



Implication of the Real Estate (Regulation and Development) Act 2016” on Real Estate Industry

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Abstract — The real-estate industry is directly link to socio-economic growth and development. Increasing the availability and affordability of housing can improve the quality of life for citizens, and the overall development of facilities improves productivity of the economy. Property prices also indirectly impact macroeconomic health through the wealth effect: as house prices rise, homeowners feel wealthier and are likely to increase consumption and boost aggregate demand.

In the current period, the real estate and construction divisions play a vital role in the process of development especially infrastructure. In Our nation, after horticulture it is the second biggest employment segment. The Real Estate (Regulation and Development) Act, 2016 is an Act of the Parliament of India which looks to secure home-purchasers just as help to support interests in the real estate industry. Rajya Sabha and the Lok Sabha passed the bill in March 2016. The RERA Act came into force from 1 May 2016. The destinations of this demonstration are to Ensure Transparency and Efficiency in Real Estate area with respect to sale of plot, apartment, building or real estate projects; to protect consumers in real estate sector; to start judge the methods for snappy contention redressal and to set up Appellate Tribunal to focus fir claims through a legitimate instrument by means of RERA.

Before implementation of RERA, the division was deficient in clearness on carpet area, with practice of monopoly power of the part of builders concerning to loading, rates, sort of payments. With number of frauds, muddled image of project, ownership, approval and so on. An endeavour has been made through this paper to contemplate RERA as a change in Real Estate industry and to know its advantages, disadvantages with offering recommendations. The current issues from the metro urban areas like Mumbai are likewise depicted in this paper.

Keywords- Act, Purchasers (Buyers), Agents, Builder, Real Estate, Flats, advertiser (promoter), GoI

I. INTRODUCTION

The real-estate industry is directly link to socio-economic growth and development. Increasing the availability and affordability of housing can improve the quality of life for citizens, and the overall development of facilities improves productivity of the economy. Property prices also indirectly impact macroeconomic health through the wealth effect: as house prices rise, homeowners feel wealthier and are likely to increase consumption and boost aggregate demand.

The private land industry in India is intricate and dynamic. Varying economic and segment attributes the nation over outcome in contrasts in the housing markets in various urban areas.

Demand for housing has expanded as of late because of rising per capita incomes, the expanding entrance of housing finance, and increasing populace thickness in urban regions. The developing white collar class, expected to develop from 224 million to 583 million by 2025, has included to existing weight the interest for lodging. The Indian government is confronted with a few difficulties as it endeavours to settle the housing market and increment openness to affordable housing.

In light of rising inflation and twin current account and fiscal deficits, the government has attempted to increase liquidity and encourage household saving during 2012-13 by pursuing tight monetary policy (Moneycontrol, 2013).

Consequently, investment growth in the industrial sector experienced a slowdown and contributed - along with a slowdown in the 4 industrial, agriculture and services sector- to a decline in GDP growth to 5 percent in 2012-13 (Moneycontrol, 2013). Residential real-estate markets have followed suit, with Mumbai and Delhi experiencing a 0.5 percent and 1.5 percent fall in prices respectively, and cities like Chennai and Kolkata dropping by 2.3 percent and 4.1 percent respectively (Kumar, 2013).

The Indian economy is going through a transition phase of urbanisation. It was projected from the past trends that the urban population of India will grow from the 285.3 million in 2001 to 533 million in year 2025, i.e about 40% population will live in the urban area (National Housing Bank). The increasing housing and accommodation along with development of the infrastructure facilities will contribute to the productivity of country via increasing the economy.

The demand for the housing has increased particularly in the recent year due to good financial availabilities, market penetration and huge gap in demand and supply in the sector due to growth in the middle class. It is expected that the middle class grow from 224 million to the 583 million by the year 2025 (Mustafi, 2014).

The government of India is have a vision of providing home to everyone by 2022. GOI have faced several challenges as it try to stabilization of the housing market and increasing accessibility to the affordable housing.

Indian real estate sector has been facing a slump since 2012, due to unemployment in the sector, low rental yield and unclear taxes and arbitration. However, the price of property was not stabilised hence decline in the demand. The decline in demand resulted in slowdown, and the recovery of investment become difficult for investors. The major issue faced by the sector is lack of transparency. The sector is opaque with regard to the cost, delay in delivery, quality of construction, title (ownership) and litigation. Among this, the delivery of project on time was biggest issue for the homebuyers. From last two decades, the number of under construction project raised to all time high mainly in metro cities and promoter does not adheres to deadline of project. From investor point of views, investing there life saving in property cause worries for them. The misleading information about documentation, progress of project, and amenities by real estate agent also cause of concerns for them.

Government of India enacted RERA (Regulation and Development) act 2016, on 26th march. The act will be applicable to under construction as well as to new project. The commercial and residential project are included in ambit. The real estate agent are also an important part of this act. The purpose of is to ensure that greater accountability and transparency in the system.

Over the several years, the real estate sector has been witnessing numerous challenges in terms of delay in delivery of projects, uncompleted projects, rising cost of construction, regulatory issues, demonetisation, etc. With RERA being implemented on 1st May, the real estate panorama is poised for change with the presence of a regulatory authority to develop rules and regulations related to the sector. RERA is a win-win situation for both developers and buyers as the former will enjoy the benefits of consumer confidence coming back in the market while the latter will benefit from much-needed transparency and on time delivery of projects.

II. MOTIVATION AND OBJECTIVE

Either you are someone who is looking for a property or a part of the mammoth world of the real estate, you must have heard of the word "RERA" or Real Estate (Regulation and Development) Act. RERA was implemented on May 1, 2017, to safeguard the interest of consumers, who are left stranded in the middle by the builders and developers. Like Consumer Protection Act 1986, in RERA, the developer needs to expressly indicate the date of ownership alongside the pace of enthusiasm for the instance of any postponements in the "agreement of offer". The only intention of the government behind the implementation of RERA is to offer possession to a home buyer on time.

Before implementation of RERA the condition of real estate market was something like this:

2.1. Delayed possession

One of the biggest issues that home buyers were facing was that they were not getting possessions on time. A home buyer put all his savings in purchasing a home, but a delayed possession is something that makes their life more miserable. Even if the builders were offering possession, they refused to offer occupancy certificate.

2.2. Unclear picture of the project

Before the implementation of RERA, there was no clear picture of the project provided by the builder. It was a common practice with the developers that they try to fool customer by taking hidden or extra charges. Apart from this, the developers used to take all the money from the home buyers and then invested it in another project, delaying the current one. Hence, the transparency was missing.

2.3. Builder friendly real estate market

It is really unfortunate to say but the market before the implementation of RERA was builder friendly. There were no law, no rule and no eyes to watch. Builders and developers were free to do whatever they want. They use to invest your money in other 4-5 projects, because of which, none of their project gets completed.

2.4. Missing Brands

When RERA was not implemented in the realty sector, there were hundreds of builders in the market. Some were big, who were building thousands of flats, while some were into small ventures. These were the developers who were the most difficult to trust. They don't have a brand value; hence they have nothing to lose. Owing to all this, it was only the home buyer who was getting suffered, who was losing the trust from real estate.

These were some of the issues faced in the real estate market due to which RERA was implemented and there was a ray of hope in the new market due to which it motivated us to conduct this study. RERA was implemented to revive the sluggish real estate market of India, including Noida. And, there is no doubt that the act has been proved successful to serve its purpose.

III. LITERATURE REVIEW

A review of the literature pertaining to RERA and its implications on real estate industry is made. Literature review particularly dealing with the impact of RERA after its launching on Real estate industry is studied. We could collect some of the studies that helped us to identify the gap in the real estate and based on that we have included this as a research topic.

3.1. STUDIES

Priya Chetty (2016), The study conducted by the Priya Chetty, 2016, Project Guru indicates that the real estate sector is doing badly. The reasons for this negative growth of sector was,

- Lack of transparency and accountability in the sector.
- Delay in construction and delivery of project
- Incorrect information to the homebuyers about the carpet area, specification etc. (Nandy, 2015)
- Diversion of funds received by the developer towards one project to more lucrative ones
- Construction work has come to a standstill or the developer has left without completing the project

This resulted in the low confidence among the homebuyers resulted in the decline in the investment, shortage in liquid cash, and unaffordable rates for the homebuyers.

To raise the investment in the sector government have open door for FDI (Foreign Direct Investment) in 2005. The investment increasing with decreasing growth rate, due to the lack of transparency in the system and misuse of the amount invested by the investors.

For long, home purchasers have griped that real estate transactions were unbalanced and vigorously for the developers.

The decline in demand resulted in slowdown, and the recovery of investment become difficult for investors. The major issue faced by the sector is lack of transparency. The sector is opaque with regard to the cost, delay in delivery, quality of construction, title (ownership) and litigation.

In her study indicated the reasons for the negative growth of the of the real estate sector in the country. In her finding more emphasized had given to the lack of transparency in the transitions, cost, and litigation methodology. She also considered the delay in the delivery of the project to the clients as an important factor. The frequent change in the specifications and designs is also found to be the reasons for dispute among the both the parties.

This resulted in low confidence among the homebuyers and hence the shortage of investment in the sector, low liquid cash and high rate of property for the homebuyer. The market was almost on standstill condition.

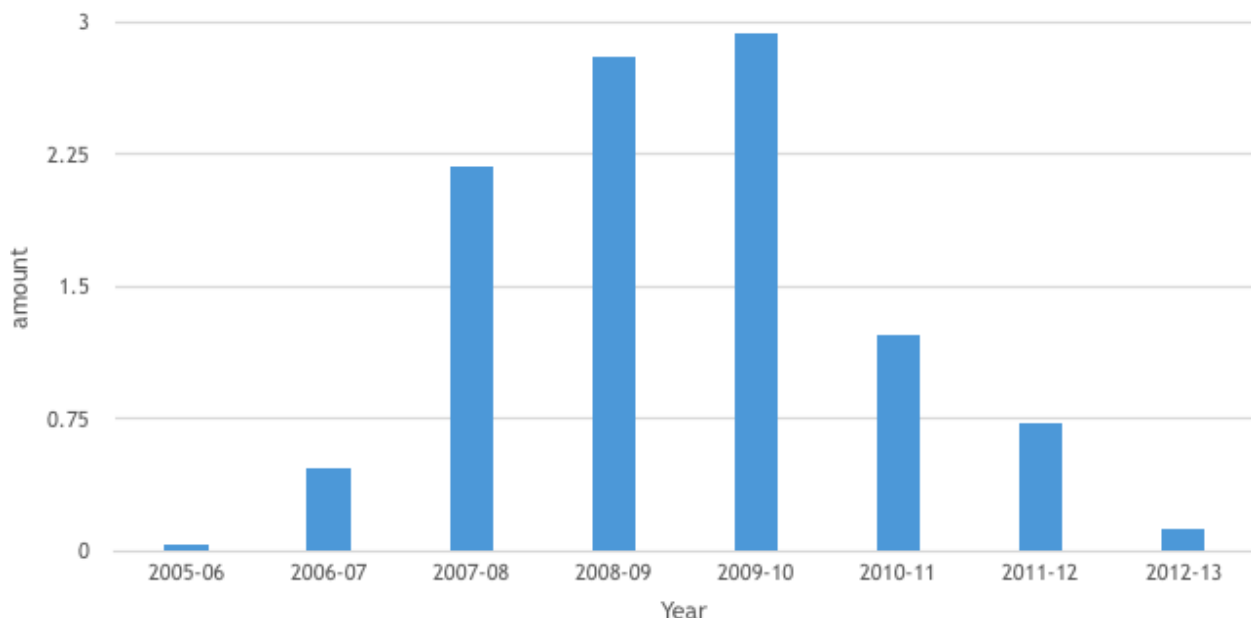


Figure 1.1 Inflow of FDI in Real Estate India (USD Billion)

Taneja 2016, Reported that in most cases the promoter created land bank from the investment paid by the homebuyer, resulted the cost of land shoot up further it come difficult for the middle class have their home.

IBEF (India Brand Equity Foundation) 2008, Reported that the rate of interest prevalent in India is quite high compared to the other nation, which further make it difficult to buy property. The prevalent rate of interest is around 10% which is quite high compared to the U.S. The report also questions about the taxation system and single window clearance. In India the tax rate varies from state to state, so there is huge variation in the price of the property. This is the significant challenge for the sector.

Tranquils wood 2012, The study indicated that the economic slowdown in terms of job loss, stock market crash, currency crash etc. affected seriously to real estate. As a result, the demand went down and promoters find it difficult have the buyer.

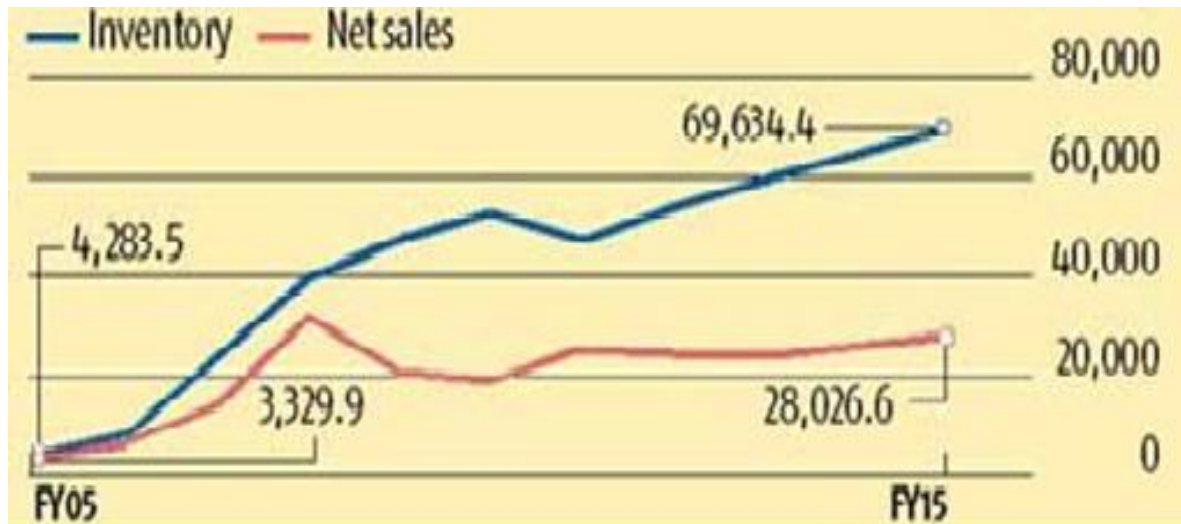
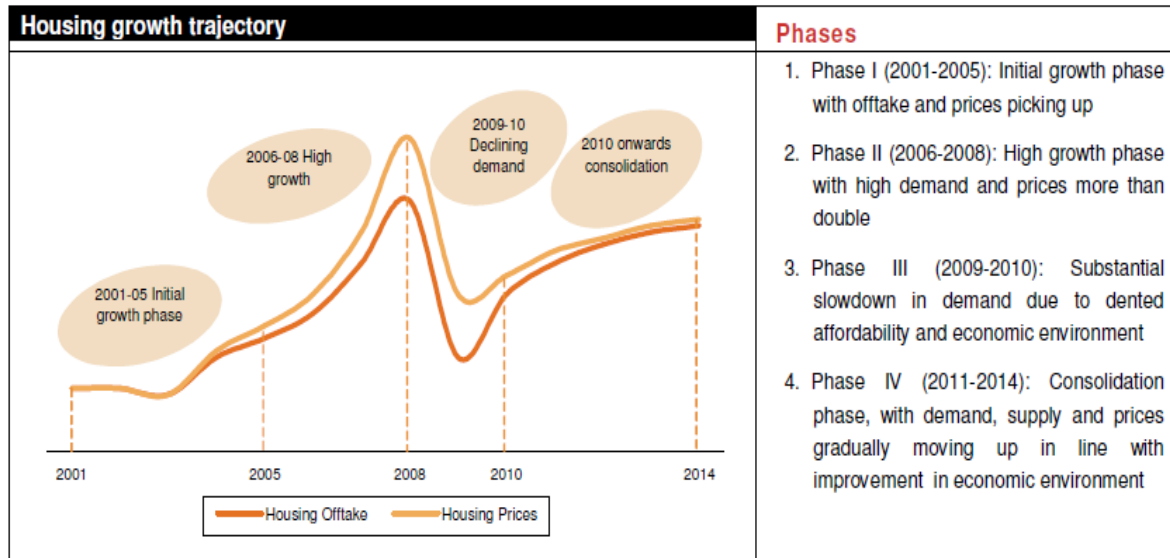


Figure 1.2 Pile up Inventory In real estate (Kant, 2005)

The financial Express report of 2016 the loan functioning in country is also poor in terms of delay in valuation of property, documentation, credit score, and interest rate.



Figure 1.3 Launch vs Sales of Real Estate Property (Equity Master, 2016)



Note: All years represent financial year (April-March). For instance- 2011 represents April 2010-March 2011.

Figure 1.4 Growth Trajectory Of Real estate in India

Calomiris, Longhofer, & William, 2012, The real-estate industry is inextricably linked to socio-economic growth and development. Increasing the availability and affordability of housing can improve the quality of life for citizens, and the overall development of infrastructure improves productivity within the economy. House costs likewise in a roundabout way sway macroeconomic health through the riches impact: as house costs rise, home-owners feel wealthier and are probably going to build utilization and lift total interest.

The developing white collar class, expected to develop from 224 million to 583 million by 2025, has included to existing weight the interest for lodging.

In light of rising inflation and twin current account and fiscal deficits, the government has attempted to increase liquidity and encourage household saving during 2012-13 by pursuing tight monetary policy (Money control, 2013). Consequently, investment growth in the industrial sector experienced a slowdown and contributed - along with a slowdown in the 4 industrial, agriculture and services sector- to a decline in GDP growth to 5 percent in 2012-13 (Money control, 2013).

IV. RESEARCH METHODOLOGY

A questionnaire survey will be provided to the following people in order to know their opinions about the Act and its effect in their respective work.

- Builders
- Real Estate person
- Investors
- House owners
- Others

Before RERA the real estate market was an unorganized one and this resulted in improper management, neglecting issues, ignorance and error in judgement etc. The basic cause of poor performance of the market was due to the factors listed below:

- Lengthy approval process for project clearances
- Lack of clear land titles
- Prevalence of black money
- Diversion of funds received by the developer towards one project to more lucrative ones
- Construction work has come to a standstill or the developer has left without completing the project
- Developer changes the layout or building plans after purchase
- Legal disputes (It had to be settled in the courts)
- Endemic issues – For Ex recessive conditions in the past few years.

The data and details were collected through online survey form. Since many builders are illiterate and semi-literate so the responses from these builders were ignored because they fear this might be used in auditing and the details might be used against them. The survey form however includes the opinion giving text box.

V. PROVISION AND COMPARISION

5.1. Provisions Of Rera Act 2016

5.1.1. Timely delivery of Projects: Timely delivery of projects has been the biggest concern of the homebuyer as most of the time the developer siphoned of the money to other projects instead of completing the existing ones. Now, RERA Act will ensure the developer to maintain a separate account in which 70 per cent of the monies taken by the buyers will be deposited in an Escrow Account and this fund will only be used for construction and completion of the project. Through this Act, the developers will be binded with the project delivery in a time bound manner and will help the end users to manage their cash flow effectively in terms of EMI and rent.

5.1.2. Ongoing Projects: All the developer have to disclose the original sanctioned plans, and changes made in the project at the later stage and duration of the time within which the developer will complete the project.

5.1.3. Registration of projects: Each state will set up its own regulatory authority who has the responsibility to register and regulate projects under this Act. The authority also has to develop a website for the public to view the real estate projects that have been registered by the authority. This, in turn, will help the buyer to invest in the real estate project registered under the Act. On the other hand, developers also need to disclose all the information related financial statements, legal title deed and other documents in order to get their projects registered under the Act.

5.1.4. Project Quality: The quality of construction has been the biggest concern for many home buyers. Under RERA, in the event of any auxiliary deformity or low quality, it will be the obligation of the developer to redress such imperfections for a time of 5 years.

5.1.5. Project Registration: No developer can advertise/market the project, apartment or building without registering the project with the RERA authority.

5.1.6. Delayed delivery compensation: The developer has to pay penalty in case of delay in possession or return the total amount with interest at a defined rate as mentioned in the agreement of sale to the home buyer failure to deliver the project within a specified timelines

5.1.7. Online information: After registering with regulatory authority, the builder has to update all the project details online on authority's website and update the same on regular basis in terms of status of the project and other information. This, thusly, will assist the purchaser with getting precise data about the task and settle on educated choice while putting resources into the venture.

5.1.8. Booking amount: Generally, the developers request 10 percent of the all out expense of the property as booking sum however under the RERA demonstration, the developer can't request more than 10 percent of the booking sum as a development without making an agreement for sale.

5.1.9. Disputes and Grievances: Every state will have regulatory authority which will be formed and address all the grievances related to the project. In case of any dispute and non-delivery, the Act entails a clear process of redressal, thus ensuring buyer's interest and money is well-safeguarded. The buyer can approach the Appellate Tribunal and can resolve the issue related to the project.

5.2. Maharashtra rules vs Real Estate (Regulation & Development) Act (RERA) 2017)

In 2017, Maharashtra government has notified the RERA rules. Here is a holistic comparison of the Maharashtra rules and the Act legislated by the Central Govt. in 2016.

Just four states – Gujarat, Maharashtra, Madhya Pradesh and Punjab – have set up their lasting Real Estate Regulatory Authority, while 19 states/UTs have built up interval specialists, an authority with the Housing and Urban Affairs Ministry said.

The Maharashtra Real Estate Regulatory Authority (Maha RERA) come into existence since May 1, 2017. Developers and realtors had been allowed a 90-day window, to enlist their new and continuous activities, with the land authority, which closes on July 31, 2017.

Distressed home purchasers in Maharashtra might have the option to anticipate an early and friendly goal of their debates with their designers, with Maharashtra turning into the first state in Quite a while to start the placation component under Section 32 (g) of the RERA, by method of Alternative Dispute Resolution (ADR). The mollification procedure was online from since 1, 2018 and hearings before the placation seats was initiate since the main first week of March 2018.

Any aggrieved allottee or promoter (as defined under RERA) can invoke the conciliation mechanism set up by Maha RERA. For this purpose, a dedicated website has been created and one can have access to it even via the Maha RERA website.

Main Clauses	Real Estate Regulation & Development Act (RERA) 2016	Maharashtra RERA
Registration	<ul style="list-style-type: none"> Mandatory registration of the project and real estate agent with the Appellate Authority. No sale and advertising before the registration. 	
Minimum Project Size	Compulsory registration for projects admeasuring plot area more than 1,000 sq. meters or 12 number of apartments.	No specifications on the minimum project size.
Title	<ul style="list-style-type: none"> Advertiser at risk to give a duplicate of the lawful title report and history. Land should be free from any encumbrances. 	
Escrow Account	70% of the sums acknowledged for the undertaking to be stored in a different record in a planned bank to meet the expense of the real estate project.	Besides the clause of depositing 70% of the project money into project account, there is an additional requirement of depositing 100% of the project money into the project account if estimated revenue from the ongoing project is less than the cost of completion.
Online Project details	All project details such as sanctioned plan, layout plan, floor space index, number of buildings or wings, etc. should be available online.	
Lapse/Cancellation of Registration	Authority to overtake the development of the project in case of lapse/cancellation of the registration.	
Ongoing projects	Ongoing projects also need to register with the Appellate Authority.	
Sale of the apartment	On the basis of carpet area only.	Promotor has the flexibility to choose carpet area basis or on any other basis such as built up area, super built up area, etc.
Redevelopment	No specific clause regarding redevelopment projects.	Obligatory for the developer to put the deal part of a redevelopment venture in the open space.
Parking	Parking spaces defined but no specifications regarding parking costs.	Parking costs to be specified separately.
Structural Default	Developer to rectify any structural faults free of cost in case it is reported within five years of the date of possession.	No clause regarding structural defaults.
Penalty for non-compliance	<ul style="list-style-type: none"> Advertiser – Up to three years of detainment or fine up to 10% of the total project cost. Realtor - Up to one year of detainment or fine up to 10% of the complete venture cost. 	Penalty from 2% to 10% of the total project cost. No Imprisonment.

Table 1.1 Comparison study of Provisions of RERA and MAHARERA

VI. MARKET AFTER IMPLEMENTATION OF RERA

6.1. Transparency

RERA has brought transparency in the India's real estate market to a great extent. Now, the builders can be imposed with 3 years' imprisonment or hefty penalty if he does any variation in the project of what he has promised. The "agreement of sale" has to explicitly specify the date of possession along with the rate of interest if in case developer fails to meet the deadline. In addition to this, a developer has to open a separate Escrow Account he has to maintain at least 70% of the funds invested by a buyer.

6.2. Timely possession

Yes, you heard it right. Now, you cannot just expect but stay sure that you will get the possession of your flat on time. If he fails to do so, he is liable to pay a hefty amount of 10% to buyers as compensation till possession.

6.3. Customer as well as builder friendly market

Earlier, the rules and regulations were biased and more into the favour of the builders. However, after the implementation of RERA, things have changed now and the equation has become balanced. For instance, if a developer fails to offer possession on time, then he has to pay the penalty. But, if a buyer fails to offer the payments as per the payment plan, then he too has to pay the penalties as per the clauses mentioned in the agreement.

6.4. Only big players in the market

After the implementation of RERA, small players are finding it a bit difficult to sustain and comply with the stringent RERA rules. Hence, only some of the big names in the real estate world, such as Godrej Properties, Tata Housing Development, Sikka Group, Assotech Realty and Shapoorji Pallonji Group will survive in future

Undoubtedly, the real estate market of India has seen some significant changes after the implementation of RERA. Home buyers and investors have started gaining trust in the sector and thus, stepping forward to make a bet. Once things get streamlined, India's real estate market will again reach to a new height.

Issues	Provisions In the Act
Protection of Homebuyer→	A. Timely Delivery of projects B. Registration of Ongoing Projects: C. Registration of projects D. Project Quality: E. Project Registration: F. Delayed delivery compensation: G. Penalty for nonconformity with regards to regulation in act.
Transparency & Accountability in Monitory Terms →	A. Registration of projects B. No deposit or advance taken by advertiser without first going into agreement for sale. C. Obligations of promoter in case of transfer of a real estate project to a third party. D. Obligations of promoter regarding insurance of real estate project. E. Transfer of title
Ease in Decision Making (Third party Role, Agent Role, Informed Decisions) →	A. Real Estate Regulatory Authority B. Registration of Real estate agents.
Control over Modification and Quality Assurance →	A. Adherence to sanctioned plans and project specifications by the promoter B. Structural Default if any, Developer to rectify any structural faults free of cost in case it is reported within five years of the date of possession.
Litigation (Legal Obligations)→	A. Establishment of central advisory council. B. Establishment of Real Estate Appellate Tribunal. C. Application for settlement of disputes and appeals to Appellate Tribunal

Table 1.2 Issues & Provision in the Act

VII. ISSUES WITH DEVELOPER

One key worry for designers is whether RERA envelops every one of their ongoing projects. With each State characterizing progressing ongoing projects differently, developers must survey every one of their ongoing projects considering the applicable State rules to guarantee consistence.

The pile up inventory of the project is another issue with developers. The liquid cash crunch is the obstacle for the developers. For the small businesspersons obtaining the finance for the project is very difficult and may completely vanish them from the market. The undefined parameter for the size of the property add to it. Different states have different laws and provisions for the RERA, so the uniformity throughout the country is difficult. Some of state may also dilute the Act by giving relaxations to the builders. The restrictions on the promotions before registrations will create hurdle in the selling of the projects. Although the single windows clearance policy will help the builder for faster approval of the project. Well organisations of the sector after this act will definitely bring lots of investment in the sector

and significant improvement in the standardization of housing society. The loan approval will be more easy compared to today's conditions. The contributions of the sector in the GDP will also increase in the future

The provisions made in the act protects the homebuyers and full fill the requirement for regulations of the sector. The act can be further improved via analysing the current scenario of market.

VIII. CONCLUSION

The Indian real estate industry is facing challenges due to the slow growth rate and low investment in the sector. The unregulated sector faced challenged due to the lack of the transparency, accountability, quality, land inventory and timely completion of the projects. So to boost the sector with fresh investments and to bring better accountability and transparency in the sector, government of India Introduced RERA Act 2016.

A study is undertaken to understand the behaviour of the Indian real estate market after the implication of the Regulation and Development act 2016. The questions are served to the stakeholders of project and people who are aware of this act. The paper presents the analysis of the responses obtained and its effect on the market.

- In the study, we have found five critical questions from the Homebuyer point of view.
- After analyzing the top five questions, we come to conclusion that these questions are significant to the homebuyers, as most of homebuyers agree to these five critical questions. These five (Protections of homebuyers, Transparency and Accountability, Ease in Decision-making, Control over Modifications, Litigations) factors will have more impact on the RERA act 2016 than the other factors from the homebuyer's perspective.
- Similarly we have also finalized some of important factor (Pile up inventories, Liquid cash crunch, Loss of business for small business men, Uniformity in the states etc.) that have significant impact on the RERA 2016 from the Promoters point of views.

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