

Highlights of Real Estate Bill, 2016

Real Estate Bill 2016: A bird's eye view

On 10th March 2016, the Rajya Sabha (Upper House of Parliament) passed the Real Estate (Regulation and Development) Bill, 2016 (“**Bill**”) which was long awaited by home buyers across the nation. The Bill was taken up for consideration in the Lok Sabha (Lower House of Parliament) and was passed by the Lok Sabha on 15th March 2016. It will now require the President’s assent. Once the President’s assent is received and it is duly notified in the Official Gazette, the Bill will subsume the status of a law by the name the Real Estate (Regulation and Development) Act, 2016.

1) Main objectives of the Bill:

- (a) Provide respite to flat purchasers against the practice of fly by night developers in the real estate sector;
- (b) Regulate the real estate sector for the first time by establishing a Real Estate Regulatory Authority (“**RERA**”) and Real Estate Appellate Tribunal (“**REAT**”);
- (c) Elimination of information asymmetry and ensuring full and fair disclosure by promoters or developers; and
- (d) Steer in transparency and ensure compliance with terms and conditions during the process of registering, monitoring and regulating housing projects.

2) Key Highlights of the Bill:

- (a) It regulates both commercial and residential real estate projects;
- (b) It provides for mandatory registration of real estate projects with the RERA. The Bill requires that all residential projects, with some exceptions, be registered. No promoter shall book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project, or part of it, in any planning area, without registering the real estate project with the RERA. Registration is not required for projects that: (i) are less than 500 square metres, or (ii) entail the construction of less than 8 apartments;
- (c) Where a project is developed in phases, each phase must be registered separately. In order to register, the promoter must provide details such as the layout plan of the project, and the carpet area of property for sale to the RERA;
- (d) On registration, the details of the project including the site and layout plan, and schedule for completion of the real estate project, details of the promoter, land status, approvals, agreements along with details of real estate agents, contractors, architect, structural engineer etc have to be displayed on the website of the RERA;
- (e) Deemed grant of registration of the project in the event the RERA does not revert within 15 days of the application for registration. Registration may be revoked after giving 30 days notice to the promoter. In case of revocation, the RERA can recommend the completion of the project through the competent authority or association of buyers or in

any other manner. Here, competent authority refers to the local authority responsible for land development;

- (f) 70% of the amounts realized for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank within a period of fifteen days of its realization and must only be used for construction of that project. The state government has the discretion to alter this amount. Developers are required to deposit this specified amount in a separate bank account to cover the construction cost of the project for timely completion of the project;
- (g) Real estate agents must register with a RERA in order to facilitate the sale or purchase of property in real estate projects that have been registered. Registered agents must not facilitate the sale of unregistered projects or mislead buyers regarding services offered;
- (h) The Bill seeks to establish fast track dispute resolution mechanisms for settlement of disputes through adjudicating officers and REAT. REAT being the appellate tribunal will be required to adjudicate cases within 60 days and RERA will have to dispose of complaints in 60 days;
- (i) Functions of a RERA include: (i) ensuring that residential projects are registered, and their details uploaded on the RERA website, (ii) ensuring that buyers, sellers, and agents comply with obligations under the Bill, and (iii) advising the government on matters related to the development of real estate; and
- (j) Penalties:
 - (A) In case the promoter fails to register the property, he may be penalised up to 10% of the estimated cost of the project. Failure to register despite orders issued by the RERA will lead to imprisonment for up to three years, and/or an additional fine of 10% of the estimated cost of the project. The promoter will have to pay up to 5% of the estimate cost of the project if he violates any other provisions of the Bill; and
 - (B) Real estate agents will have to pay a fine of Rs 10,000 for violating any provisions of the Bill, for each day the violation continues.

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