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Dear Members,

Greetings!!!

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

The Real Estate Regulatory authority and Real estate Appellate Tribunal have the powers under the RERA act to issue an order to Arrest the Promoters or Allottee who had failed to comply with its order. Therefore, the Promoters of the real estate company and the allottees should comply with the orders passed by the RERA Authority and Real estate Appellate Tribunal.

In one of the Cases, the Harayana Real Estate Regulatory Authority sentenced the builder, to 60 days of civil imprisonment in a contempt case for not complying with its order.

One Good News for West Bengal Home buyers is that now the West Bengal RERA is in place and commenced functioning. It is important to note that, in May last year, the Hon'ble Supreme court declared the West Bengal Housing Industry Regulatory Act (WBHIRA) as "unconstitutional".

The Homebuyers' association the Forum for People's Collective Effort (FCPE) had recently urged the West Bengal government to make the real estate law RERA functional in the state at the earliest to protect the consumers' interest.

After a long time, the WBRERA has started functioning in the state. Now all the Promoters of ongoing projects, new projects, and Real estate Agents in west Bengal are mandatorily required to register with West Bengal RERA.

It is to be noted that, the "Allottee of the Real estate Project " who has been defined under section 2(d) of the RERA act 2016 is treated as a Financial Creditor under IBC 2016. Therefore to file an application as a financial creditor under IBC against the Builder, the Real Estate Project must be registered under RERA Act 2016.

The Term" Real Estate Project" is defined under section 2(zn) of the RERA act 2016. This newsletter consists of various orders passed by the Court and State RERA authorities and recent developments taking place in the realty sector.

Wish you all a Very Happy Christmas and New Year 2023 in Advance.

Thank You.

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KDMC TO DEMOLISH 65 ILLEGAL CONSTRUCTIONS BY DEVELOPERS BOOKED IN RERA CERTIFICATE SCAM



Kalyan The Kalyan Dombivli Municipal Corporation (KDMC) will be demolishing the illegal constructions by the developers booked in the RERA certificate scam. KDMC has served notices to the 65 builders allegedly involved in the scam and asked them to submit documents pertaining to all their constructions.

“We have primarily served notices to the builders as we plan to demolish those which are found illegal. The ward officers have served the notices and have asked the builders to submit the documents in 15 days’ time. Failing which, the building will be declared unauthorised and face demolition,” KDMC commissioner Bhausheb Dangade said, .

As per Dangade, these 65 builders have a total 65 projects in the city for which they had acquired RERA certificates by submitting forged documents.

“We are also checking if there are any more projects and have asked to submit the details of the same,” he added.

Meanwhile, the Thane’s Special Investigating Team (SIT) probing the matter who had frozen bank accounts of 40 builders, has now submitted details of the remaining 25 developers to their respective banks for action.

The team has also asked KDMC to submit details of the projects undertaken by these builders to check on the volume of the entire scam.

“There are four parties involved in this scam which includes the land owner, the developer, the customer and the stakeholders. We are checking on all the aspects of this scam to get into its depth and know if there is any influential person involved. It is not possible to carry out the illegal work without the help of a local influential leader. We are investigating if there is a common name that binds them together,” said an officer of SIT, who wished to remain anonymous.

“The civic body has also been asked to check if these constructions were carried out on government land. The civic body has a major role to play in the investigation part,” the officer added.

The entire scam shot into limelight after a city-based architect Sandeep Patil highlighted the fraud through an RTI and filed PIL in the Bombay high court in 2021. It was then that the civic body lodged FIR against these builders at local police stations.

“There is a need to demolish these buildings so that a strong message is sent on unauthorised construction and no such illegal activities are undertaken in the city. The civic body should speed up the procedure,” said Patil.



SIT ARREST FIVE IN KDMC RERA SCAM, NO BUILDER ARRESTED

Thane In a major development in the RERA certificate scam case where 65 builders were booked, the Special Investigating Team (SIT) has arrested five persons, including a woman, who helped them prepare fraudulent documents for acquiring the RERA certificates and build illegal structures in Kalyan-Dombivli vicinity

Thane In a major development in the RERA certificate scam case where 65 builders were booked, the Special Investigating Team (SIT) has arrested five persons, including a woman, who helped them prepare fraudulent documents for acquiring the RERA certificates and build illegal structures in Kalyan-Dombivli vicinity. However, none of the 65 developers are arrested.

“We have arrested five persons who have helped the builders with fraudulent documents. The accused will be produced before the Kalyan court on Saturday. There are builders, contractors and land owners involved in the case. Total nine accused were identified, however, out of that four have died, the remaining five have been arrested,” said a SIT officer who did not wish to be named.

“They are all from Dombivli, they created the fake documents for illegal construction. We are questioning them for more details to get their background and more insight into the case,” added the officer.

The entire scam came into limelight after a city-based architect Sandeep Patil through RTI and PIL in the Bombay high court in 2021 highlighted the fraud by the builders followed by which the civic body lodged FIR against these builders at local police stations.

Serving notices to the 65 builders, the KDMC has asked them to submit documents failing which the buildings will be identified as illegal and later demolished. However, Patil who has been following up the case claimed the KDMC has not been able to identify the buildings yet which is a major loophole in the case.

“The SIT is doing their job very effectively and they have even visited the building sites, while the KDMC is not sure about the buildings and its locations. The civic body claims to have served the notices and washed their hands. The civic body should have the list in hand and know which are these buildings and take necessary steps. However, there is a lackadaisical approach by the civic body in this crucial case,” said Patil.

“We are working on identifying those buildings for which we have asked the concerned developers to submit the documents and we have served them notice accordingly,” said a KDMC officer on the condition of anonymity.



After the Kalyan Dombivli Municipal Corporation (KDMC) lodged a complaint, a total of 65 developers were booked by the Manpada and Dombivli police station. The cases were then transferred to the Thane crime branch and a SIT was formed to investigate the case.

Those arrested in the case have been identified as Priyanka Sitaram Raorane (Mayekar), Pravin Tamhankar, Rahul Baburao Navsagare, Jaydeep Tribhuvan and Kailas Gaode. The team however is investigating on their background and their works.

HOUSING PROJECT WILL NOT REQUIRE TO BE REGISTERED IF IT RECEIVED OCCUPANCY CERTIFICATE OR DEEMED APPROVAL FOR OCCUPATION PRIOR TO AUG 1, 2017: ASSAM REAT

The Assam Real Estate Appellate Tribunal (REAT) has ruled that a housing project will not require to be registered if it received Occupancy Certificate or deemed approval for occupation prior to 1st August, 2017.

The ruling was given by the Tribunal today while deciding an appeal filed by M/s. Saraighat Builders Pvt. Ltd. against a decision of the Real Estate Regulatory Authority (RERA), Assam.



Justice (Retd.) Manojit Bhuyan, Chairperson and Onkar Kedia, Member, Assam REAT stated Section 3 of the Real Estate (Regulation and Development) Act 2016 stipulates that the promoters of the real estate projects which were ongoing on the date of the commencement of the Act and for which Completion Certificate had not been issued were required to make an application to the concerned RERA for registration of the projects within a period of 3 months from the date of commencement of the Act. Under the Guwahati Building Construction (Regulation) Act, 2010 and the Guwahati Building Construction (Regulation) Byelaws, 2014, it is only an "Occupancy Certificate" and not a "Completion certificate" that can be issued by the concerned civic authority. Further, as per the Guwahati Building Construction (Regulation) Act, 2010, if the work is not inspected and an Occupancy Certificate is not granted or refused within 21 days from the date of receipt of Completion Certificate from the owner, it shall be deemed that approval has been tendered, permitting occupation of the building concerned.

In Assam, Section 3 of the Real Estate (Regulation and Development) Act 2016 came into force with effect from 01.05.2017. Therefore, an ongoing project was required to make application to the RERA, Assam for registration within a period of 3 (three) months, i.e., by 01.08.2017.

The order added that in the case of M/s. Saraighat Builders Pvt. Ltd., the RERA Assam held that they had applied for occupancy certificate of part of their project 'Radha Niketan' on 30.06.2017. Since on 1st May 2017, it was an ongoing project, it required to be registered. The RERA, Assam imposed a fine of Rs.2,50,000.00 on the promoter for the violation and directed him to apply for registration of the project.

While deciding the appeal against the order, the Tribunal held that if before initiating the process for registration within the three-month window, the concerned project or part of it receives an Occupancy Certificate or if occupation of the building is deemed to have been approved, that part of the project/building must be considered to have been completed and would not require registration. Setting aside the order of the RERA, Assam, the Tribunal held that the real estate project of the appellant did not require registration, as it received deemed approval within the three-month window, i.e. prior to 01.08.2017. The Tribunal further clarified that cut-off date for receiving Occupancy Certificate has to be 01.08.2017 and not 01.05.2017 which would take within its fold a deemed approval for occupation.

MAHARERA REVOKES REGISTRATION OF 49 REAL ESTATE PROJECTS IN MMR FOR FABRICATING DOCUMENTS

In a suo moto action, the Maharashtra Real Estate Regulatory Authority (MahaRERA) has revoked the registration of 49 real estate projects of developers allegedly involved in fabricating documents. 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 in Mumbai Metropolitan Region (MMR).

Over 50 developers are being investigated for allegedly submitting fake permission documents for obtaining RERA registration.

The KDMC had informed MahaRERA that commencement certificates (CCs) of the estate projects under lens were not issued by it, according to the MahaRERA order.

“It appears that the above-mentioned CCs have been obtained by means that are suspect. Further, it is also brought to the notice of this authority that an investigation into this issue is also pending before the Thane crime branch against the Promoters of the above-mentioned projects,” reads the order.

The order dated November 03, by Ajoy Mehta, Chairman of MahaRERA, came after physical hearings with developers involved in the alleged scam.

Developers barred from selling further

The MahaRERA also barred all developers from advertising or selling apartments in the 49 projects. “All the promoters shall be barred/ restrained forthwith from advertising, marketing, booking, selling or offering for sale, or inviting persons to purchase in any manner any apartment or building, as the case may be, in these Projects or part of it, in any planning area, of these projects,” the order read.

WHAT IS RERA REGISTRATION?

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

One can log in on the website of MahaRERA, and by entering the unique number can get all details regarding the project. As per the Act, no one book, sell, market or advertise a particular property without having registration with RERA.

THE REGULATOR WANTS A SYSTEM

The MahaRERA in the order has also mentioned 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 Commencement Certificate (CC), Occupation Certificate (OC) are put on a dedicated portal by the respective planning authority.

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

ACTION UNDER WHICH SECTION OF THE RERA ACT?

The order said the regulator has powers under section 7 of the RERA Act, 2016 of revoking the registration of MahaRERA projects if the promoter (developer) was indulging in any kind of unfair practices.

In the present case of not obtaining the 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, the order said.

HARYANA RERA SENTENCES BUILDER TO 60 DAYS IMPRISONMENT FOR CONTEMPT

The Real Estate Regulatory Authority (RERA) of Gurugram has sentenced builder, Salman Akbar, to 60 days civil imprisonment in a contempt case.

RERA Adjudicating Officer Rajender Kumar pronounced the sentence in the matter of Garima Gupta vs ILD Millennium Private Ltd.

"You are hereby authorised to detain Salman Akbar in civil imprisonment for 60 days and produce him on 60th day of his detention before the AO," read the ordes.

On October 31, an arrest warrant was issued by the AO court to produce Akbar on or before December 21. The RERA court had ordered ILD Millennium Private Ltd to pay Rs 27,30,376 to the complainant, but it was not paid.

The directors of the company were then asked to file an affidavit stating the particular of its assets to satisfy the decree, but despite giving an opportunity, they failed to respond, leading to intentional disobedience of the orders of the adjudicating officer.

The matter dates back to January 2013, when complainant Gupta had booked a unit in ILD Spire Greens, Sector 37, and executed an agreement.

The promoter had to hand over the possession in July 2016, but failed to do so. After this, the allottee filed a complaint to the RERA court in November 2018, alleging the promoter was delaying in handing over the possession.



The authority had passed an order in favour of the aggrieved allottee asking the builder to pay the interest for every month of delay on the amount paid by the complainant from the date of possession till the handing over of actual possession of the unit, which the promoter failed to comply with.

JAYPEE GREENS KALYPSO COURT PHASE-2 GETS OCCUPANCY CERTIFICATE, BECOMES FIRST PROJECT TO ACHIEVE COMPLETION VIA REHABILITATION UNDER RERA ACT

After going through a rollercoaster ride of over a decade, home buyers of Jaypee Greens Kalypso Court Phase -2, located in JP Wish Town Sector 128 of Gautam Buddha Nagar, will finally receive their homes as the promoter of the society has received the required occupancy certificate (OC) for its remaining two towers.

According to a statement issued by UP Real Estate Regulatory Authority (UP RERA) on November 18, after obtaining the OC of its remaining two towers, 11 and 12, Jaypee Greens Kalypso Court Phase-2 has become the first project in the country to achieve completion via rehabilitation under provisions of Section 8 of RERA Act under supervision of UP RERA.

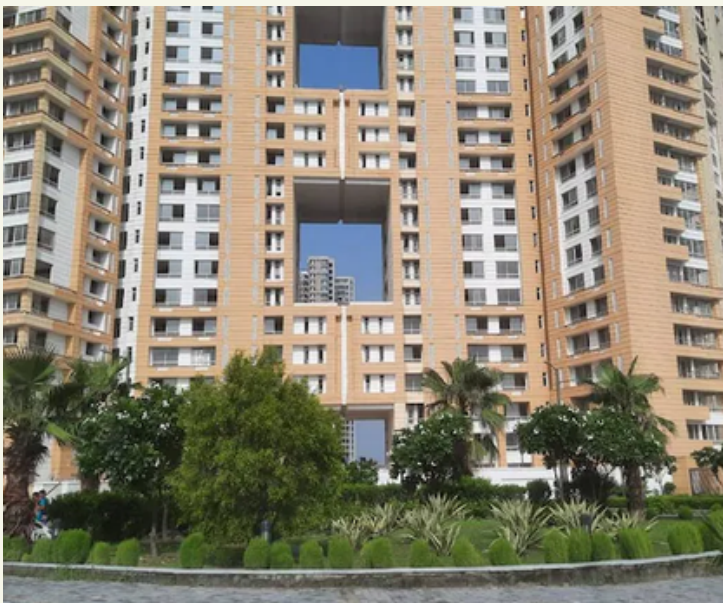
The promoter Jaiprakash Associates Limited (JAL) obtained the OC for the last two towers of the project from Noida Authority on November 17, 2022, the statement said.

Following successful receipt of the OC of 154 units in both towers, the promoter can now offer possession to allottees who have been stuck for over a decade, the statement said.

The homebuyers had booked their flats in the project in 2010-11, but the developer Jaiprakash Associates Ltd was only able to complete and deliver four towers before the expiry of its RERA registration.

The project was rehabilitated by UP RERA under the provisions of Section 8 of the RERA Act. Section 8 of the RERA Act allows for stripping the developer of the stuck projects and handing those over to competent authorities or to an association of homebuyers. In this case, the project was taken over by the allottees of Jaypee Greens Kalypso Court Phase-2 project.

The last 10 years had been a nail-biting rollercoaster ride for these homebuyers, who are among the first in the country to take over a stuck project and see through its completion.



The statement said that originally four towers had been in rehabilitation since July 2020. In August 2022 the promoter had obtained OC of 148 units in towers 7 and 8.

As of now, the promoter has obtained OC of all 304 units in the remaining four towers, enabling the promoter to offer possession to the 274 existing allottees, and to sell the remaining 30 unsold units. The project was launched around 2010-11. And now, more than 10 years after investing in these flats, the home buyers will see their dreams turn into reality, the statement said.

The Kalypso Court project in Noida is the first among 14 other projects in the state that will be completed under the supervision and monitoring of the regulatory authority.

Rajive Kumar, Chairman, UP RERA, said that the RERA Act was enacted in the backdrop of massive delays in completion of real estate projects and the need for safeguarding the interests of homebuyers.

He said that completion of the Kalypso Court project, which was under rehabilitation, can set a trend for completion of other stuck projects via this route.

RERA SCAM: SIT ARRESTS FIVE MORE DEVELOPERS

KALYAN: In a major development in RERA scam, the Special Investigation Team finally has arrested five developers who prepared forged documents of building permission and using same got RERA certificates to sell their illegal flats.

The SIT have booked 65 developers in case and earlier they had arrested 5 persons in this scam who had prepared forged documents making total arrest of 10 people in case so far.

The arrested five developers have been identified as Mukund Milind Datar, Sunil Balaram Madvi, Aashu Lakshman Mungesh, Rajat Rajan and Rajesh Raghunath Patil.

Earlier, the SIT had arrested five accused Priyanka Raorane, Jaideep Tribhuvan, Praveen Tamhankar, Kailash Gavde and Rahul Navsagare, The SIT official said that soon some more arrest is likely in this case.



Ashok Morale, additional commissioner of police said, "These developers on their land constructed illegal buildings without taking permission of Kalyan-Dombivli Municipal Corporation as well as RERA".

The official said by doing this they made revenue loss of government and cheated KDMC, RERA as well as buyers who purchased flats in this buildings believing forged documents.

The sources said that these five developers constructed buildings from five floors to upto seven floors and some of them are occupied by flat buyers.

The entire scam came to light after city based architect Sandeep Patil come to know that some developers without taking buildings permission from KDMC had managed to get RERA certificates. Patil initially complained to KDMC who initially did not taken any action forcing Patil to move into court filing an PIL in this connection resulting KDMC woken up and after enquiry filed two separate FIR against 65 developers in Kalyan and Dombivli,

RERA BECOMES FUNCTIONAL IN BENGAL, 18 MONTHS AFTER SC ORDER: TOP OFFICIAL

The West Bengal Real Estate Regulatory Authority (WBREERA) is finally up and running, nearly 18 months after the Supreme Court struck down the state's own regulations introduced as a substitute for the central law, a senior official said.

In May last year, the top court had declared the West Bengal Housing Industry Regulatory Act (WBHIRA) as unconstitutional.

"The WBREERA is now in place and we have very recently commenced functioning. Until the IT backbone is ready, consumers will be able to file complaints against builders, agents and others physically. The website is expected to be operational within a fortnight," Sandipan Mukherjee, who assumed charge as WBREERA chairman, told PTI.



West Bengal was perhaps the only state where the Real Estate (Regulation and Development) Act, 2016, passed by Parliament, had not become functional.

The WBREERA is headed by Mukherjee, an ex-Indian Forest Service officer, and consists of two other members -- B N Das (former power department official) and Tapas Mukhopadhyay (former PWD chief engineer).

Mukherjee urged homebuyers not to deal with properties that are not registered with WBREERA.

All projects, their promoters and agents have to be mandatorily registered with the regulator. It has powers to book the promoters and levy penalties, but does not have policing capabilities, he explained.

Homebuyers' association FPCE had recently urged the West Bengal government to make the real estate law RERA functional in the state at the earliest to protect the consumers' interest.

The Supreme Court's ruling had come 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.

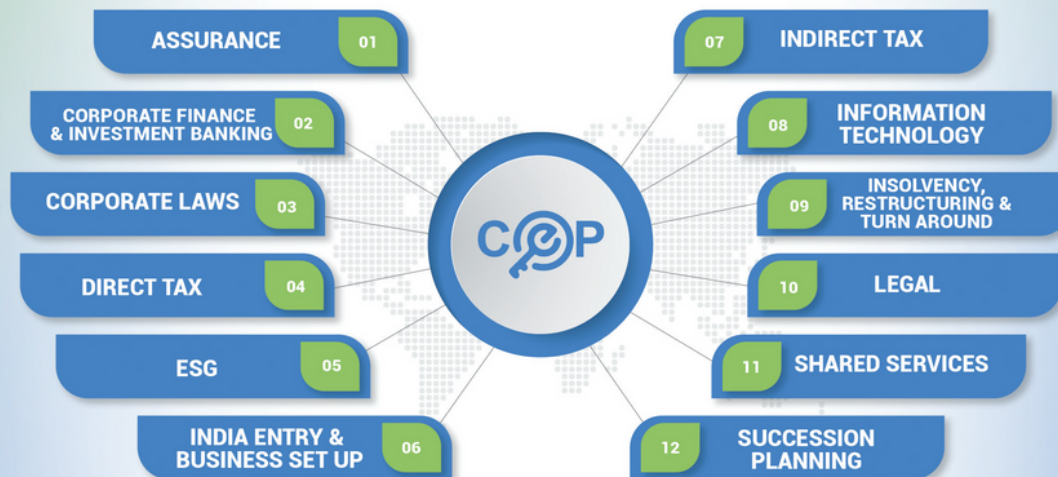
FPCE president Abhay Upadhyay appealed to the state government to take steps to ensure a fully functional RERA to safeguard the homebuyers' interest and bring transparency as well as accountability in the sector.



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