



## The Real Estate (Regulation and Development) Act, 2016: Pros and Cons

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Research Guide

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### Abstract:

*With the Commencement of RERA Act, 2016 in real Estate Sector, the illegal Malpractices in the sector has been Curtailed and it has brought a sea change in the Real Estate Sector. and the insertion of this Act will be proved beneficial not only to the Landlords, Brokers, Agents Promoters and Builders and Homebuyers, but it would also simplify the process of purchasing and selling which would at some par support both the customers and the promoter at once the RERA Act is limited in some ways such as exemption in past project and small developers and has Harsh Penalties for the delay possessions. But all the entire Act is a Supreme step taken by the Government. This Research Study explores the Establishment of RERA Act. Operative part of Act against Con and Malpractices.*

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

### Introduction:

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."

### Research Methodology:

The research paper mainly is descriptive – analytical in nature. Relevant books, articles and news paper are used in this research paper. Data and information are collected from the concern sources as per need to strengthen my research. Interpretive approach has been follow in this research.



#### Objectives of the Research:

- To Study the Historical Background of the RERA Act.
- To Study Importance of RERA Act in Construction and Land Development Sector.
- To Study the Legal and illegal Malpractices in Buying and selling in Real Estate Sector.
- To Generalizes the Awareness of the RERA Act.

#### Historical Background of the 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 July 2015. However, Congress, Left and AIADMK had expressed their reservations on the report through dissent notes. The bill was got approved in *Rajya Sabha* on March 10th 2016 and in Lok Sabha on March 15th 2016.

#### PROS of RERA Act 2016

- **Transparency:** There must be transparent and accurate disclosures of authorized Website allotment letter online.
- **Project Registration is Mandatory:** The Submission of the Project registration details of the Property is must for the Promoters they should registered with the housing regulatory projects. .
- **No misleading claims:** A written affidavit should be given mentioning the time frame of the project to be delivered.
- **Money management:** Promoter has to deposit 70% of the buyer's amount in an escrow A/c to avoid illegal transfer of money.
- **Warranty:** RERA will provide 5-year warranty for structural defects.
- **Standardized Carpet Area:** Each Promoter had his own formula to calculate the carpet area of a property. But RERA has a standardized version of how to calculate the carpet area
- **Any Defect in the Construction:** Under the RERA act if there is any defect or fault in the construction of apartment then the repairing has to be done by the real estate developer.
- **Redresser of Grievances:** In case Customers are not satisfied with the construction or if there is any other issue with your commercial property or residential property, then Customers can approach the Appellate Tribunal. This tribunal will address your case within 60 days.
- **Delay in the Projects:** If the Promoter is not able to complete the project until the delivery date, then they will have to face the Legal action under the RERA Act 2016.

#### CONS of RERA Act 2016:

- **Rise in property prices:** Due to the lack of liquidity, Promoters have to look for other sources for money thus, leading to rise in the price of the property.
- **Rigid growth:** Due to 70% investment in escrow account there will be cash flow hindrances leading to delay in projects.
- **Imbalanced Demand and Supply:** Compliance to all the aspects will delay the project



- and as there won't be pre-selling of the property.
- **Harsh penalty:** If a Promoter fails to fulfill any provisions, he will be liable for imprisonment up to 3 years or 10% of the total cost of the project.
  - **No cover on rental agreements:** Any rental agreement and any sorts of such arrangements are out of the ambit of the RERA.
  - **Past real estate projects not included in the bill:** Only new projects are covered by the bill.
  - **Delay from government agencies:** There can be delays caused by the government, which sometimes takes a lot of time to clear a project. It is up to government bodies to follow strict time frames to approve projects, so that developers can launch, complete and deliver them on time.
  - **Exemption from Mandatory Registration:** Registration with the regulator will not be mandatory for projects less than 500 square meters and flats less than Eights. So, small developers will not be bound to register.
  - **New project launches expected to be delayed:** A project will not be allowed to launch without the requisite clearances from the government (which generally takes two to three years), projects will automatically get delayed.

#### Conclusion:

The RERA Act 2016 is Law of a Land which would regulate the Financial Discipline, Transparency, Accountability, And Efficiency of purchasing and selling transaction process of the Real Estate Sector such as Land, Plots, Flats, Apartments and big Constructions, even though it has been limited by Exemption of mandatory Registration of Small Projects, Harsh Penalty and Fixed Growth but if this Act is implemented in a proper way then this Act would prove to be golden opportunity and will bring Dynamic changes in the Real Estate Sector.

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