This issue is well settled by way of various RERA orders. Recently the Assam Real Estate Appellate Tribunal ruled that, that a housing project will not require to be registered if it received an occupancy Certificate or deemed approval for occupation prior to 1st August 2017.

Real Estate Regulatory Authority has more powers which include orders for inquiry and investigation, and cancellation of the Project approval if the Approval was found to be obtained by the promoter by way of misrepresentation and submission of fabricated documents.

The RERA authority has the power to order the Arrest of Persons who have not complied with its order.

This newsletter consists of various orders passed by the Court and State RERA authorities and recent developments taking place in the realty sector.

Thank You.

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# Deposit Rs 32 lakh for us to consider plea against earlier order: REAT to builder

**SYNOPSIS:** *The appeal was filed by M/s Arya Erectors India Pvt. Ltd. against an order dated 21.09.2022 passed by the RERA, Assam wherein it had directed the builder to pay the buyer of a villa interest on Rs. 1.5 Crore with effect from 28/08/2020 until the handing over of possession of the villa. In addition, an amount of Rs.1 lakh was also imposed on the builder by way of penalty.*

The Assam Real Estate Appellate Tribunal (REAT) has directed a builder to deposit with it Rs.32,32,850 before its appeal against an order of the Real Estate Regulatory Authority(RERA), Assam can be considered for admission.

The appeal was filed by M/s Arya Erectors India Pvt. Ltd. against an order dated 21.09.2022 passed by the RERA, Assam wherein it had directed the builder to pay the buyer of a villa interest on Rs. 1.5 Crore with effect from 28/08/2020 until the handing over of possession of the villa. In addition, an amount of Rs.1 lakh was also imposed on the builder by way of penalty.



The Tribunal ruled that under the proviso to sub-section (5) of section 43 of the Real Estate (Regulation and Development) Act, 2016, firstly, where penalty has been imposed by the RERA and the same is put to challenge by a promoter by way of appeal before the REAT, the promoter must first deposit with the Appellate Tribunal at least 30% of the penalty or such higher percentage as may be determined by the Appellate Tribunal. Secondly, where challenge is also made to an order asking the promoter to make payment of the total amount to the allottee, including interest and compensation, if any, the promoter has to deposit the said total amount before the appeal is heard. As the statute vests no discretion with the Appellate Tribunal to accept any deposit other than at least 30% of the penalty imposed along with the total amount to be paid to the allottee by way of interest, it was held that the promoter must first deposit with the Appellate Tribunal Rs. 32,32,850/-, the requisite amount, before the appeal could be entertained or heard on merits by the Tribunal.

While passing the order, Justice (Retd.) Manojit Bhuyan, Chairperson and Onkar Kedia, Member drew strength from the law laid down by Supreme Court of India vide Judgment dated 11/11/2021 in Newtech Promoters and Developers Pvt. Ltd. v. State of UP and others wherein it held that pre-deposit, as envisaged under Section 43(5) of the Act, in no circumstances can be said to be onerous or in violation of Articles 14 or 19(1)(g) of the Constitution of India.

The Tribunal asked M/s Arya Erect Erectors India Pvt. Ltd. to pay the total amount within three weeks.

# MahaRERA revokes registration of 15 real estate projects near Mumbai for 'fabricating documents'

In a suo motu action for the second time in a month, the Maharashtra Real Estate Regulatory Authority (MahaRERA) has revoked the registration of 15 projects of developers allegedly involved in fabricating documents and obtaining RERA registration.

All the projects are located within a 50 to 150 km radius of Mumbai in the Kalyan Dombivali Municipal Corporation (KDMC) jurisdiction, which is a part of the Mumbai Metropolitan Region (MMR).

The projects are mostly in the affordable residential housing segment, with the unit price varying between Rs 30 lakh and Rs 60 lakh.

The 15 real estate projects do not involve any major players but grade C and D developers. The companies named include Aditya Infra, Gurukrupa Construction, Dhanashree Construction, Durga Construction, Matoshree Developers and Gaondevi Enterprises.

According to the order, the MahaRERA had on November 21, conducted a physical hearing and summoned the 15 developers. However, none of the developers showed up, forcing the Authority to revoke the registrations of 15 projects under sections 5 and 7 of the RERA Act.

The order states, "In the present case of not obtaining the Commencement Certificate (CCs) from the Competent Authority and misrepresenting to this Authority as well as the allottees / home buyers and collecting money through misrepresentation and taking the bookings in the above-mentioned MahaRERA registered projects can be said to be unfair or deceptive practice (sic)."



## What is RERA registration?

Under the RERA Act of 2016, all real estate projects have to be registered with the RERA in respective states. In Maharashtra, on registration of a project with MahaRERA, the projects are issued a certificate with a unique registration number.

One can log on to the MahaRERA website, and, after entering the unique number, get details on the project. Under the rules laid down by the Act, no one can book, sell, market or advertise a particular property without first registering it with RERA.

The order has stated that the regulator has powers under Section 7 of the RERA Act, 2016, to revoke the registration of MahaRERA projects if the promoter (developer) was found to be indulging in any unfair practices, as also under section 5 of the Act.

Further, the MahaRERA, in the order, has also stated that it would approach the Urban Development Department of Maharashtra to immediately put in place a system wherein all milestone approvals relevant to buyers / purchasers of real estate projects, such as the Commencement Certificate (CC) and Occupation Certificate (OC), are put on a dedicated portal by the respective planning authority.

This is to ensure that the certificates can be verified by both the buyers of real estate projects and the MahaRERA, said the order.

BENGALURU: The Karnataka Real Estate Regulatory Authority of India (K-RERA) recently ordered a forensic audit into the account books of Mantri Technology Constellation Private Limited (now known as Buoyant Technology Consellations Pvt Ltd) in connection with its 'Mantri Manyata Energia' project at Rachenahalli village in K R Puram Hobli.



A forensic audit, which involves intense scrutiny of a company's accounts to track its money trail, is done in the rarest of rare cases. The order, passed on November 9, has just been made public. K-RERA also appointed CAs, JAA & Associates, to conduct the audit under Section 35 of the Act with immediate effect. The complainants (home buyers) have been directed to bear the costs towards the audit by depositing funds with the authority, it said.

RERA Chairman H C Kishore Chandra, Member Neelamani N Raju and former member D Vishnuaradhana Reddy had visited the project in September 2021 to ascertain the reality of the project. Chandra told TNIE, "This kind of an audit is ordered very rarely."

The buyers wanted to verify if the real estate promoter has invested the huge amount collected from them towards the construction of their flats or mismanaged the funds for other purposes. The complainants allege that only 3 per cent of the work has been completed, but the builder has collected Rs 75.17 crore from the buyers, out of Rs 475.92 crore required for the project.

**K-RERA orders forensic audit of Mantri Energia project**

S LALITHA @ Bengaluru

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N Bhagyalakshmi, Promoter Member of the Forum for People's Collective Efforts, which is

rights of home buyers told TNIE, "It is a battle fought for four long years by buyers through Lawman and Associates. Each of the over 100 buyers who have complained against the concern has invested an average of Rs 1.2 crore in the project. Only a skeletal structure is in place. They have neither got their house nor any refund."

The National Company Law Tribunal had suspended the Board of the company in June this year and appointed retired Karnataka High Court judge Justice Anand Byrareddy as

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The National Company Law Tribunal had suspended the Board of the company in June this year and appointed retired Karnataka High Court judge Justice Anand Byrareddy as administrator.



THIRUVANANTHAPURAM: Landowners engaged in illegal plot development activities will face the heat. The Kerala Real Estate Regulatory Authority (K-RERA) has initiated action against plot development projects that have not obtained approval from the local self-government and the regulatory authority. As per the state government's building rules, all plot development projects have to obtain development permits from the local authority. Plot development projects with a land area exceeding 500 sq m should obtain registration from the K-RERA as well.

K-RERA chairman P H Kurian said illegal plot development is rampant in the state. Of the total 855 projects registered with the authority, only 20 are plot development projects. "We've received complaints from customers who invested in unregistered projects. These projects neither have K-RERA registration nor a development permit from the LSG. The authority has sent show-cause notice to the promoters. The hearing on the petition will begin only after the registration," he said.

The authority has now asked the Local Self-Government Department to issue a direction to local bodies for the strict implementation of building rules on plot development.

Kurian warned land owners who assign the whole task of property sale with real estate agents. "They should ensure that mandatory sanctions are obtained. As per the law, penal action is to be taken against the land owner, not intermediaries. The authority can impose a fine up to 10 per cent of the project cost in such cases," he said.

Customers, both home buyers and entrepreneurs, are also advised against investing in projects that do not have a development permit from the LSG and K-RERA registration, if applicable. "It will be a cumbersome task for buyers who invested in unregistered projects to get legal remedy for breach of promise by the promoter. The K-RERA can hear the petition only after coercing the builder to obtain registration. It will take time," he said.

Promoters who do not have ownership of the project land should enter into a registered joint development agreement with the land owner. A copy of the agreement should be submitted along with the application for registration with K-RERA.

## Registration mandatory

All plot development projects in rural and urban areas should obtain development permits from the LSG. All projects exceeding 500 sq m land should obtain K-RERA registration. Buyers should insist on LSG permit and K-RERA registration. Landowners will face legal action for non-registration, not their real estate agents.

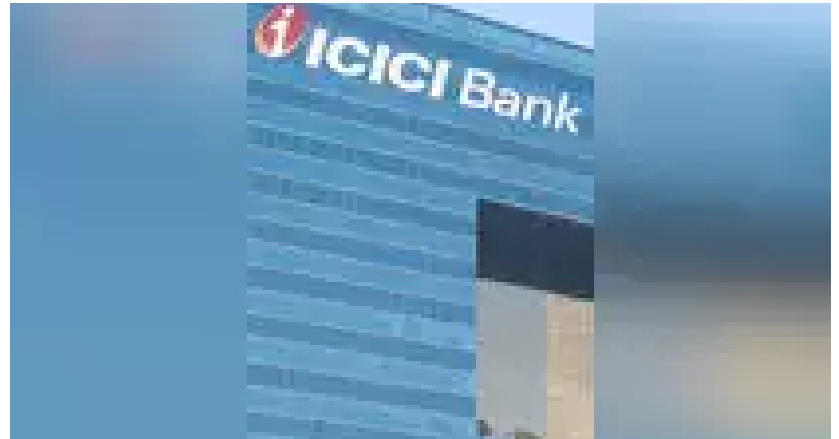


# ICICI Bank to step up realty play as RERA, growth drive optimism

## Synopsis

The initiative by ICICI Bank offers builders instant generation of account numbers for registration with the Real Estate Regulatory Authority (RERA), better statutory payments efficiently and also enables them to manage payment obligations to vendors, employees and utility providers.

After shying away from the real estate sector until now, private lender ICICI Bank NSE 0.83 % is set to woo builders with construction finance, regulatory services, inventory funding and lease rental discounting (LRD), as the segment has emerged as the fastest growing with built-in security like a regulatory framework.



The initiative by ICICI Bank offers builders instant generation of account numbers for registration with the Real Estate Regulatory Authority (RERA), better statutory payments efficiently and also enables them to manage payment obligations to vendors, employees and utility providers.

"We are shifting our stance towards the real estate sector because RERA has led to developer discipline. We have watched the sector for some time now and we see that large developers have become listed and reduced debt," ICICI Bank executive director Anup Bagchi told ET.



"Developers now have to get approvals, ring-fence cash flows and improve compliance. Also, with Covid, inventory levels have come under control," he said.

The digital stack also provides real estate investment trusts and alternative investment funds with services for digital collection, reconciliation, surplus distribution and custodial services.

REITs are trusts that manage high-quality real estate property portfolios, collect rent through lease income and distribute the surplus to the investors.

# Homebuyers body demands real estate law RERA to be functional in West Bengal

Homebuyers' association FPCE on Sunday urged the West Bengal government to make the real estate law RERA functional in the state at the earliest to protect the consumers' interest. In May last year, the Supreme Court struck down the West Bengal government's law WBHIRA for regulating the real estate sector, saying it was "unconstitutional". The state government introduced the West Bengal Housing Industry Regulatory Act (WBHIRA) as a substitute for the central law RERA, which was passed by Parliament in 2016.

The apex court's ruling came on a plea filed by the Forum For People's Collective Efforts (FPCE), an umbrella body of homebuyers. The FPCE has played an important role in the enactment and implementation of RERA.

FPCE President Abhay Upadhyay said it has been the association's endeavour to ensure that RERA is implemented in its letter and spirit across India. With the objective to have one law across India for the entire real estate sector, he said the Supreme Court, in its writ petition, declared WBHIRA as unconstitutional on 4th May 2021.

"Since then we have been making an all-out effort to ensure that RERA becomes fully functional in West Bengal but very sadly, despite all our efforts including approaching the Chief Minister, RERA is still not functional in West Bengal..." Upadhyay rued. He pointed out that 'West Bengal Real Estate Regulatory Authority' and 'West Bengal Real Estate Appellate Tribunal' have not been made functional in the state.

Also, Upadhyay said the appointment of chairperson and members of the regulatory authority as well as the Appellate Tribunal has not been done. The prevailing situation has allowed builders to escape the regulatory framework, compromising with transparency and accountability as envisaged under RERA, the FPCE President said. "While the homebuyers of other states in India have the protection of RERA, homebuyers of West Bengal continue to suffer at the hands of builders for no fault of theirs," he observed.

Upadhyay appealed to the government of West Bengal to immediately take steps for ensuring a fully functional RERA, to protect homebuyers interest and also bring transparency as well as accountability in the sector.

Upadhyay, who is also a member of central advisory committee, RERA, had written a letter on August 16 to the chief minister over the long wait for implementation of The Real Estate (Regulation and Development) Act, 2016 (RERA) in West Bengal.

The association said that the Union Ministry of Housing and Urban Affairs has taken up the issue of the implementation of RERA in West Bengal. The state government was asked to expedite the formation of regulatory authority and appellate tribunal, the statement said.



**The state government introduced the West Bengal Housing Industry Regulatory Act (WBHIRA) as a substitute for the central law RERA, which was passed by Parliament in 2016.**



# Deals approved! 1.72 lakh homebuyers stuck in stalled housing projects to benefit, says Modi Govt

## SYNOPSIS

Special Window for Completion of Affordable and Mid-Income Housing (SWAMIH investment fund) has been created for funding of stalled projects

Over 1.72 lakh homebuyers stuck in stalled housing projects will benefit from the 286 deals approved under the SWAMIH scheme as of November 30, 2022, according to the Government of India. These deals are worth Rs 28,393 crore.

In a written reply to a query in Lok Sabha on December 8, Kaushal Kishore, Minister of State in the Ministry of Housing and Urban Affairs (MOHUA), said that in order to give relief to homebuyers of stalled projects, a Special Window for Completion of Affordable and Mid-Income Housing (SWAMIH investment fund) has been created for funding of stalled projects that are net-worth positive and registered under RERA. This includes those projects that have been declared as Non-Performing Assets (NPAs) or are pending proceedings before the National Company Law Tribunal under the Insolvency and Bankruptcy Code.

"As on 30th November, 2022, under SWAMIH, 286 deals aggregating to ₹28,393 Crores have been approved and this will benefit around 1,72,467 homebuyers and unlock projects worth ₹76,535 Crore," Kishore said. Kishore was replying to a query on the steps taken by the Government to provide relief to people who have booked their flats but are stuck in stalled projects.

Kishore also said that the Central Government doesn't maintain the data of real estate projects as land and Colonization are state subjects. However, the Government has enacted RERA Act to protect the interest of homebuyers.

'Land' and 'Colonization' are State subjects. The data of real estate projects is not maintained centrally by Ministry of Housing and Urban Affairs. In order to protect the interest of homebuyers and to ensure the transparency and accountability in the Real Estate Sector, Ministry of Housing and Urban Affairs has enacted The Real Estate (Regulation and Development) Act, 2016 (RERA)," the minister said.

## Irregularities in PMAY

Replying to another query on alleged irregularities in Pradhan Mantri Awas Yojana (PMAY), the minister said that any complaint regarding the implementation of PMAY-U including those of ineligible applicants is addressed through suitable grievance redressal system available at both State/UT and City level as per existing rules and regulations.



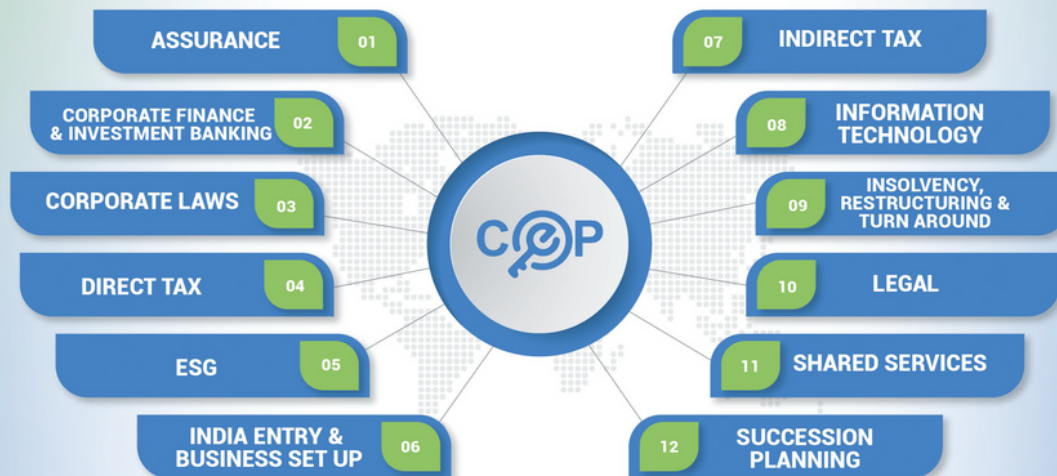
SWAMIH fund to invest Rs 100 crore in Imperia Group's project in Gurugram



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