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RERA DASHBOARD

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Dear and Respected Professional Colleagues

We are very happy to share with you this First Newsletter on RERA, which now is more like a news update and is gradually slated to be sharing more and more on this sector.

In our Country, Real Estate Sector plays a vital role in creating assets as well as generating employment. Most of the stakeholders like suppliers and service providers who are associated with the Realty sector/Companies are MSMEs. The RERA Act, 2016 mandates that all commercial and residential real estate projects more than 500 square meters, or above eight apartments, inclusive of all phases should be registered with the respective State's Real Estate Regulatory Authority (RERA) before being launched. The Act also mandates for registration of Real estate Agents who markets the Real Estate Projects.

On November 6 2019, the Honorable Finance Minister announced that the Union Cabinet has cleared a proposal to set up a 'Special Window' in the form of AIF to provide priority debt financing for the completion of stalled housing projects. SWAMIH (Special Window Affordable and Mid-Income Housing) Investment Fund I has been formed to complete construction of stalled, brownfield, RERA registered residential developments that are in the affordable housing/mid-income category; are net worth positive and requires last mile funding to complete construction.

On everyday basis, we are seeing that due to reasons galore, Real Estate and Construction Companies are unable to complete and hand over the projects in time and are facing RERA cases and penal action. In this issue, the important orders passed by the Real Estate Regulatory Authority of various States have been shared giving a glimpse of how the law is spanning out.

MAMTA BINANI

President

MSME Development Forum

mamtabinani@gmail.com

bengalmsme@indiamsme.org

G SRIRAM

Senior Partner

Mamta Binani & Associates

mamtabinaniandassociates@gmail.com

HARYANA RERA THREATENS ACTION AGAINST REAL ESTATE AGENTS FOR CHARGING ARBITRARY BROKERAGE

Synopsis

The real estate regulatory authority's warning comes in the wake of number of complaints filed on daily basis in the city where the cheated buyers or allottees turn up for relief. "The authority has decided to fix this problem and working on it blacklisting such agents who have been charging brokerage arbitrarily," said KK Khandelwal, Gurugram RERA Chairman.

Gurgaon bench of Haryana Real Estate Regulatory Authority (HaRERA) has threatened to barred the real estate agents if they charge arbitrary brokerage from homebuyers.



The authority said that the Haryana Regulation of Property Dealers and Consultants Rules, 2009 provides charging of only half percent commission each from the buyers and the sellers.

The Authority in one of its decisions it passed on September 1, 2022 disallowed the brokerage of more than half percent which is currently being deducted by the promoters on surrendering of the units by the allottees.

Khandelwal said arbitrary brokerage is an offense as apparently defined in the RERA Act yet the agents or brokers have continued adopting this malpractice in defiance of the RERA Act, which is punishable.

Authority has decided to come heavily on such malpractices adopted by the Real Estate Agents and brokers to exploit allottees in the name of charging arbitrarily high brokerage.

While disallowing the arbitrary brokerage, the authority issued warning to all the 1840 registered Real Estate Agents over arbitrary brokerage that they charge from the innocent sellers and property buyers. The Rule provides for commission of half percent of the agreed consideration value by sellers and purchasers on finalisation of deal.

"We will revoke, blacklist and debar agents or brokers who have committed the offence of exorbitant commissions in contravention of the rule," Khandelwal said.

RERA: INCREASING TRANSPARENCY IN REAL ESTATE SECTOR

Synopsis

RERA has a comprehensive framework to protect the rights of real estate customers. Customers can now relax and invest in the sector with a fearless mind.



India's real estate sector has come a long way in the past few decades. From a largely unorganized and unregulated sector, it has become one of the largest and most resilient real estate industries in the world. Today it is one of the most significant contributors to the country's GDP. It also employs one of the highest numbers of unskilled and semi-skilled labourers. However, the real estate sector in the country has had a fair share of ups and downs during this period.

There were periods when the sector saw a boom while there were other periods where it was struck by the slowdown. Delays in project delivery, inflated costs, poor construction quality, changes in project plans without informing allottees, project cancellations, and dissatisfied investors were getting a prevalent practice. There was a serious trust deficit building among the customers towards the sector overall.

Transparency

Before RERA, the real estate sector suffered from opaqueness. The customers had to rely on the words of the developers and their brochures and advertisements.

Timely project completion

In the pre-RERA period, project delays were a common thing. In a lot of cases, funds from one project were diverted to another and this often led to a financial crunch in the project which in turn caused a delay in project delivery.

Dispute resolution

As mentioned previously, there were a lot of malpractices in the real estate sector. False promises, altered project plans, poor construction quality, overcharging, and late delivery were common. Now, RERA has the provision of fast-track dispute resolution for all the issues faced by home buyers.

The increased trust of buyers

As the projects were being delayed and stories of malpractices by the developers started coming out, homebuyers had started losing faith in the sector

DELHI RERA REGISTERS 18 PROJECTS OF DDA

Synopsis

In December 2021, the RERA had issued an order asking the DDA to get the projects registered to protect the interests of homebuyers but the DDA filed an appeal in the case. While hearing was continuing, the DDA filed an application in July with details of the projects and the RERA gave registration certificates.



The Real Estate Regulatory Authority (RERA) of Delhi has registered 18 projects of the Delhi Development Authority (DDA), ending the tussle between the two authorities over registration of projects by the government body.

“There were 14 projects from 2019 for which we had asked for documents. This will bring transparency in the real estate market and other agencies such as Delhi State Industrial and Infrastructure Development Corporation Ltd will be encouraged to get registered with the authority,” said DDA chairman Anand Kumar.

The DDA had earlier argued that these projects were self-financed by the authority and that the apartments would be sold and handed over to the customers only after completion

“The RERA has been proactive in getting the projects registered in Delhi. Other states have also told the government bodies to register projects. Registration of DDA projects is a welcome step and will pave way for more transparency in the real estate sector,” said Harsh Bansal convenor, CII Delhi State Sub-Committee on Real Estate, Urban Development and Infrastructure.

The Delhi RERA, in its earlier order, had said that if DDA projects are implemented in an efficient and transparent manner, customers only would benefit. “The registration with RERA will ensure that these projects are developed according to agreed specifications without any quality compromise,” it had said

PUNJAB HOUSING MINISTER ASKS REALTORS TO CLEAR DUES

*‘Ensure timely possession
of properties to buyers’*



Chandigarh, September 7

Housing and Urban Development Minister Aman Arora has asked private builders to deposit pending charges to the department at the earliest. These realtors owe more than Rs 778 crore external development charges (EDC) and licence fee to the Punjab Housing and Urban Development Department.

The minister, who was presiding over a meeting with members of the Confederation of Real Estate Developers' Associations of India from the state, said the EDC collected would be spent on providing facilities in authorised colonies.

He asked the realtors to ensure timely delivery of the property to buyers as committed at the time of sale. He said around 3,600 complaints had been filed with Real Estate Regulatory Authority (RERA) in the last five years and most of them were related to delayed possession.

Notably, the maximum number of defaulters are related to the projects approved by the Greater Mohali Area Development Authority (GMADA). The authority has prepared a fresh list of the defaulting builders, who have not paid charges for long.

PUNJAB RERA ASKS PROPERTY PLATFORMS TO REGISTER AS AGENTS

Synopsis

Companies impacted might go to appellate tribunal against the order as they have been directed to submit an application to the authority, for registration, within three months.

Punjab Real Estate Regulatory Authority has asked the property listing platforms such as Housing.com, Magicbricks.com and 99acres.com to get themselves registered with the authority as a real estate agent, a move that will increase the compliance in the sector.



The move, if followed by regulatory bodies of other states, may lead to chaos, according to industry experts.

In their response to the authority, the property listing platforms argued that the role being played by the online housing portals is that of "intermediary" and they do not take part or carry out any property transactions.

"As a technologically driven open platform for all / intermediaries governed by the Information Technology Act, we strictly offer listings' platform in order to simplify home buying, renting, and selling in India. Our involvement is purely limited to laying out the advertisements in an interactive manner, with no involvement in the deal, transaction, commission or even negotiation of the deal," Wadhawan said.

"While the step to get everyone registered is good, the authority should also focus on one country one registration. A real estate agent, registered with any of the state RERA should be allowed to carry business in any state as government is focusing on ease of doing business," said Harsh Bansal convenor, CII Delhi State Sub-Committee on RE, UD & Infra, and cofounder of Unity Group.

"Digital platforms like us (Housing.com) are neither real estate agents nor brokers, we are a purely tech enabled medium or advertising portal which helps sellers to list their properties and for prospective buyers to simply search and make informed buying decisions," said Vikas Wadhawan, Group CFO, Housing.com.

HARYANA RERA ASKS DIRECTORS OF RAHEJA DEVELOPERS TO APPEAR IN PERSON OVER NON-COMPLIANCE OF ITS ORDER

Following the non-compliance of the Real Estate Regulatory Authority (RERA) order, the Authority has ordered the directors of the Raheja Developers Limited (RDL) to appear in person before the court.



On the first date of hearing on 1 October 2021, the RERA court had directed the RDL to file its reply, and it has been followed by four subsequent hearings since then on 2nd February, 21st April, 24th May and 2 September 2022. The court observed continued non-compliance its court order by the respondent RDL.

While issuing the order, RERA chairman Dr KK Khandelwal said, "Every order of the authority is to be implemented as if it is the decree of the civil court. This order directing the promoter to appear before the authority on the next date of hearing on October 4 be treated as a decree of civil court and any disobedience of this order will attract civil imprisonment."

During the next hearing, RDL will have to explain to the bench what actions the promoter so far has initiated to address the pending grievances of the residents living at Raheja Atharva residential group housing society, Sector 109, Gurugram.

Raheja Atharva is a newly built society where 400-plus families are currently residing. In a very short span of time, the building's construction quality has come into question, becoming a serious concern for the residents.

This comes after the residents welfare association (RWA) of Raheja Atharva had approached the Authority in October 2021 and, along with many other grievances, the association demanded structural audit of all the towers only for safety purpose.

After the major roof collapse incident of Chintel society on February 10 this year, which created panic situation among the people living in privately built up societies, Atharva occupants want structural audit of the building at the earliest.

DEPOSIT RS 64 LAKH BEFORE APPEAL IS HEARD: ASSAM REAT TO BUILDER

GUWAHATI: The Assam Real Estate Appellate Tribunal (REAT) has directed a builder to deposit with it within three weeks Rs 64,21,955 before appealing against an order of the Real Estate Regulatory Authority (RERA), Assam can be considered for admission.

The appeal was filed by M/s Gargi & Associates Pvt. Ltd. against an order dated 02.06.2022 passed by the RERA, Assam wherein the RERA, Assam had directed the builder to return the consideration amount of Rs 34,00,000 along with interest to the buyers of a flat for failure to timely deliver the flat to them. As per the order of the RERA, Assam, the rate of interest is to be calculated from the date of receipt of the consideration amount by the builder.

The Tribunal ruled that the proviso to sub-section (5) of section 43 of the Real Estate (Regulation and Development) Act, 2016 contains two distinct parts relating to the quantum of deposit, required to be made by the promoter with the Appellate Tribunal before the appeal is entertained. The first part is where a penalty has been imposed by the RERA and the same is put to challenge by a promoter by way of appeal. In this case, the promoter must first deposit with the Appellate Tribunal at least 30% of the penalty. The second part is where a challenge is made to an order of RERA where a promoter has been directed to make payment of the total amount to the allottee against the purchase of a flat. In this case, the promoter has to deposit with the REAT the total amount to be paid to the allottee, including interest before the appeal can be entertained. The Appellate Tribunal cannot accept any deposit other than the total amount.

The Tribunal, therefore, asked the builder to first deposit Rs 64,21,955, including the considerable amount of Rs 34,00,000 paid by the buyers to the builder and the interest amount of Rs 30,21,955.

The order was passed by Justice (Retd.) Manojit Bhuyan, Chairperson and Shri Onkar Kedia, Member, Assam REAT, a press release said.

