

## **CHALLENGES IN THE REAL ESTATE SECTOR AND THE NEW LAW**

The real estate sector in India, (which a major contributor to the GDP of the country) is currently suffering from a major downfall in prices and has been faltering for quite sometime. The demand for real estate witnessed a sharp rise in the past decade. The government, despite its various housing schemes, has not been able to meet the rising demand in the real estate. This has played to the advantage of the private sector and currently a major portion of the real estate market is now taken over by these private players.

However, the private sector has taken control over the real estate sector with almost no concern for the interests of the consumers.

Among the challenges faced by consumers, one of the major challenges is delay in projects. The delay is caused due to several factors including land ownership issues, compensation to original owners, approval from authority, finance, availability of labour etc. Ultimately, the builders promise a home and end up defaulting with either delay in delivery or deficiency in service. The consumers are left with no remedy but to approach the appropriate forum. Further, builder pays only 2 to 3% interest in case of default but when customers default (like refuses to buy), they have to pay around 16 to 18% which is unfair and there is a need to set a standard for such buyer seller agreements.

Among the issues faced by the builders, there are various procedural difficulties. Various approvals have to be taken from different government departments or authorities. This is one of the major causes of delay in completion of projects. The land titles are not clear and issues regarding compensation to original land owners arise leading to land acquisition and compensation cases. High taxation like stamp duty, VAT etc. are other major challenges faced by real estate sector.

The Real Estate (Regulation and Development) Act, 2016 was passed to curb the issues and challenges and to regulate contracts between buyers and sellers in the real estate sector to ensure consumer protection, and standardization of business practices.

The Act provides for establishment of Regulatory Authority in each State/UT, or one Authority for two or more States/UT, by the Appropriate Government for implementation of Act.

The Real Estate Act makes it mandatory for all commercial and residential real estate projects where the land is over 500 square meters, or eight apartments, to register with

the Real Estate Regulatory Authority (RERA) for launching a project, in order to provide greater transparency in project-marketing and execution.

The Act prohibits unaccounted money from being absorbed into the sector and as now 70 per cent of the money has to be mandatorily deposited in bank accounts through cheques. A major benefit for consumers included in the Act is that builders will have to quote prices based on carpet area and not super built-up area.

Any change in plan (submitted to RERA at the time of registration) by the builder will require approval from 2/3rd of the allottees or buyers in the project.

As stated previously, the sale agreements are heavily skewed in favour of the builders. For instance, in case of any late payments, the buyer has to pay interest at rates as high as 18% p.a. However, if the builder fails to deliver on time, the buyers get penny change, if any. If you are very fortunate, you will get Rs 3-5 per square feet per month for delay in project delivery. After the passage of this Act, both buyers and the builders will have to pay the same rate of penal interest for delays.

In case a buyer has been tricked into purchase through false representation or advertisements, he has the option to exit the project. The developer, in such case, will have to return the money along with interest.

Therefore, the Act will bring much needed transparency to the Real Estate Sector. Till now, the balance was heavily tilted in favor of developers. However, the new law seeks to regulate the agreements in such a way that these agreements shall be more balanced and imposes larger responsibility on the builders.

*Disclaimer: The views expressed in this article are the views of the author and are purely informative in nature.*