

## **A Study of Accountability of Promoter and Agent Under Rera Act 2016**

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### **Abstract**

*The Real Estate Sector has got for more importance due to the Coming of RERA Act 2016; which has not only decided the boundaries of Promoters and Agents but it also has imposed some essential accountabilities and responsibilities upon them to do fair and impartial practices of buying, selling, promoting and secures the consumer rights first of all the accountabilities of Promoters such as, Completion of Certificates, Forming of Association, Show of Document, Registered Conveyance Deeds and Payments of Outgoings. Whereas Accountabilities of Agents there should be a Compulsory Registration, they should be maintained separate records, Registration and renewal of certificate should be clear up you date on time along with application under (form G)*

**Keywords:** RERA, RERA Act, Agents, Home Buyers, Promoters, Customers, Commercial Estate

### **Introduction of RERA Act:**

The Central Government has brought a new law the RERA Act 2016 in the Real Estate Sector, to resolve the issues of the Land & Construction Industry. "The Real Estate (Regulation and Development) Act, 2016" the Government of India has given its consent to implement the Law in a proper way. The President of India also sent his assent on 25th March 2016. The Act has been partly notified i.e. 1st May 2016, as far it concerns to the establishment of Regulatory Authority, Central Advisory Council and Appellate Tribunal and administration. However, in all probabilities this will come effective only after the States have put the administrative mechanism in place.

The Preamble showcases importance of the enactment of this Act as a follow, "An Act to establish the Real Estate Regulatory Authority to regulate and to promote the real estate sector and to secure clean and clear sale of plot, apartment or building, as the case may

be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for Speedy dispute redresses and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating office and for matters connected there or incidental there to.”

### **Objectives of the Study:**

- To study Accountability of Promoters.
- To study Accountability of Agents
- To Create the Awareness and importance of RERA Act, 2016.
- To analyze the control of RERA Act, 2016 upon Promoter and Agent

### **Research Methodology:**

The nature of the research paper is primarily descriptive and analytical. The secondary data used in this paper such as relevant books, published Articles and RERA Act, Bill. The data is collected as per used from the secondary sources. This paper follows the interpretative approach of analyzing the data.

### **History of RERA Act:**

During the year 2013 the UPA Government in India had already introduced the Real Estate Regulatory Act (**RERA**) Bill. There were 20 Major Amendment to the Bill Suggested by the Union Government of India in December 2015. Rajya Sabha the Amendment Recommending and Examining Committee had also examined the Bill. The Bill had been referred to a selection committee, which had given its report in July2015. However, Congress, Left and AIADMK had expressed their reservations on the report through dissent notes. The bill was got approved in *Rajya Sabha* on March10th 2016 and in Lok Sabha on March15th2016.

### **Meaning of Promoter under RERA Act:**

- 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 apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or
- a person who develops the 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
- any development authority or any other public body in respect of allottees of—
- buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or
- Plots owned by such authority or body or placed at their disposal by the Government.

### **Accountability of Promoter under RERA Act:**

Following Accountability of Real Estate Promoter under RERA Act' 2016

#### **Main Accountability:**

The Promoters are primarily bound to be responsible to get the real estate projects registered under the RERA Act, 2016. promoter should form there genuine website online. promoter who are engaged in such practices must create their own website and display them on the RERA Authorities website, and they should enter all essential and necessary details of their proposed project for the public view which includes

- Details of the registration approved by the Authority.
- Quarterly list of the number and type of booked apartment or plots, list of approvals taken and the list of pending ones subsequent to the commencement certificate, status of the project etc.



### **Completion Certificate:**

Completion Certificate Promoters are bound to obtain the accomplished or occupancy certificate from the concerned Authority for their purpose of making it available. For the allottees these certificates should be either provided individually or to the Association of Allottees.

### **Association Forming:**

The Promoters bound with Accountability of enabling the formation of Association. Which means they should form their individual Association / Co-operative societies or Society of the allottees or they should form and established a Federation of the same under such applicable laws?

### **Show of Documents:**

The promoter should organize to facilities the availability of Documents these documents should be availed during the booking at the time of issue of allotment letter. Which are included like of sanction plans, layout plans these plans must be approved by concerned authority

### **Registered Conveyance Deed:**

The promoter must take the accountability of the execution of the registration conveyance deed for they would be considered accountable for such Real Estate Property transactions and this accountability must be accompanied with the undivided proportionate title in the common areas to the association of allottees, who have booked the Real Estate Property in the project.

### **Outgoing of Payment:**

All payments for the outgoings much be paid by the promoter until he/she transfers the physical possession of real estate project to the allottees or to the association of the allottees, which may perhaps include ground rent, land cost, maintenance charges, etc. if the payment from the promoter is delayed or he failed to pay all or any of the outgoing to the allottees or

to the association of allottees at the time then he/she continuous to be liable even after the transfer.

### **Mortgaging and some Restriction upon it:**

An Agreement of any real estate property for sale executed then no mortgage or creation of charge would be made on such real estate property. Even though this stipulation is breached the right and the interest of the allottees shouldn't be at stake.

### **Meaning of Agent under RERA Act 2016:**

A Real Estate Agent is a person who in a Real Estate Project receives (a) Remuneration (b) Fees or (c) any other charges as commissions for negotiating or acting on behalf of one person for transferring (a) plot, (b) apartment or (c) building by way of sale, to another person

- Any person who through any medium introduces prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building.
- Property dealers, brokers, middlemen etc.

### **Accountability of Agent under RERA Act:**

Following Accountability of Real Estate Agent under RERA Act 2016

### **Agent Registration is Mandatory:**

Any Agent who is applying for any purchase and sales transaction about real estate property must registered Agent vocation under the prescribed Act and Form G of RERA Act, 2016.alongwith necessary document and fees.

### **Separate Records must be maintained about Agent Vocation:**

If any Agent who is engaged in with promoter on whose behalf he has acted as a real estate agent in preceding five Years for a real estate projects then he/she shall maintained and preserved books of accounts, he/she should keep records and documents separately four each of such real estate projects purchase and sales.

### **Timely Registration and Renewal Agents Vocation Certificate:**

Registration Certificate (in form H) must be received by the agent within 30 days of receipt of application which is subject to fulfillment of conditions. In such cases if the applications is not rejected within 30 days of being made then it shall be deemed to have been registered on such occasion the related authority shall provide registration number to the accordingly. Its particular registration would be valid for the period of five years after the completion of five years the registration would itself expire if it is not renewed on time. The renewal of registration (form J) to be done with 60 days which is prior to the expire of registration.

**Application is subject to rejection on particulars conditions:**

The applicant must be given the opportunity conditions hand to hear the case. If the applicant is well known about his perspective of application then his application would be accepted by the authority otherwise if the opportunity is not given to be hears then in such conditions the authority may reject the application and records the reason for the same in (form I).

**Conclusion:**

The Real Estate Sector was totally unorganized before coming for RERA Act, 2016 in the sector. After the insertion of RERA Act 2016 the sector has got the power to control issues related Real Estate Sector. That which with this power and Accountability is bifurcated among the Promoter and Agent and along with them the rights of consumers got secured. This imposition of Accountability of Promoter and Agent has been imposed on unfair Trade practices, Delay of possession, and other illegal malpractices have been curbed. The RERA Act provides the protection and secured the right of Real Estate Consumer's against all Unfair Trade Practices.

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