



Rera Dashboard

RESI .COMM

KNOWLEDGE PARTNER
Mamta Binani & Associates

17.11.2022
Thursday

Volume 5



Dear Members,

Greetings!!!

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

RERA act is enacted to bring transparency and protect consumer interest in the realty sector. The RERA act is a central act and the Central Government has provided the draft rules, model Builder, and buyer agreement for adoption and implementation by the State Governments. However, there are certain instances where the state Government has modified the rules and Model Builder and buyer agreement which diluted the strict provisions of the RERA act.

Recently the Hon'ble Supreme Court of India made its observation in the plea filed by an Advocate Ashwini Upadhyay that, there should be a model builder-buyer agreement that will be formulated by the central advisory council so that there is some uniformity in the basic terms and conditions and the flat buyers are not exploited.

The Kerala Real Estate Regulatory authority has issued a Public Notice dated 22/10/2022 mandating all the promoters to upload the quarterly progress reports of their projects, Audit reports, Advertisements, Brochures/Prospectus, and whatever promises made to the allottees in the web portal of the Authority.

The Goa RERA has Issued a Circular dated 04/10/2022 directing all the promoters of the real estate project to furnish the complete conversion Sanad (Conversion of Agriculture land to non-agriculture land for building conversion/property development purposes) at the time of Applying for registration under RERA. if the promoter Fails to furnish the complete Sanad then the application for registration of the project will be canceled

The extract of the above Notice and circulars issued by the RERA authorities is included in this newsletter.

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

Thank You.

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SC GRANTS FOUR WEEKS TO STATES, UTS TO RESPOND TO DEVIATIONS IN RERA RULES IN THEIR JURISDICTIONS

The Supreme Court on Friday granted four weeks more to states and Union Territories who have not filed their reply to the deviations and variations pointed out in the implementation of the Real Estate (Regulation and Development) (RERA) Act, 2016, and corresponding rules and laws in their jurisdiction. A bench of Justices D Y Chandrachud and Hima Kohli warned that if the requisite responses are not filed within the stipulated time, principal secretaries of housing and urban development shall be present in court to explain the delay.

The top court noted that 13 states and two UTs have filed their responses to the plea.



The top court had said that it wants that instead of leaving it to the States, the Centre makes the model builder-buyer agreement and model agent-buyer agreement which shall be applicable for the whole of the country. It had said that the whole purpose of the present PIL is that there should be a model builder-buyer agreement which will be formulated by the central advisory council so that there is some uniformity in the basic terms and conditions and the flat buyers are not exploited.

On October 4 last year, the top court said it was important for the country to have a model builder-buyer agreement in the real estate sector for consumer protection because developers try to put numerous clauses in it, which common people may not be aware of.

"Despite the previous order, requiring the states/UTs to file their responses, certain states have not submitted their responses. They shall do positively within four weeks, failing which the principal secretaries in housing and urban development shall be present in court," the bench said while posting the matter after eight weeks.

The top court was hearing a plea filed by advocate Ashwini Upadhyay seeking the implementation of a model builder-buyer agreement across the country.

The advocate said that there should be a model agreement prepared by the Centre as some states have it and some don't, and there is no uniformity in those agreements.

The PIL has sought direction to the Centre to frame model pacts for builders and agent buyers to protect customers and bring transparency in the realty sector in line with the Real Estate Regulatory Authority (RERA) Act, 2016.

On January 17, the top court had emphasised the need for a model builder-buyer agreement to safeguard the interest of middle-class home buyers and asked the Centre to consider framing uniform rules under the provisions of RERA.



DELHI RERA SEEKS POLLUTION EXEMPTION FOR PROJECTS

The real estate regulatory authority of Delhi has written to the chairperson of the Commission for Air Quality Management (CAQM) urging the authorities to not ban the construction of RERA-registered projects due to pollution as it will adversely impact the delivery to homebuyers.

The move comes after the CII Delhi Sub-committee on Real Estate and the Confederation of Real Estate Developers' Associations of India (CREDAI)-NCR submitted a representation to RERA of Delhi, UP and Gurgaon to exempt projects from the construction ban.



As per the revised Graded Response Action Plan (GRAP) for the National Capital Region, if the situation turns "severe" (Stage III), the authorities will have to enforce a ban on construction and demolition activities in the NCR, except on essential projects (like railways, metros, airports, ISBTs, national security/defense-related projects of national importance) and non-polluting activities such as plumbing, carpentry, interior decoration, and electrical work.

"Since, RERA registered projects are required to be completed within a given time frame, in the interest of allottees, I request you to kindly exempt them from the ban under GRAP," said Delhi RERA chairperson Anand Kumar in the letter.

Harsh V Bansal, Convenor, CII Delhi Sub-committee on Real Estate, Urban Development and Infrastructure and Co-Founder of Unity Group, said, "As the RERA registered projects involve public money as well as the interest of the general public (buyers), we request you to recommend CAQM to consider RERA registered projects as public interest projects and accordingly consider them for exemption under these revised guidelines."

Developers said that RERA imposes heavy penalties on builders who delay their projects and are not able to provide possession within specified timelines, but with a ban under the GRAP, the scheduled and unscheduled bans on construction could lead to undefined delays as the remobilisation becomes a challenge.

"Construction goes on round the year but there is no pollution and the air remains clean for most of the time. It is only at the start of the winter when the situation worsens. The government should do a study around it instead of banning its construction. This impacts the real estate sector and lakhs of homebuyers," said Manoj Gaur, President CREDAI-NCR and CMD, Gaur's Group.

Brick kilns, hot mix plants and stone crushers not operating on clean fuels, and mining and associated activities in NCR will also be banned under Stage III.

"The construction sector involves migrant workers. Many workers who leave on the announcement of a ban do not come back once it is lifted, presuming that it might get extended, which means a one-month ban leads to much more than a one-month delay," said Bansal.

The Confederation of Indian Industry has also requested the Commission for Air Quality Management (CAQM) in NCR to come up with a better strategy on the ban on diesel gen-sets (DG sets) rather than penalising the industry.

CENTRE PROPOSES TO SUBMIT MODEL BUILDER-BUYER AGREEMENT WITH MANDATORY RERA CLAUSES BEFORE SUPREME COURT

The Central Government has proposed to submit before the Supreme Court a model builder-buyer agreement with mandatory clauses which cannot be altered by the States or the Union Territories.

Additional Solicitor General Aiswarya Bhati and amicus curiae Devashish Bharuka submitted before the Court that the model agreement will have Part A which will have core clauses with the mandatory provisions of the Real Estate (Regulation and Development) Act 2016 for the protection of the home buyers and Part B which will contain additional clauses as per the requirements of the individual States/UTs. However, these additional clauses will not be contrary to or dilute in any manner the clauses in Part 'A'.

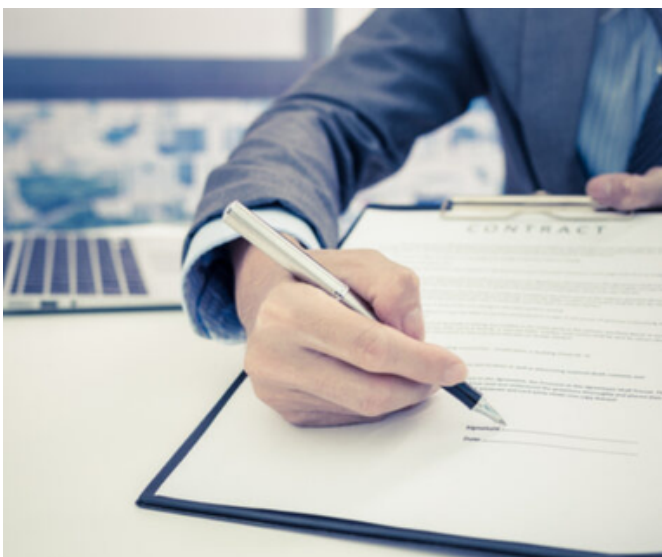
Taking note of these submissions, a bench comprising Justices DY Chandrachud and Hima Kohli posted the matter for further consideration on November 28.

The development happened in the PIL filed by Ashwini Upadhyay seeking a model builder-buyer agreement. Earlier, the Supreme Court had observed that a model agreement was necessary to protect the interests of home buyers and had asked the Union to frame a model agreement after taking inputs from the States. Later, the Court asked the Union to scrutinize the rules framed by the States under RERA to ascertain if essential norms have been incorporated.



On September 30, the following States have not submitted their responses:

(i) Andhra Pradesh; (ii) Chhattisgarh; (iii) Gujarat; (iv) Jharkhand; (v) Madhya Pradesh; (vi) Maharashtra; (vii) Manipur; (viii) Mizoram; (ix) Odisha; (x) Uttar Pradesh; and (xi) West Bengal.



On the other hand, thirteen States and two Union Territories have filed their responses. The States which have not filed their responses were directed to do so positively within a period of four weeks from today, failing which the Principal Secretaries of the State Government in the Ministry of Urban Development/Affairs shall personally remain present before the Court on the next date of hearing to explain as to why they should not be proceeded with under the coercive arm of law.

The Haryana and Maharashtra wings of the Confederation of Real Estate Developers Associations of India (CREDAI) also told the Court that they will give their responses.

SIT MAY BE FORMED TO PROBE RERA IRREGULARITIES INVOLVING 65 BUILDERS IN THANE DISTRICT, SAYS COP

Synopsis

"The FIR in Manpada police station on the complaint of the Kalyan Dombivali Municipal Corporation (KDMC) is against 27 builders and developers, while the one at Ram Nagar names 38 developers. If need be, an SIT will be formed and both cases will be transferred to it," Morale informed.



RERA
REAL ESTATE
(REGULATION AND DEVELOPMENT)
ACT



A special investigation team (SIT) may be formed to probe the alleged RERA (Real Estate Regulation and Development Act) scam involving builders from Dombivali area of Maharashtra's Thane district, a senior police official said on Thursday. Cases under various Indian Penal Code provisions have been registered in Manpada and Ram Nagar police stations in Dombivali against 65 developers for allegedly fabricating permissions for RERA registration and in the process cheating the local civic body, Additional Commissioner of Police (Crime) Ashol Morale told reporters.

"The FIR in Manpada police station on the complaint of the Kalyan Dombivali Municipal Corporation (KDMC) is against 27 builders and developers, while the one at Ram Nagar names 38 developers. If need be, an SIT will be formed and both cases will be transferred to it," Morale informed.



HARYANA RERA ASKS ILD TO REFUND HOMEBUYER'S MONEY WITH INTEREST

Synopsis

The complainant booked an apartment in ILD Arete group housing project on June 10, 2015 and the due date of possession was December 10, 2019.



GURUGRAM: The Gurugram bench of the Haryana Real Estate Regulatory authority (RERA) has directed International Land Developers (ILD) to refund a homebuyer's money along with interest as it failed to deliver the property on time.

The Rule 16 of Haryana Rules 2017 states any refund shall be payable by the promoter to the allottee within 90 days from the date on which such refund has been ordered by the court/authority.

"The authority hereby directs the promoter (ILD) to return the amount received by him from the allottee with interest at the rate as prescribed under the rule 15 of the Haryana real estate (regulation and development) Rules 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in the rule 16 of the Haryana Rules 2017," the court said while deciding the case in favour of the allottee on Tuesday.

The complainant booked an apartment in ILD Arete group housing project on June 10, 2015 and the due date of possession was December 10, 2019.

The promoter failed to deliver the apartment till August 2, 2021 when the buyer moved the RERA court and sought refunds.

The court observed that the due date of possession as per agreement for sale is December 10, 2019 and there is an apparent delay of one year seven months and 23 days on the date of filing of the complaint.

"The promoter has failed to complete or unable to give possession of unit in accordance with the terms of agreement. Accordingly, the promoter is liable to return the amount received by him in respect of the unit with interest," the order said.



K-RERA ORDER GOOF-UP HAS HOMEBUYER PEEVED

A city-based home-buyer has filed a complaint with the National Consumer Dispute Redressal Commission (NRDC), and alleged that the Karnataka Real Estate Regulatory Authority (K-RERA) -- which is supposed to protect homebuyers from unfair builders' practice -- is working against the interest of homebuyers. According to him, the issue was exacerbated as the K-RERA Chairman had passed an order stating that the dispute had already been settled among the parties concerned.

Dhananjaya Padmanabhachar, the complainant, said that he had booked a flat in Mantri Serenity Apartment in 2013 with a delivery commitment of 2016 but the builder did not deliver the flat with undivided share of interest in the project.



As per the document available with Bangalore Mirror, Mohan Kumar, an advocate for the complainant, filed a memo for the withdrawal of the case (CMP-6511). K-RERA Chairman HC Kishore Chandra, heading Bench-4, stated that the complainant, Dhananjaya, had filed the complaint against the project Mantri Serenity-4 and prayed for delayed compensation, possession of the apartment and occupancy certificate.

"Today, Sri M Mohan Kumar, advocate for the complainant, filed a memo to withdraw the complaint as settled between the parties... perused the same and accepted. The complaint is closed," HC Kishore Chandra had said in the order.

"How can I inform or intimate the K-RERA stating that my case is settled while it is pending with the NRDC? I lodged complaints against the builder for the delay in completing the housing project. The order is misleading and will benefit the defaulter builder," said Dhananjay.

Meanwhile, Chandra stated that the applicant can file an appeal against the order. "If there is a mistake in the order, it can be rectified. The complainant is free to complain against the order passed by me. I might have signed on the order paper kept before me. It is not a big issue. It can be resolved," said K-RERA Chairman.

"I filed a complaint with K-RERA in September 2020 but till August 2022, K-RERA did not pass any order on my complaint. So, I withdrew my complaint from K-RERA and filed a complaint with the National Consumer Dispute Redressal Commission (NRDC)," said Padmanabhachar.

He said that he had written to K-RERA on August 17, 2022 but he was shocked to see the order passed by K-RERA Chairman on August 26 stating the case was settled among the parties.

"This is completely false information that the RERA Chairman recorded in the order. I request the housing department secretary to initiate an investigation against K-RERA Chairman HC Kishore Chandra as per the Section 26 of RERA Act 2016 and Section 34 of RERA Rules 2017 on recording false information that will impact home buyers," he said in a complaint lodged with the Department of Administrative Reforms & Public Grievances on October 12.

3 BUILDERS, BOOKED FOR FRAUDULENTLY GETTING RERA CERTIFICATES, APPROACH COURT FOR BAIL

Earlier this month the Kalyan Dombivli Municipal Corporation (KDMC) lodged a complaint against 65 builders at two police stations in a forgery case, as the builders and developers obtained RERA certificates through fraud documents.

Thane: Three out of the 65 developers booked for forging documents to get Maharashtra Real Estate Regulatory Authority (RERA) certificates, have approached the Kalyan session court to seek bail and refuted the charges against them. Maha RERA has so far suspended the registration of 52 Kalyan-based developers.

The case is at present being investigated by the Thane Crime Branch

“Three of the accused have approached the court in this matter and are refuting the charges filed against them. Our team is studying every document to carry out a thorough investigation in the matter,” said Sardar Patil, assistant commissioner of police, Thane.

Earlier this month the Kalyan Dombivli Municipal Corporation (KDMC) lodged a complaint against 65 builders at two police stations in a forgery case, as the builders and developers obtained RERA certificates through fraud documents. Followed by this, the case was transferred to the Thane crime branch for a thorough investigation by the Thane commissioner of police and a Special Investigating Team (SIT) was also formed to investigate the cases.



Meanwhile, the Maha RERA suspended the registration of a total of 52 builders in this matter based on the list provided by the KDMC.

“We are checking the documents as there are many involved in the case. The volume of these cases is huge and there is a thorough investigation required. Our team is cross-checking the facts and proofs to hold up the case,” added Patil.

This scam came to the limelight after a city-based architect and social activist, Sandeep Patil had filed a Public Interest Litigation (PIL) in the Bombay High Court in 2021. He drew the court’s attention towards the builders who made fraudulent documents for the registration of flats/ shops in illegal buildings because of which innocent people were cheated throughout Maharashtra. Patil had raised the matter of 66 builders and demanded action.

Patil who managed to get a case registered against the builder has also placed a demand to book the officials of RERA and KDMC who allowed the illegal registration of properties in KDMC limits.

“If the builders are booked, I feel the authorities of KDMC and RERA are equally responsible and they should be booked under relevant sections of the Indian Penal Code too. I have asked the police to consider this demand too,” said Patil.

**GOA REAL ESTATE REGULATORY AUTHORITY
DEPARTMENT OF URBAN DEVELOPMENT
GOVERNMENT OF GOA**

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F.No: 3/RERA/Off. Matters/2019/719

Date: 04/10/2022

CIRCULAR

Sub: Submission of Conversion Sanad for registration of real estate projects by the promoter/builder.

It has been observed by the Authority that some promoters/builders failed to submit conversion sanad at the time of seeking registration of real estate projects, stating reasons, such as, local authorities already accorded sanction, conversion sanad will be obtained prior to issue of occupancy certificate, etc. In some cases, the Authority has noticed submission of partial conversion sanad instead of complete sanad for proposed development area.

2. Section 4 of The Real Estate (Regulation and Development) Act, 2016 read with proviso Rule 3(2)(k) of the Goa Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 mandate the requirement of sanad indicating the nature of land as per the Goa Land Revenue Code, 1969 and the rules framed thereunder; and the zone of land as per the Goa, Daman and Diu Town and Country Planning Act, 1974 and the rules and notification issued hereunder.

3. In the light of above, all real estate promoters/builders are hereby directed to furnish complete conversion sanad for the proposed area of development at the time of seeking registration of real estate projects except as exempted under section 35 of Goa Land Revenue Code, 1968. In the event of failure to submit the sanad, the Authority would cause hearing of the applicant for submission of the same within given time frame or else the registration would be liable to be rejected.
Assistant, Goa RERA for uploading in the Goa RERA website.

4. This issues with approval of the Goa Real Estate Regulatory Authority.

(Sandra D'Souza) O.S.D (RERA)

Copy to:

1. The President, CREDAI, Goa 315, Gera Imperium-II, Patta Plaza, Panaji- Goa 403001 with a request to kindly inform all CREDAI members. The Chairman. The Institute of Engineers (India), D-Type Quarters. D-8-1. Government Polytechnic Campus, Altinho, Panaji - Goa. 403 001 with a request to kindly inform all members.
2. The Chairman, The Indian Institute of Architects (IIA-Goa Chapter), Trupti, Patrakar Nagar, Porvorim, Bardez, Goa, 403 521 with a request to kindly inform all members.
3. The Chairman, WIRC Goa Institute of Chartered Accountants of India, 201/2, 2 Floor, Kamat Towers, Patta Plaza, Patta Centre, Panaji, Goa 403001 with a request to kindly inform all members.
4. The Chairman, PNS, 501, Radiance Kotwal Park, Near Bodyline Gym, Opposite Ved Mandir, Trimbak Road, Tilakwadi, Nashik, 422002 with a request to kindly inform all members
5. The Technical Assistant, Gon RERA for uploading in the Goa RERA website.

**KERALA REAL ESTATE REGULATORY AUTHORITY
TRINITY CENTRE TC NO. 14/4354,
KESAVADASAPURAM, PATTOM, TRIVANDRUM-695004**

NO: K-RERA/T3/102/2020

DATED: 22.10.2022

PUBLIC NOTICE

Sub: Quarterly Update and Form 5 to be uploaded in the Online Web portal

- Ref:** 1. Public notice K-RERA/T3/102/2020 dated 25-03-2021
2. Public notice K-RERA/T3/102/2020 dated 16-04-2021
3. Public notice K-RERA/T3/102/2020 dated 29-06-2021

As per Section 11(1) of the Real Estate (Regulation & Development) Act 2016 and Rule 17 (1) (e) of the Kerala Real Estate (Regulation & Development) Rules 2018, the Promoters shall update the quarterly progress details of the registered Project in the Web Portal of the Authority and such quarterly progress updates have to be done within 7 days from the expiry of each quarter.

It is the legal responsibility of all Promoters to update the Quarterly progress of the registered project and it's the right of Allottee to know the progress of the real estate project. The Knowledge of the quarterly progress will also prompt the Allottees to pay the section installments due to the Promoters for their projects. Even if there is no progress made during a quarter in the project, the previous quarter's progress has to be entered and uploaded to the Web Portal.

Promoters shall also upload brochure/prospectus (whatever promises made to allottee) published in newspapers and other media, as and when it's published.

As per Section 4(2)D of the Real Estate (Regulation & Development) Act 2016, audited account of the project duly certified and signed by the chartered accountant in FORMS for the financial year 2021-22 due on 31st October 2022, should also be uploaded to the Web-Portal.

**KERALA REAL ESTATE REGULATORY AUTHORITY
TRINITY CENTRE TC NO. 14/4354,
KESAVADASAPURAM, PATTOM, TRIVANDRUM-695004**

Email reminders on the requirement of uploading quarterly progress due and FORM 5 were sent to all Promoters by the K-RERA Authority.

Hence in the exercise of the powers conferred under section 37 of the Act 2016, the Authority hereby directs all the Promoters to strictly adhere to the above instructions and update their project progress within a week. The list of projects that fail to update the same will be published by K-RERA and will be penalized under section 61 of the Real Estate (Regulation & Development) Act 2016.

By Order of the Authority

**Sheels (Sheeba Rani.Y)
Secretary (Tech and Admin)
Kerala Real Estate Regulatory Authority**