



TWO YEARS OF RERA: THE JOURNEY SO FAR

The Real Estate (Development and Regulation) Act, 2016 (“**RERA**”) has been passed by the legislature, with the sole objective to develop and regulate the real estate sector in India. It came into force on May 1, 2016, with all the sections subsequently coming into full force a year later on May 1, 2017. Since RERAs come into force, the crux of the debate has been as to how well it has been implemented and how far has it been able to live up to its objective. In this Article, we examine the issues faced by RERA at the implementation level, how has it affected the buyer, what has been the market’s perception and the way forward.

- **Implementation**

One of the major shortcomings of RERA has been its implementation. As per Section 84(1)¹ of RERA “*The appropriate Government shall, within a period of six months of the commencement of this Act, by notification, make rules for carrying out the provisions of this Act.*” However, the fact is that till date 8² (eight) states (*West Bengal, Goa and six North Eastern states excluding Assam*) have not notified their respective rules, and in cases where the rules has been notified there has been a dilution in the provisions in comparison to RERA.

Section 29 and 30 of RERA outlines a process for setting up a Real Estate Regulatory Authority, only 6³(six) states have established a permanent regulatory body while majority continue to function with an interim regulatory authority, for an Act still in implementation stage, the compliance needs undivided attention and focus from regulators for smooth operations, but by appointing interim bodies as a stop gap arrangement leaves one wondering about the seriousness of the State Governments to protect consumer interest.

RERA also requires State Governments to have a dedicated online portal wherein the builders are required to upload all the relevant details of the project and prospective buyers can check the information so as to make informed choices, till date only half of the states i.e.

¹RERA, 2016(No. 16 of 2016, dated March 25, 2016)

²<http://apnarera.com/rera-states>

³Over 31,000 realty projects under RERA so far, Maharashtra leads race: Report”, August 10, 2018, *Livemint*<https://www.livemint.com>



14⁴ (fourteen) have an online portal, even among these states the portal is not completely functional in a number of cases.

Among all the states, Maharashtra is the frontrunner as far as implementation of RERA in its true spirit is concerned; it has the highest number of project registrations 17,125⁵ which is 54% of the total projects registered under RERA throughout India. The MahaRERA (Regulatory Authority) leads in disposal of disputes and has been instrumental in reaching amicable balance between buyers and developers interests and in infusing consumer confidence and in a way serves as a case study for other states. On the other end of the spectrum are states like West Bengal which have implemented their own real estate law, the Housing Industry Regulation Act, 2017 (“**HIRA**”), wherein specific provisions have been enacted in-turn diluting RERA⁶.

- **Impact on the Homebuyers**

One of the major objectives of RERA is to protect the interest of homebuyers’ but even after a span of two years, inconsistency regarding registration of exiting projects, lax nature of implementation and dilution of rules by the most states, RERA has failed to enhance buyerconfidence.

- **Impact on the Market**

RERA is aimed at creating a more equitable and fairer transactional environment between the seller and the buyer and has the potential of changing the entire landscape of the real estate sector. It is a great opportunity for builders to change the perception of all stakeholders towards this sector; the impact has been quite inconsistent depending on the size of the developer. Whilst the large developers clearly stand to gain, the small and medium developers are put to a disadvantage.

⁴Prabhakar Sinha, April 27, 2018, “One year of RERA: 14 states still have no portals”, *Times of India*, <https://timesofindia.indiatimes.com>

⁵ibid

⁶Abhishek Law and Pratim Ranjan Bose, June 3, 2018, “Bengal opts out of RERA, passes own diluted law”, *The Hindu Business Line*, <https://www.thehindubusinessline.com>



Despite various shortcomings it's a boon for home buyers as it helps in addressing the over capacity issues (unsold projects) plaguing the sector. Higher transparency and accountability, would definitely improve the institutional fund flow into the sector. The requirement of maintenance of a separate account for each project to store 70% of the funds received from the buyers, will help in better cost analysis, speedier construction and delivery of the projects.

- **Way Forward**

As per a recent report, India even after passing of RERA, has just managed to improve its ranking by one place from 36 in 2016 to 35 in 2018 in the global real estate transparency index. This clearly points that RERA is still a work in progress and two years is a very short span in analysing the impact of legislation on an entire sector. In order to ensure the desired impact, the State Governments need to buckle up and ensure that RERA provisions are implemented in its true spirit. Further, the State Governments need to ensure that there is no urban or regional bias and implementation throughout their states should be on a consistent basis.

This Article has been prepared by the Real Estate Team, Lex Favios Advocate & Solicitors.

LEX FAVIOS

Delhi office: E-277, Greater Kailash - 1 (Level 3), New Delhi - 110048

Tel: 91-11-41435188/45264524 Email: admin@lexfavios.com

www.lexfavios.com