



**1st NATIONAL
RERA
CONCLAVE**
4th November 2019, Lucknow
Transforming Realty with RERA



Report on Best Practices by RERAs



List of Abbreviations

Abbreviations	Description
CA	Chartered Accountant
CG	Chhattisgarh
DPI	Detailed Project Information
KYC	Know Your Customer
NCR	National Capital Region
NOC	No Objection Certificate
RC	Recovery Challan
RERA	Real Estate Regulatory Authority
SRO	Self-Regulatory Organizations
OC	Occupancy Certificate

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Foreword

On the occasion of 1st National RERA Conclave organised by Uttar Pradesh Real Estate Regulatory Authority in association with Government of India, Government of Uttar Pradesh, NAREDCO, CREDAI and National Home Buyer's Association, I take this privilege to present the compendium consisting of Best Practices being adopted across India by respective RERA Authorities for effective implementation of provisions of the RERA Act, 2016.

I would like to thank Hon'ble Chief Minister of Uttar Pradesh Yogi Adityanath and Hon'ble Minister of State (Independent Charge) for Housing & Urban Affairs, Civil Aviation & Minister of State for Commerce and Industry, Shri Hardeep Singh Puri for providing their valuable guidance in this endeavour.

I would also like to express my gratitude to the Chairpersons heading various RERAs across the country in coming together in showcasing their respective efforts to boost this new institution and enriching the book with their contributions of best practices in reras.

As on 19th October 2019, 29 States/Union Territories have set up Real Estate Regulatory Authority (Regular - 21, Interim - 08). Various states are in different stages of implementation of RERA provisions and have devised their own processes and practices customized to their needs. Learnings from the states which are more advanced in implementation can greatly help the others on their learning curve and can be suitably adopted by other states.

The book covers best practices adopted in areas of registration of projects, management of complaints, disputes resolution, conciliation of disputes, compliance of orders, IEC initiative for building internal capacity and creating awareness, online provisions through web portal etc.

The book would serve as a knowledge sharing platform amongst all the regulatory authorities.

I am confident that this publication of the best practices in different reras would certainly facilitate early adoption of the path breaking processes/practices amongst states, thereby enabling them with proven processes and successful case studies.

I look forward to the valuable suggestions and feedback from all to further enrich this book.

Place: Lucknow

Date: 4th November, 2019

Rajive Kumar
Chairperson
U.P. Real Estate Regulatory Authority

1. Chhattisgarh Real Estate Regulatory Authority

Following best practices have been adopted for effective enforcement of provisions of the RERA Act:-

1. At the suggestion of RERA Chhattisgarh, State Government is going to adopt a new single window system for clearance of all real estate projects. Single window system is a major breakthrough in reducing the time required for all the approvals, from almost two years presently, to just four months. A power point presentation on this is ready for sharing with the participants of the conclave.
2. All promotional brochures of the promoters have now to be submitted by them, within 7 days of their issuance, to RERA office with the signature of the promoter. This helps in keeping a record of what all has been promised by the promoter for any project, in cases of dispute. In many cases of disputes, promoters just refused to own the brochures. Similarly, directions have been issued that such brochures should be annexed to the documents of sale registered.
3. Development permissions/layout approvals granted under Chhattisgarh Land development Rules, 1984 have been modified as proposed by CG RERA. Now, layout approvals are provided for 3+2 years, instead of one year. If a promoter has started the development work in the stipulated period, but fails to complete it within 5 years, then he can apply for extension of development period by applying to the concerned authority within the duration of 5 years from the date of approval. This has helped in reducing problems related to delay in project development due to delay in renewal of permission/approval.
4. Chhattisgarh Municipal Corporation and Municipalities (Registration of Colonizer, Terms and Conditions) Rules, 2013 have also been modified on the recommendation of CG RERA to issue completion certificate and occupancy certificate simultaneously for real estate projects on application by the promoter instead of issuing the certificates separately on separate applications. A standardized format of completion certificate has also been notified by the Government to ensure homogeneity, on recommendation of CG RERA.
5. Separate login portal for chartered accountant is being created by CG RERA for submission of quarterly update certificate and annual audit certificate by chartered accountant. This will help in increasing accountability of professionals.
6. Real estate investment maps for major districts of State are being made available at official web-portal of CG RERA to aid real estate promoters, investors by providing a map based official data base and promote investment in the sector.
7. CG RERA web-portal will also provide booking status of real estate projects as shown in apps like bookmyshow for booking movie tickets. The promoter has to upload booking details after execution of agreement of sale with the buyer. This will help

prospective buyers/investors to obtain reliable data related to sale of units in a project.

8. In case of joint development project, CG RERA registers both land owner and land developer as promoter of the real estate project for the protection of interest of allottees.
9. In cases where we find that the bank manager has faulted in allowing the withdrawal of money from the rera designated account without proper authorisation the bank manager is summoned to the court and the amount refunded back to the designated account. In yet another case the bank manager had recovered the interest amount from the promoter from the rera designated account. Such amounts are also recovered from the bank and deposited back to the designated account. In all such cases, the regional managers are also informed to take suitable action.
10. A detailed meeting of all the state heads of all the banks was taken and informed of the procedures to be followed strictly by the banks for withdrawal of funds from the designated account. Similar meeting of the three chapters of the chartered accountants was also taken to brief them of the rera procedures and the common mistakes that the CAs were making like not generating UDIN for certificates, not clearly mentioning cost details in certificates etc.
11. In cases where we find gross violations in the quarterly updates, the district registrars are ordered to stop the sale/ purchase of the plots/ houses after briefly hearing the promoter. This has had good impact on compliances of quarterly updates.

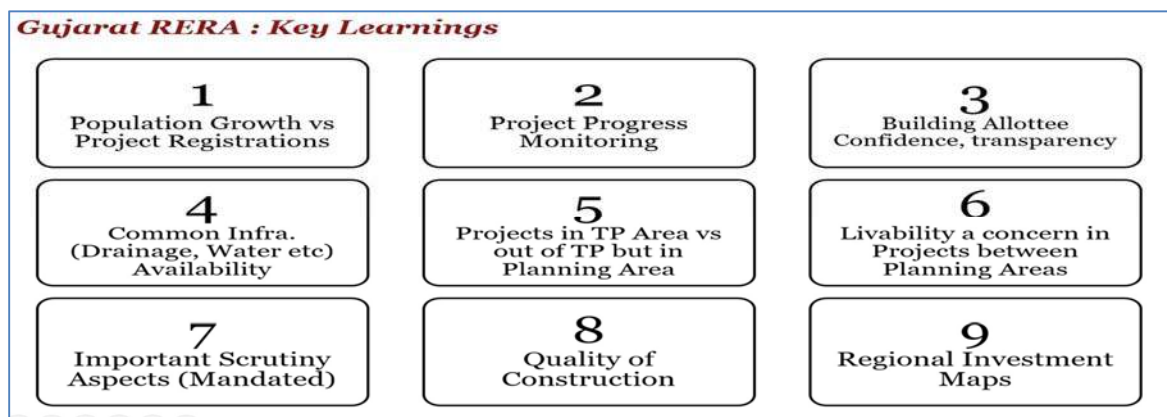
2. Gujarat Real Estate Regulatory Authority

The Indian Real Estate Sector is projected to reach a market size of \$180bn by 2020, a sharp rise from \$126 bn in 2015. Simultaneously, the Real Estate sector's contribution to the Indian GDP is expected to double to more than 11% by 2020 up from estimated 5%-6%, currently. Regulatory reforms, steady demand generated through rapid urbanization, rising household incomes and the emergence of Affordable & nuclear housing are some of the key drivers of growth for the sector.

Addressing the CREDAI YouthCon-2019 Honorable Prime Minister said that work is progressing at a fast pace to ensure that every homeless person has a house by 2022. He said that around 1.5 crore houses have been built through PM Awas Yojana, out of which 15 lakh houses were built for the poor in urban areas. He mentioned that when a Government frames policy with the right intent, it will result in the elimination of corruption and better results. Speaking about quantum jump in Ease of Doing Business rankings in the past four years, the Prime Minister said that Government is committed towards ensuring Ease of Doing Business in India. In this context, he mentioned that all Government permissions, including construction permits are being issued faster than before.

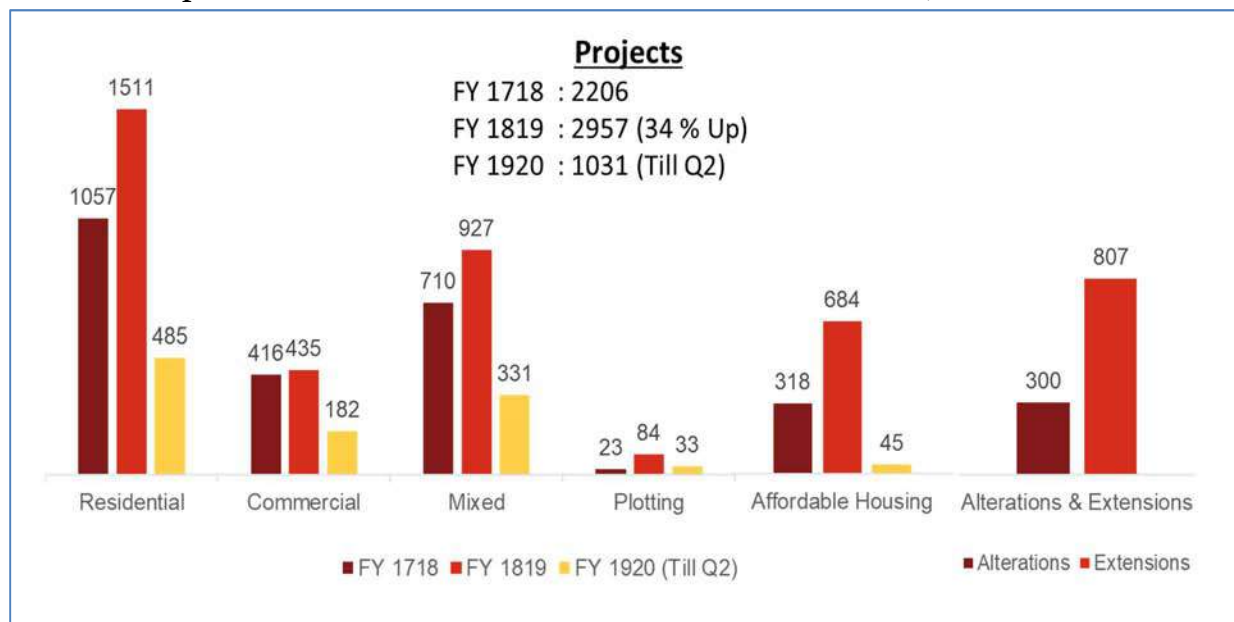
Gujarat, since its beginning, has been among the quick moving states in implementation of RERA. The technological advancements have led GujRERA to strengthening the regulatory regime, by enabling us to closely monitor project compliance and progress to deliver trust across the real estate sector. During the journey, we have been able to evaluate the key real estate trends with the help of technology. The findings were confirmed by on the ground administration as well.

The following key learnings based on the implementation experience so far are being shared. The RERA authorities may find the same useful for implementation of RERA in their respective states.



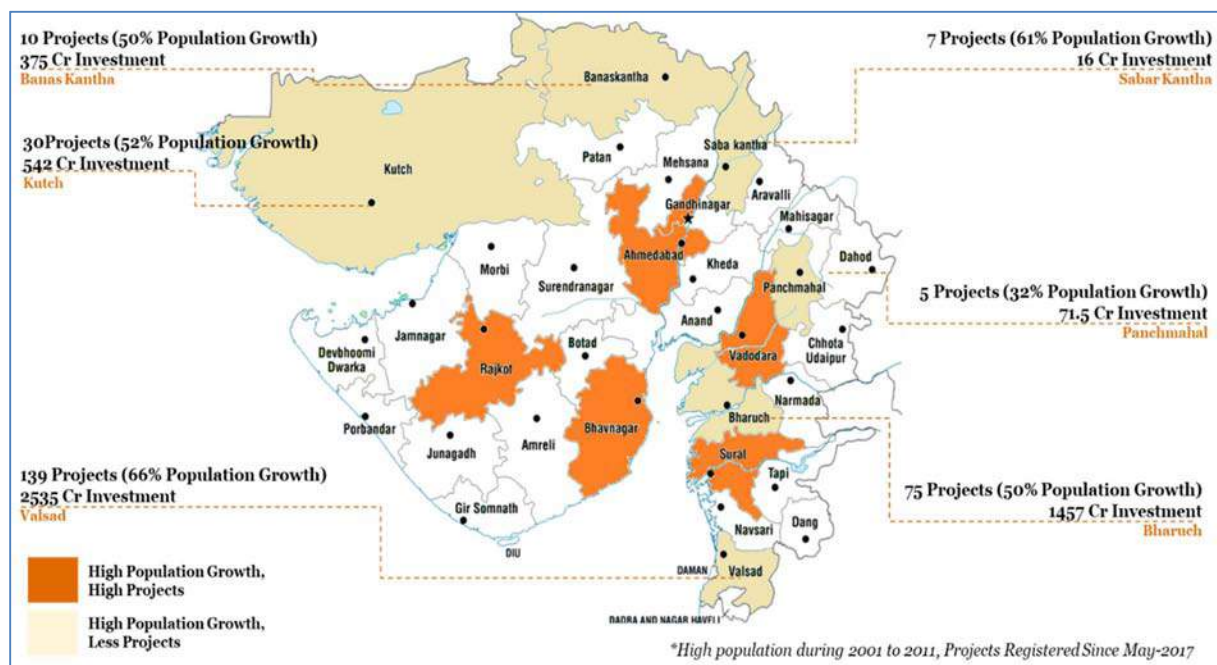
2.1. Population Growth vs Project Registrations & Focus on Affordable Housing

GujRERA has granted registration to more than 6200+ Projects including 1900+ affordable housing projects and has sustained second position at the National Level over last 2.5 years. This entails an investment of almost Rs 1.85 lac crs. There has been 34% growth in registrations in the last two years. Largest number of projects in the last year have come up in Vadodara. The maximum investment is however, in Ahmedabad.



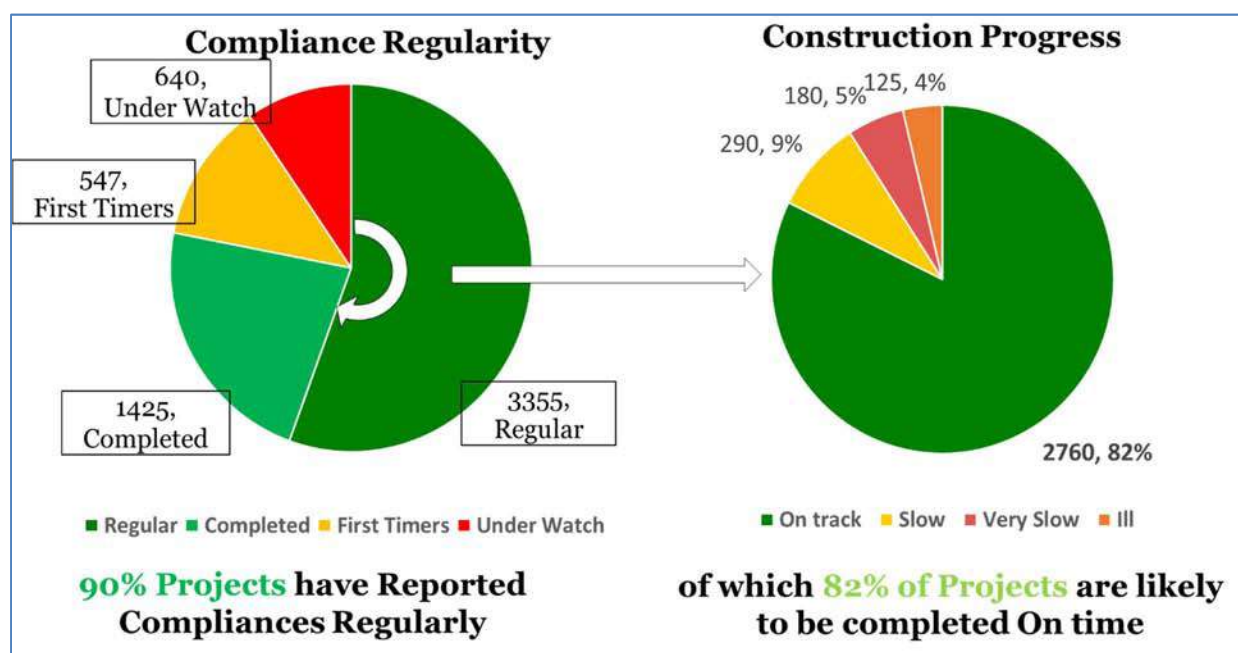
Interestingly, in the tier 2 & 3 regions where there is more than 50% population growth recorded in recent years, the projects applying for registration are far lesser compared to tier one cities recording the much lesser population growth. This could be attributed to lack of employment opportunities or projects not applying for registration even after RERA notification, unplanned/ illegal construction activities or local authorities not active enough to grant plan approvals.

GujRERA is focused on projects in affordable housing category, where in FY 18-19, authority witnessed double the registration of projects compared to the previous year. The growth is attributed to increased Government focus on vision to drive “Housing for All by 2020” agenda. During the last 2 years, 1900+ affordable housing projects with an investment potential of more than Rs. 38K Cr have been registered.



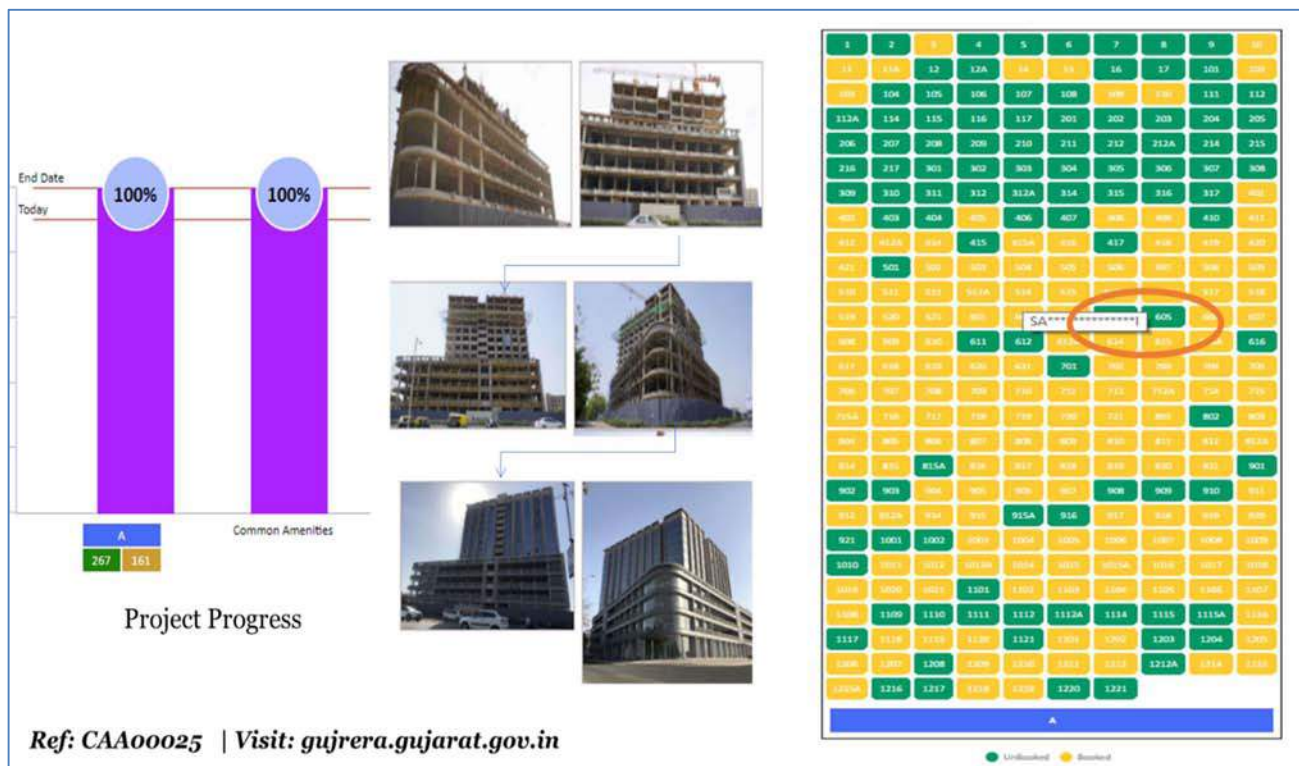
2.2. Project Progress Monitoring

Digital compliance has facilitated the monitoring of project progress. Based on compliance submission nature, the projects are classified into Complete, Regular, First Timers and Under Watch. Moreover, based on the details submitted of the Regular Projects submitting compliances, there is further classification of On track, slow, very slow and Ill projects. Regulatory actions are initiated against such submissions based on the severity.



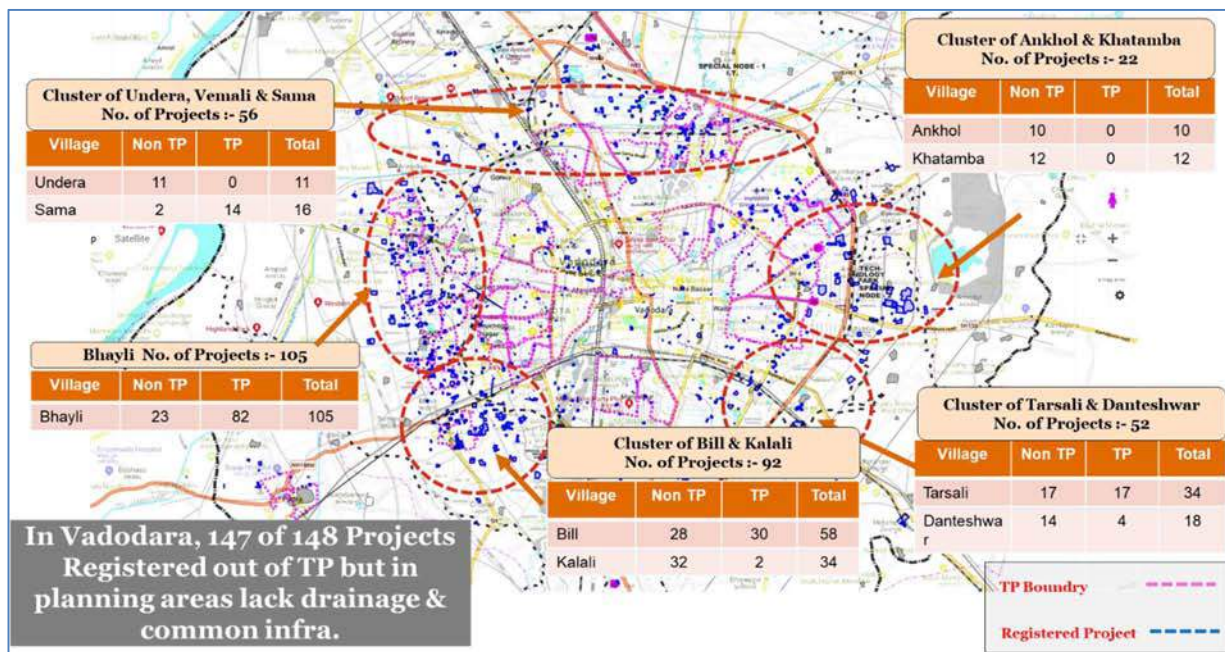
2.3. Building Allottee Confidence & enabling transparency

Gujarat RERA, based on the few incidents reported by allottees, identified the need for having an allottee name known to GujRERA for stopping ill practice prevailing in real estate market. To enable this, the authority mandated promoters to provide allottee details with their KYCs on record. The same were made available by GujRERA in Public View on the portal. This has technically and psychologically made huge impact in the sector and built the confidence of the allottees who have made bookings in a project - seeing their own name available on the portal. The industry and allottee associations have welcomed this initiative wholeheartedly.



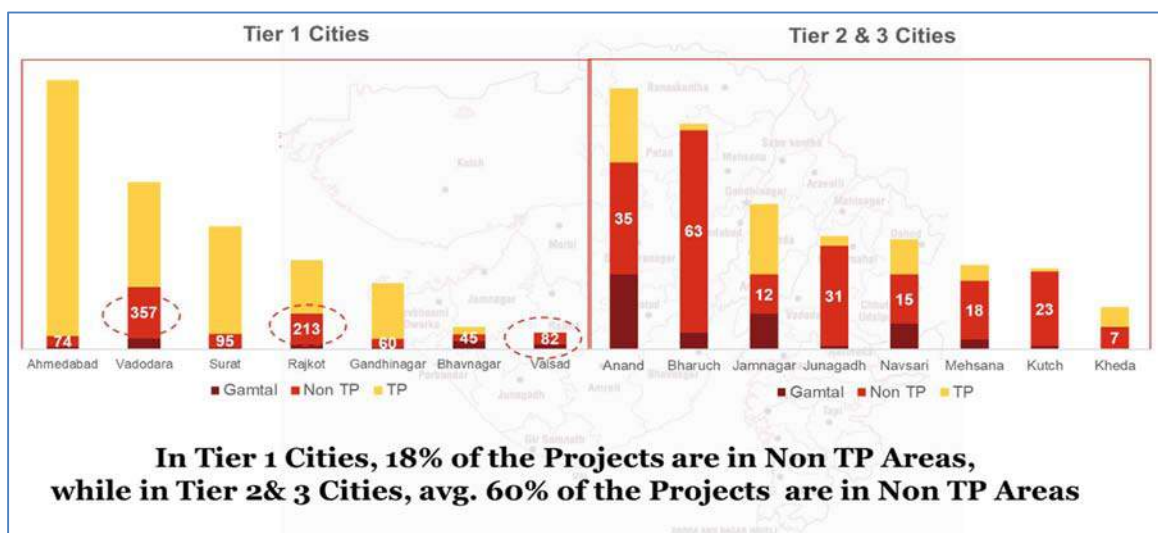
2.4. Minimum Common Infra. (Drainage, Water etc) Availability

While evaluating the registered projects on geo maps against the town planning boundaries, it was found that 147 of 148 projects falling out of TP lack basic amenities such as drainage and sewage in the project. GujRERA thereafter introduced an affidavit & undertaking from the promoter to complete the drainage facility before project completion and made it binding as part of the end compliance findings.



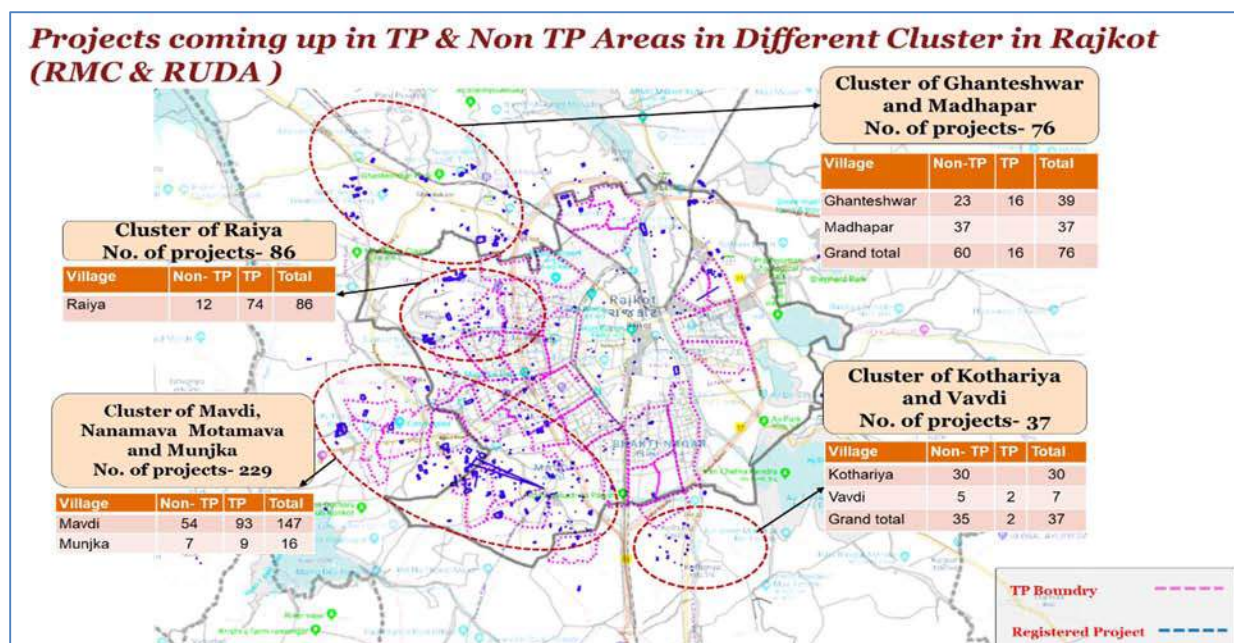
2.5. Projects in TP Area vs out of TP but in Planning Area

Gujarat RERA with Town Planning department aims to build technology driven platform to ensure new TP schemes drafting happens in sync with the demand or permissions granted by competent authorities. Currently it is found that of all the registered projects with Gujarat RERA, 21% of the projects are found coming in non TP areas where there is a lack of common infrastructure availability.



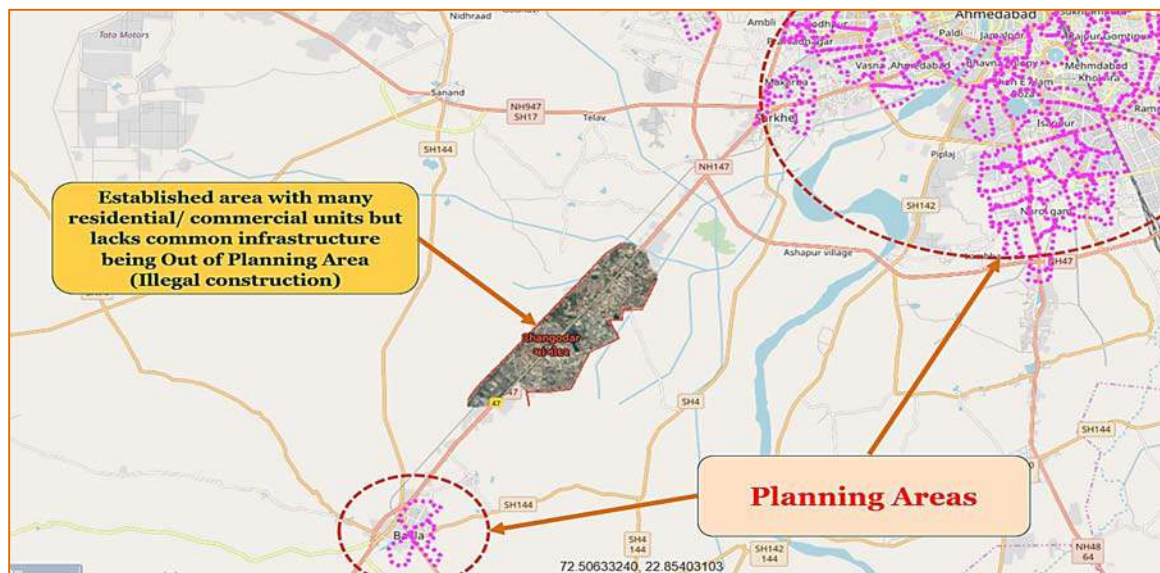
For example, as can be seen in the chart below, in Rajkot District, it was identified that 40% of the Gujarat RERA registered projects are coming up in non TP areas. The specific regions identified are Ghanteshwar, Madhapar, Mavdi, Nanamava Motamava and Munjka etc. where the development is coming up and based on which Town Planning Department can prioritize drafting new TPs in this areas and plan for common infrastructure facility to ensure livability in near future.

This will also help citizens to plan investments looking at the other aspects such as roads, drinking water, electricity, gas connection facilities availability in the regions.



2.6. Livability a concern in Projects between Planning Areas

It is often observed that due to industrial activities or special economic activities coming up in a particular region, the demand for residential and commercial units emerges in adjacent regions, which technically falls out of planning regions. Moreover, the process of conditional issuance of “NA – Non-Agriculture” Certificates across the state is not regulated or standardized but purely based on the local need or subject to the situation. Due to this, the construction activities for residential/ commercial units on such land parcel have triggered livability issues in such areas. Huge investments will have to be made in such areas in the years to come for basic livable environment.



For example, as demonstrated in above map, Changodar area which has already emerged as a high population growth area having sizable residential and commercial projects due to adjacent industrial regions, gravely lacks common infrastructure being out of planning area. It poses big risk of illegal construction, unplanned real estates, safety etc for the residents. To protect consumers interest, GujRERA has plans to go beyond planning areas and bring all such construction projects under the purview of RERA.

2.7. Important Scrutiny Aspects (Mandated)

Based on the experience, GujRERA has mandated below scrutiny checks while implementing RERA Regulation:

- i. Clear mention of Carpet Area in all Approved Plans across ULBs in Gujarat mandated.
- ii. Necessity to obtain BU/ OC after project completion & transfer of rights to society/ LLP formed
- iii. No claim of **FSI/ terrace rights** to Promoter post receipt of BU and it ultimately be owned by Association of Allottees
- iv. If promoter and land owners are different, registered joint development agreement to be executed and accountability fixed such as jointly accountable for fulfilling T&Cs/ obligations for Project Completion and Land Owner to transfer title while handing over possession
- v. Drainage & Sewage Affidavit binding in case unavailable for project – Promoter to develop facility before project completion
- vi. Model Agreement for Sale with necessary clauses as per Rules evaluated for ultra-virus clauses
- vii. Affidavit as per Rules clearly defining Project Completion (Form B)

-
- viii. CA mandated to report inconsistencies reasons among Architect, Engineer and CA certificates
 - ix. Project Accounts Annual Audit Submission to Gujarat RERA & ensuring withdrawals are in sync with % project progress

2.8. Quality of Construction

As part of instilling responsible behavior of quality construction in the project, GujRERA has mandated all compliance submissions to have Construction Quality Certificate submitted duly signed by the engineer. The details of the certification are:

- 1) Material testing
 - a) Cement
 - b) Course aggregate
 - c) Bricks/blocks
 - d) Concrete/Ready mix concrete
 - e) Steel for concrete
 - f) Testing of Other Materials
 - g) Number and Frequency of testing
 - h) Codes of foreign country
 - i) Fire Resistance
- 2) Workmanship
- 3) Electrical materials & workmanship
- 4) Structural engineer details
- 5) Preservation of records

2.9. Regional Investment Maps

As part of the enabling facility to Government and the Investors, Gujarat RERA through technology intervention has prepared investment maps in top 5 cities where highest registrations have happened. The projects are categorized into Elite, Premium and Economy category based on the attributes of the project. In future it is planned to link Project performances to these categories to determine the grading of the properties which can act as the Project Rating and help investor to make informed choice.

Finally, there is a vibrant mechanism for resolution of complaints. So far more than 1200 complaints have been resolved amicably. In a short span, the implementation of RERA has made a perceptible difference in the sector.

3. Haryana (Gurugram) Real Estate Regulatory Authority

3.1. Details of Project Information

In terms of section 4 of the Real Estate Regulation and Development) Act, 2016, an application is required to be made by promoter along with the prescribed fee for registration of its real estate project and shall be accompanied with the prescribed documents. The Haryana Real Estate Regulatory Authority, Gurugram stipulates various compliances with respect to a real estate project at the time of registration to ensure the veracity and completeness of all the data and documents and therefore the Detailed Project Information (DPI) has been compiled for ready reference of the information submitted by the promoter/developer in respect of the real estate project.

Section 4(2) (m) of the Real Estate (Regulation and Development) Act, 2016 states that the authority may seek “such other information and documents as may be prescribed.” The Detailed Project Information DPI assimilates information in a detailed and comprehensive manner.

The Haryana Real Estate Regulatory Authority, Gurugram has prepared the detailed project information which includes all the parameters required for analyzing the physical and financial status of both, the new projects and ongoing projects. It is a form comprising Part A to Part L, namely, project proponents, statutory approvals, project details, phase details (if phase applied for registration), project land use related information, project cost/sale proceeds details, specification of construction, registration fee, details of separate bank account, quarterly schedule of physical and financial progress, additional details in case of ongoing projects, Details of projects launched by the promoter in last five years, details of pending litigations.

Each part of the DPI examines each and every aspect of the project. The DPI also compares physical and financial data of whole project and phase. HARERA, Gurugram has also formed regulations related to the opening of bank account. There are 3 accounts namely master account (100%), Separate RERA account (70%) and Free account (30%) which are mandatory for the promoter to open in the bank and HARERA, Gurugram, if required can monitor the transactions in these 3 accounts. DPI also includes the specifications of construction along with the range of costing of the material used by the promoter. The annexures of the DPI are namely land related documents, license related documents, statutory approvals i.e., Environment clearance, AAI NOC, service estimates and plans, fire scheme approval, building plan approval, forest NOC etc.

3.2. Amendment in Haryana Real Estate (Regulation and Development) Rules, 2017

Rule 28 and 29 of the Rules, 2017 prescribed a procedure for entertaining complaints by the authority and adjudicating officer. However, the same caused conflict of jurisdiction between the authority and adjudicating officer. To delineate and earmark their role & to remove ambiguities, amendment to the rules in particular rule 28 and 29 of the Haryana Real Estate (Regulation and Development) Rules, 2017 was notified on 12 September 2019. This elucidated the respective spheres of jurisdiction between the authority and the adjudicating officer by prescribing the following procedure under rule 28 and rule 29.

Prescribed procedure:

1. A complaint u/s 31 has to be made before the authority which will conduct an inquiry to see whether a prima facie case of violations of the Act/rules/regulations has been made out.
2. If no case is made out, the proceedings will be dropped, otherwise the same shall be proceeded with as per the summary procedure provided in rule 28.
3. If compensation is sought by the allottee under sections 12, 14, 18 and 19, the quantum of the same shall be adjudged by the adjudicating officer by taking into consideration the factor prescribed in section 72 and in a manner prescribed under rule 29.

Summary procedure to be followed by authority

1. Notice: on receipt of complaint, notice issued to respondent who may file reply. The date and time of hearing communicated to both parties.
2. Particulars of complaint to be explained to respondent: The authority shall explain to the respondent the contravention alleged to have been committed and the if respondent
 - a) pleads guilty, pass orders accordingly
 - b) does not plead guilty, authority shall demand an explanation from respondent.
3. Dismissal/further proceedings: On the basis of the submissions of the parties and the explanation from respondent, the authority may either
 - a) dismiss the complaint, if it finds no further cause for inquiry, or
 - b) conduct an inquiry

-
4. Powers of the authority: It has the same powers as vested in civil court under CPC while trying a suit in respect of matters mentioned in section 35 of the Act.

5. Relief

Summary procedure to be followed by adjudicating officer:

1. Notice: on receipt of complaint, notice issued to respondent who may file reply. The date and time of hearing communicated to both parties.
2. Show cause notice to respondent: giving opportunity to promoter/respondent to file reply.
3. Powers of adjudicating officer: include power to summon, enforce the attendance of persons acquainted with the facts etc.
4. Factors to be taken into consideration:
 - i) amount of disproportionate gain or unfair loss,
 - ii) repetitive nature of default etc.

5. Relief

This has clearly earmarked the respective role of each body and summary procedure to be followed by them.

4. Madhya Pradesh Real Estate Regulatory Authority

RERA-MP has adopted several innovative practices during the past two-and-a-half years that have delivered significant results in various aspects of RERA working. One such best practice is being described here, relating to the disposal of complaint cases.

4.1. Disposal of Complaints

USE OF IT:

The normal judicial procedure adopted in all cases is that when a complaint is received, both parties are to be noticed, a copy of the complaint is to be given to the non-applicant who has to be given an opportunity to reply; then the complainant is to be given an opportunity to examine the reply with documents and respond with a counter-response if he so wishes; and then, after giving an opportunity to the respondent to examine the counter-response and its attached documents, the case is fixed for arguments.

Since this procedure reflects natural justice, it cannot be eliminated, and needs to be followed. However, it was observed that parties were using appearances to present replies, counter-replies and documents to each other. What MP-RERA has done is, after the initial appearance, to get the parties to present their replies, counter-replies and supporting documents by e-mail to each other, and only appearing before the court for arguments.

In this way, a lot of time is saved, and also number of appearances drastically reduced, saving on legal expenses and time for the parties.

The IT software and protocols developed provide for sending copies of any interim orders of the Authority to the parties by e-mail, as well as sending intimations and SMS reminders to them about dates of appearances.

The result is that we have been able to dispose of more than 70 per cent of the total 3,600 cases filed so far, and the average disposal time is about three months after the first appearance – which is given in less than a month from date of filing complaint.

CIRCUIT COURTS:

Madhya Pradesh, being a large state, we have established Circuits courts at Indore (where we go twice a month), and Jabalpur and Gwalior (where we go once a month each). The Circuit Courts ensure that we can dispose of matters with more ***convenience*** to litigants.

ORDERS SIGNED BY ENTIRE AUTHORITY:

Our rules require that at least two members hear each case (Chairman or a member designated by him, as well as another member). Frequently all three hear cases. But irrespective, when orders are passed they are invariably signed by Chairman and both the other members. Thus, *all* final orders of RERA are signed by *all* members. This ensures that there are no contradictory orders emanating from RERA, and that there is complete **consistency** in the various orders. It also helps improving the **quality** of the orders, because when one member drafts the order, all the others read it and give suggestions, if any, for modification. Only then is the order finalized.

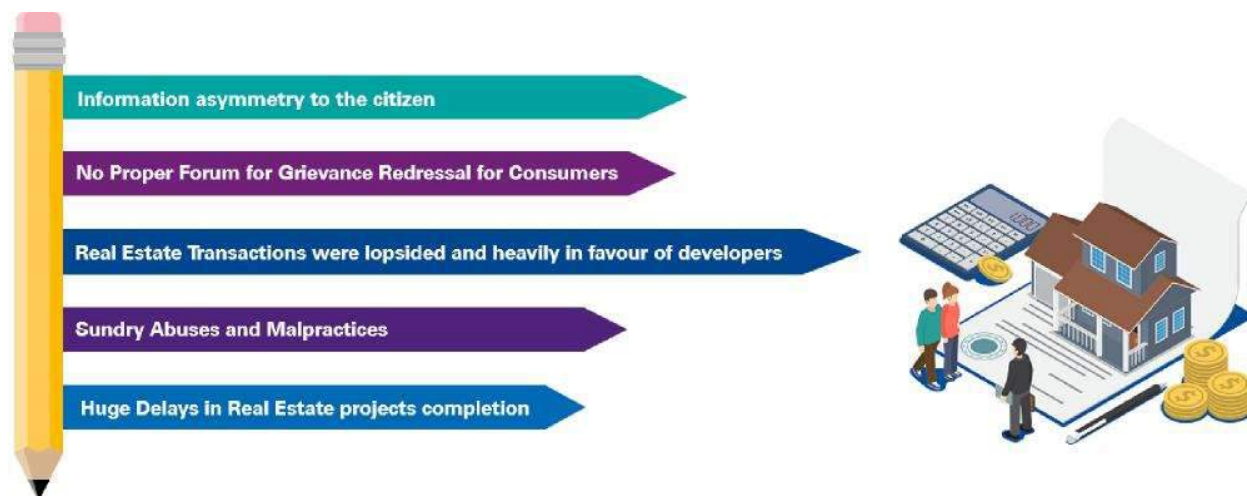
5. Maharashtra Real Estate Regulatory Authority

5.1. MahaRERA: Participative and Digital Governance

Background

The Real Estate Sector in India is the second highest contributor to the Nation's GDP and a very important employment provider. Yet, it has traditionally been plagued with numerous issues, mainly with opaque practices and information asymmetry. Real Estate Transactions have usually been lopsided and heavily in favour of developers. Delays in completion of Real Estate Projects have been rampant and homebuyers, who have been at the receiving side, did not have a reliable forum to get their grievances redressed promptly. Below are the issues which were adversely impacting the sector:

1) Information Asymmetry: There was a lack of transparency in the sector. Flow of information was very restricted. Information provided was only in accordance with the whims and fancies of the developers. Basic information like the facilities and amenities in the real estate project, access to specifications of fixtures, project completion date etc. remained elusive to customers.



2) Grievance Redressal: Even though, statutes, which were meant to provide the grievance redressal mechanism to the customers of a real estate projects, did exist, customers were not clear, which forum to approach. The time taken for resolution of the grievances, led to further exasperation for the customers.

3) Lopsided Transactions: The stakeholders were also suffering heavily from

lopsided agreements and transactions. The documents were usually in the favour of the developers and the customers in most of the cases were made to sign on dotted lines.

4) Sundry Abuses and Malpractices: Violation of rights of the customers was quite prevalent in the industry. There were malpractices including financial malpractices. The money collected for a project would be diverted for other purposes, delaying the completion of the project for which the money was collected. This further led to widening of the trust deficit between the home buyers and the developers.

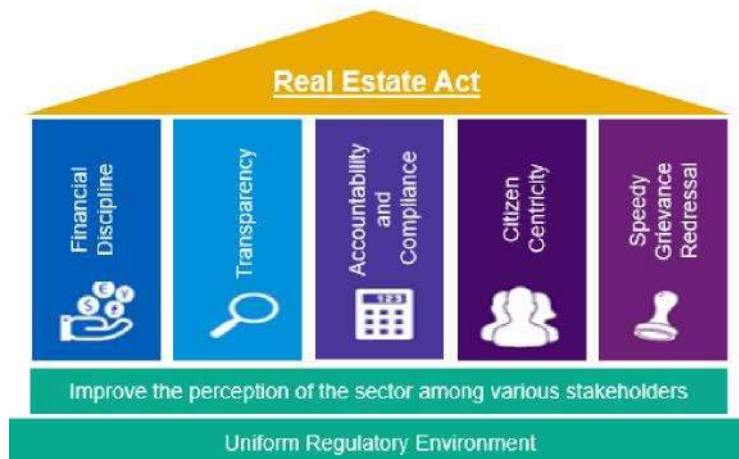
5) Delays in Completion: Due to reasons mentioned above and various other reasons, the projects languished in various stages of incompleteness. This not only caught the home buyers in a financial bind but also brought the developers into a financial stress along with reputational risks.

Maharashtra Real Estate Regulatory Authority (MahaRERA)

In order to overcome these challenges, the Central Government brought in the Real Estate (Regulation and Development) Act, 2016, (RERA Act) to be made fully operational with effect from May 1, 2017. Some sections of the Act were notified from 1st May 2016 and all the State Governments were given one year to formulate their own Rules and Regulations and set up the Authority, to implement the Act from 1st May 2017.

A one member Interim Authority was appointed in Maharashtra, to take charge of Maharashtra RERA in November 2016. Though the Act gave a time frame of one year from 1st May, 2017, to State Authorities to move over to a digital platform for a smooth implementation of the Act, the Government of Maharashtra tasked the MahaRERA Interim Authority to make available an online platform to its stakeholders from 1st May 2017 itself. The Interim MahaRERA took a note of the State's directive and on-boarded a knowledge partner and a system integrator to achieve the desired results.

In March, 2017, Government of Maharashtra notified MahaRERA. Thereafter, MahaRERA, with its Digital Platform, dedicated itself to the task of transforming the Real Estate Sector in the State of Maharashtra, while implementing the Act in its letter and spirit, endeavouring to promote transparency, accountability, financial discipline, customer centricity and compliance.



The above mentioned 5 traits of MahaRERA functioning, now form the pillars for completing MahaRERA registered projects and bridging the trust gap between the home buyers and the developers that had become the unfortunate legacy of the sector.

As there was no such Authority in the country, benchmarking the process was the real challenge. The second challenge was to make a portal live with all the requisite forms available online for the developers, agents and citizens, in the time line set out by the State Government. The third was to interact with the stakeholders and provide inputs to the State Government for finalizing the Rules.

Digital Governance: Zero Paper, Zero Footfalls

With the help of the knowledge partner, a complete Functional Requirement Study of the process was done within a period of one month, starting December, 2016. This study included the developing of various forms, preparation of various work flows for the movement of applications for approvals, presentation of information to the officials and also to the citizen on a special portal for providing information. A detailed report on the study was provided to the system integrator to prepare software and website.

The website was made available to the public on 24th of April 2017. The website had details about MahaRERA, downloadable copies of the Central RERA Act, the 5 Rules framed by the Government of Maharashtra, the 2 Regulations framed by MahaRERA and approved and notified by the State and over 200 FAQs for awareness creation. A MahaRERA jingle, in Hindi and Marathi, was composed in-house and uploaded on the website as a part of the

awareness creation campaign. The jingle presented MahaRERA as a friend of all its stakeholders. The website also informed the people about the portal which was to be made open for applications from the mid-night of 30th April, 2017. The application portal was thoroughly checked by the system integrator and the knowledge partner for any gaps which needed urgent rectification.



The whole idea of a regulatory authority in the real estate sector was new and that too it's functioning on a fully digital platform. Therefore, it generated large number of concerns about the information accessibility of the website, operability of the portal and the procedure for making applications. Various knowledge transfer seminars were arranged for the stakeholders, at various places throughout the State of Maharashtra by MahaRERA team members. In these workshops, information about the Act, how to use the website, operation of the portal etc. was lucidly explained to large audiences through informative and interactive power point presentations.



Project and Agent Registration

On the intervening night of 30th April and 1st May 2017, the application was made open for developers to register projects online. Maharashtra having 36 districts and 358 talukas, was the first state to provide an online portal and a live website for the implementation of RERA Act. The whole functioning of MahaRERA is managed by a team of only 40 members located across three locations at Mumbai, Pune and Nagpur. Two developers applied on the very first day for registration of their projects. As per the policy agreed upon, all the documents were to be uploaded online. No hardcopies of the same were asked to be submitted to the office for approval. Within the first three months of the online portal being made open, a total of 10,836 projects and 7,900 agents had registered themselves with MahaRERA. All the certificates generated were provided to the applicants online with digital signatures and no hardcopy was ever produced, making the office a Zero Footfall and Paperless office- a one of its kind in the entire nation. Till date over 22600 projects and 21500 agents across Maharashtra have registered with MahaRERA, without any physical or human interface in the process.



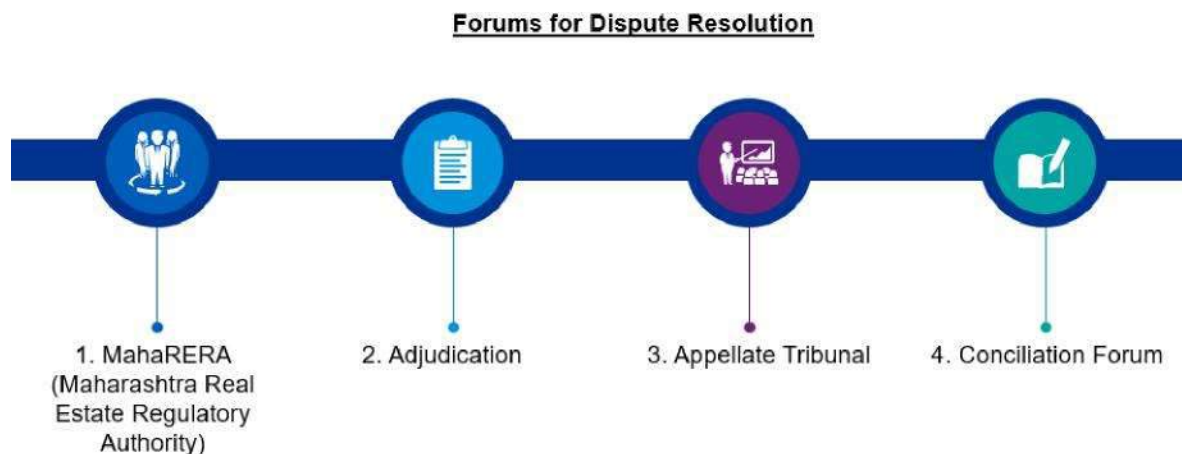
The approval of the applications is done by a team of experts, through online flow of application. Details of all the projects and agents are available to citizen at large via a portal which gives every bit of information. Also the information about the progress of the project can be easily tracked on the portal. The website provides all the details of the project like Layout Approval, Building Plan Approval, Commencement Certificate (CC), Land Title Report, Encumbrance details, Litigations, if any, past credentials of the promoter, project completion date, amenities in the project, number of buildings, number of apartments, completion percentage of amenities, and current status of the project. All the information which, in the past, required lot of effort and hard work, on the part of the home-buyer to get, is now available on

click of a button. The hapless home buyer is now an empowered citizen with all the required information at his finger tip, fully equipped to make informed choices.

The disclosure of all the information made available in the public domain has removed information asymmetry, empowered citizens and has enabled them to make informed choices.

Grievance Redressal

In the first year itself, MahaRERA initiated following forums for dispute resolution:



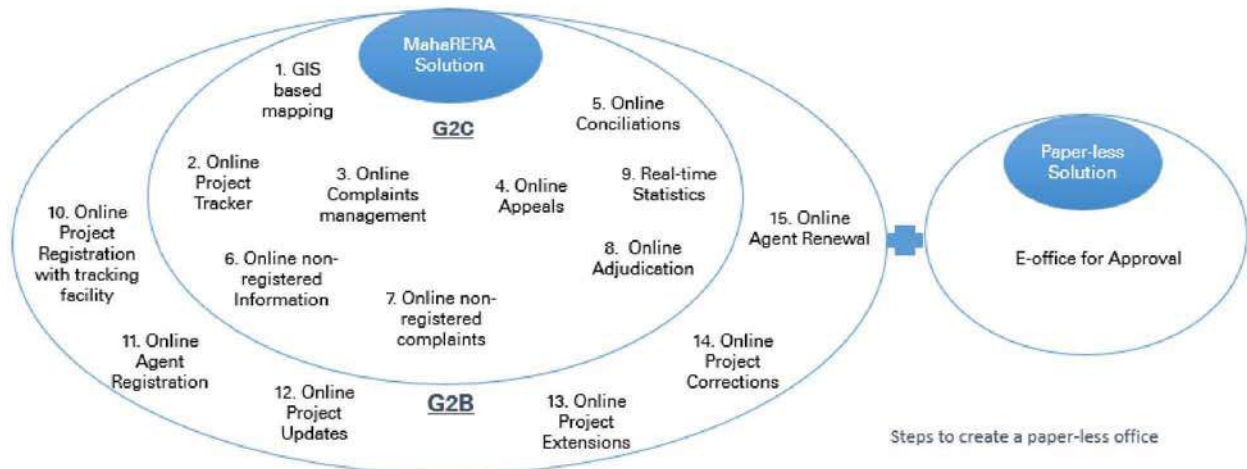
As per Section 31 of the Act, the complaint module went live in July 2017. This process of filing a complaint is also done online. All the documents relating to the complaints are filed and uploaded online. The complainant and the respondent need not bring hardcopy of any sort for the hearing, barring if they have any additional submission to make. There is also a provision to make these submission in a softcopy form. MahaRERA has till date received around 9000 complaints, of which over 5900 complaints have been disposed of. The orders are also made available on MahaRERA website, visible in the public domain.

MahaRERA is also the first in the country to provide an Alternate Dispute Resolution Mechanism under Section 32(g) of the RERA Act. MahaRERA in collaboration with the Developers' Association and Consumer's Association has formed a Conciliation Forum.

This forum provide for a system where grievances are resolved through mediation and dialogues between the aggrieved party and the respondent. Through this program, two trained conciliators, one each from developers' association and consumer's association form a bench and mediate to amicably resolve the grievance. The conciliation happens only through consent. Till now, it has been observed that close to 9 out of every 10 cases taken up for conciliation, have got successfully resolved with amicable settlements.

100% Digital Platform

MahaRERA is a 100% Digital platform. All of its G2C and G2B services are completely online including: Online Project Registration with tracking facility, Online Agent Registration, Online Project Updates, Online Project Extensions, Online Project Corrections, Online Agent Renewal, GIS based mapping, Online Project Tracker, Online Complaints management, Online non-registered Information, Online non-registered complaints, Online Appeals, Online Adjudication, Real-time Statistics and Online Conciliations.



International and National Accolades

MahaRERA has received numerous International and National accolades. Some of them include:



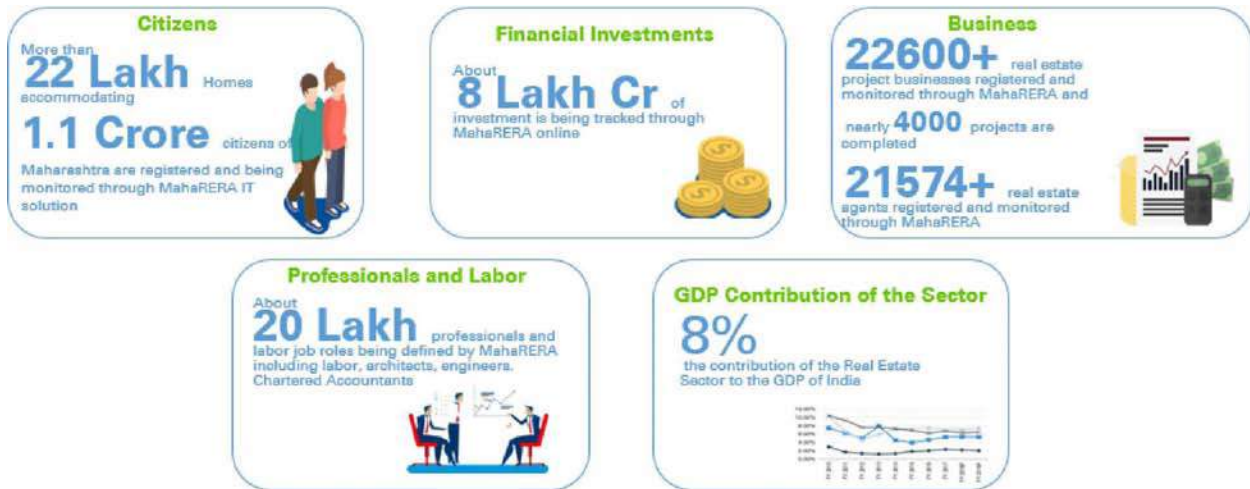
Impact

The impact of MahaRERA is as follows:

1. **Citizens:** More than 22 Lakh Homes accommodating 1.1 Crore citizens of Maharashtra are registered and being monitored through MahaRERA IT solution. MahaRERA conciliation and dispute resolution forum, first-of-its-kind initiative wherein neutral conciliators from promoters and consumers association guide the parties towards amicable settlement, is gradually emerging as a successful, replicable model that can rebuild trust between promoters and home-buyers. (Circular can be accessed at <https://maharera.mahaonline.gov.in/Upload/PDF/Concilation%20Circular%20No%202015.pdf>)
2. **Financial Investments:** About 8 Lakh Cr of investment is being tracked through MahaRERA online.
3. **Industry:** In MahaRERA, over 22600 real estate projects have been registered and their progress is monitored. Out of the registered projects, around 4000 projects have been completed till date. Over 21500 real estate agents are also registered and their functioning is being monitored through MahaRERA. In order to ensure greater professionalism among promoters, bring a certain level of consistency in the practices of promoters, enforcement of code of conduct and to discourage fraudulent promoters,

MahaRERA has recently introduced Self-Regulatory Organization (SRO) concept in the real estate sector in Maharashtra.(Order can be accessed at

<https://maharera.mahaonline.gov.in/Upload/PDF/order%2010-1110219.pdf>)



4. **Professional and Labour:** About 20 Lakh professionals' job roles are being defined by MahaRERA. These include labourers (skilled, semi-skilled and unskilled), Architects, Engineers and Chartered Accountants. By ensuring usage of quality input materials (MahaRERA Order No 5 / 2018 available at <https://maharera.mahaonline.gov.in/Upload/PDF/Quality%20Assurance%20Certificate%20Form%202A.pdf>) and quality workmanship, promoters shall be able to deliver good quality homes to the citizens. MahaRERA aims to train all the unskilled/semi- skilled/ skilled workers in the ongoing MahaRERA registered projects spread across Maharashtra. (Details can be accessed at <https://maharera.mahaonline.gov.in/Site/1109/About-the-Initiative>)

5.2. MahaRERA Conciliation and Dispute Resolution

Seeding the Idea

After enactment of landmark Real Estate (Regulation and Development) Act 2016, MahaRERA participated in various workshops, sessions and events for enhancing awareness of stakeholders on provisions of Act/ Rules, clearing their doubts and providing training on the Online System.

In one such session, Mumbai Grahak Panchayat (MGP), which is a leading consumer body, suggested that under Section 32(g) of the Act, MahaRERA should establish a Conciliatory mechanism, which can resolve consumer grievances in the Real Estate sector in an amicable manner, thereby creating a Win-Win situation for both home-buyers and promoters. They opined that often Consumers do not want to file legal complaints, as they do not want to create friction with promoters who are responsible for delivering their dream home. They just need a platform for developer and consumer to talk openly and honestly express their concerns, doubts and desires to each other, which many a times leads to resolution of issues.

MahaRERA realized the importance and far reaching positive consequences of such a conciliatory mechanism and started working towards establishing of the same.

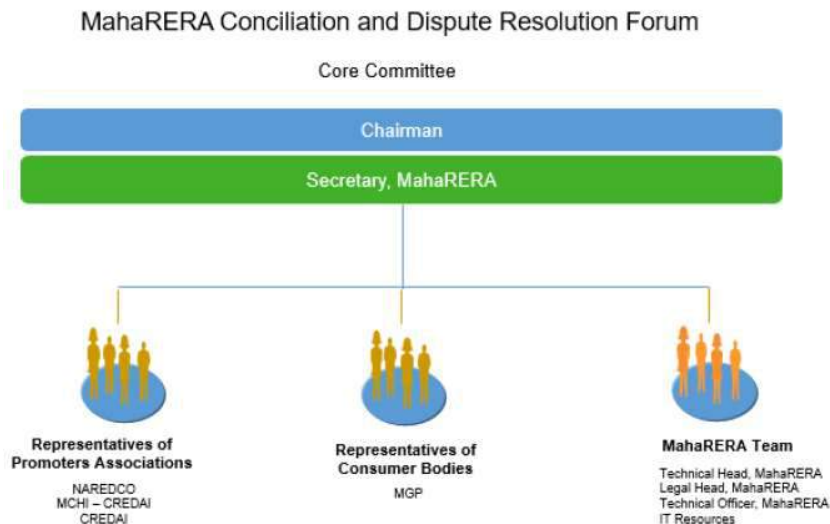
MahaRERA Conciliation and Dispute Resolution Forum

From the start, MahaRERA was clear that participation of promoter organisations along with consumer organisation is necessary for success of the Conciliation Forum. Accordingly, MahaRERA reached out to Promoter Organisations including CREDAI, MCHI and NAREDCO, who responded very positively and offered their full cooperation and support to translate this idea into reality.

They opined that conciliation mechanism is beneficial to promoters also as conciliations are held in private and details of grievances and mutually agreed terms towards the settlement are confidential. Thus, promoters and their projects get insulated from public outcry.

Following this, MahaRERA organised a series of meetings with all stakeholders including Government of Maharashtra, promoter associations and consumer associations to finalise the solution. It was decided to establish MahaRERA Conciliation and Dispute Resolution forum, which is headed by Secretary, MahaRERA who is chairperson of the Forum. He is assisted by Core committee

comprising Representatives of Consumer bodies, Promoter Associations and MahaRERA.



Role and Responsibilities of the Forum

The key objective of MahaRERA Conciliation and Dispute Resolution Forum is to facilitate amicable resolution of disputes, thereby saving cost and time of litigation to parties and state.

- a. Constitute / Establish panel of eminent conciliators representing consumer association and promoters' association
- b. Promote and popularise the amicable and effective settlement of disputes arising with reference to Real Estate (Regulation and Development) Act 2016, with various Alternate Dispute Resolution (ADR) mechanism.
- c. Popularize conciliation as an effective dispute resolution mechanism with moderate cost (cost effective) and speedy settlement of commercial disputes.
- d. Co-ordinate/Assist ADR proceedings by establishing facilities and providing administrating services.

Finally, providing the best platform for ADR.

Composition and Location of Conciliation

At the beginning, in January, 2018, 15 conciliation benches were established of which 10 benches were in Mumbai Metropolitan Region (MMR) and 5 benches

in Pune Region. Each bench has one conciliator representing the Consumer body and one from promoter body.

Launch of Mumbai Conciliation Benches



Launch of Pune Conciliation Benches



Having observed the benefits of this initiative, MahaRERA received requests to enhance conciliation benches in other cities also. Accordingly, MahaRERA has now established following Conciliation Benches:

Location of Conciliation Benches	Number of Conciliation Benches
Mumbai	7
Pune	6
Nagpur	3
Nashik	2
Kalyan Dombivali	2
Virar	2
Mira Bhayander	1
Navi Mumbai	2
Palghar	1
Thane	2
Total	28

Training and Certification of Conciliators

Before starting the conciliation, MahaRERA Conciliation and Dispute Resolution Forum organised a special two day training program, in January 2018, to train and guide the conciliators. The training was conducted by an expert Mediator and Mediation Trainer, who has distinct experience in training mediators for Mediation and Conciliation Project Committee (MCPC),

Supreme Court. He also has trained many judges from various courts in the process of conciliation and mediation. Special role plays were organised during the training, bringing various scenarios to life which the conciliators would face during a conciliation hearing. This training equipped all the conciliators with knowledge and confidence to start the conciliation process.

The Forum has, since then, organised several trainings, seminars and workshops for its members.

First training program of conciliators

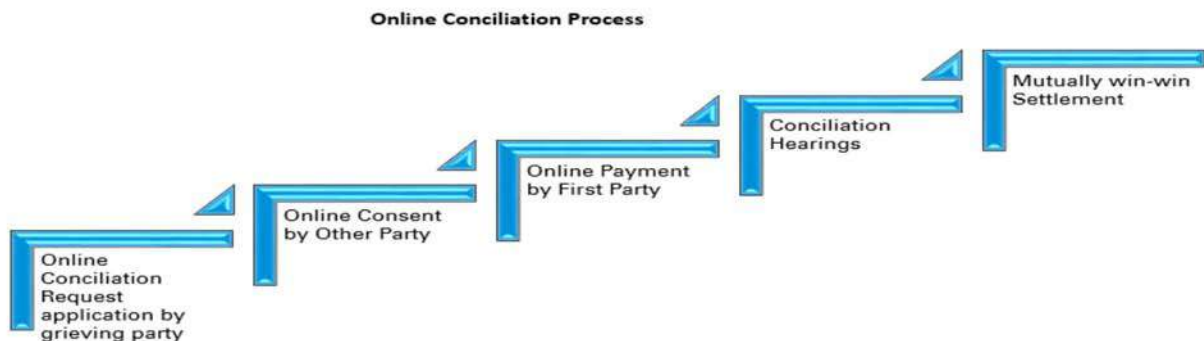


Online Application and Procedure for Conciliation

In line with MahaRERA's ideology, conciliation process was online from day 1. The conciliation process begins with the aggrieved party (first party) filing online application for conciliation. After submission of the application, the second party gets an email requesting for their consent to initiate conciliation. The second party can view entire details of the grievance online and provide consent by clicking on the link.

As a next step, the first party is required to pay 1000 Rupees as fees for conciliation. After this, the conciliation request is allocated to one of the conciliation benches on the basis of location. The conciliation bench informs both the parties on the meeting date, time and location for the conciliation meeting. After conclusion of the conciliation proceedings, if the parties reach

agreement on a settlement of the dispute, the conciliators draw up the terms of settlement which are signed by both the parties and conciliators.



In order to spread awareness on the conciliation forum, several measures were undertaken:

- 1) Numerous Awareness Seminars, Press conferences and Workshops were organised across the state informing stakeholders on establishment of Conciliation Mechanism and its benefits
- 2) Different online web banners were posted on MahaRERA website highlighting benefits of Conciliation
- 3) Most importantly, any person who is about to file a complaint is first prompted to consider Conciliation as an option for dispute resolution.
- 4) Another notable step, recently undertaken by MahaRERA to encourage Conciliation, is as follows:
 - a. If a conciliation application does not result in an amicable settlement, then Conciliation bench may decide to refer such case to MahaRERA. The Authority, on receiving such a case, shall take a decision and the said decision may include treating the said matter as a suo-motu complaint at no additional cost to the applicant.

Further, through model form of Agreement MahaRERA is encouraging the promoters and allottees to first try and amicably resolve the dispute through conciliation forum.

Success Stories:

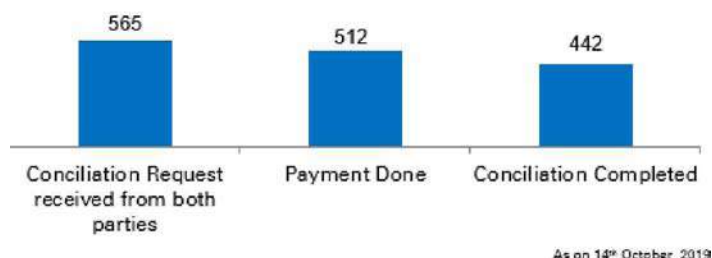
On March 10th 2018, the first set of conciliation meetings were held. A total of 10 cases were assigned, six in Mumbai and four in Pune. Out of these 10 cases, four cases of Mumbai and two cases of Pune were amicably resolved in the

first hearing on the first day of conciliation. In the other four cases, both the parties requested for more time and one more hearing to resolve the issue. A post session meeting was held which was presided by MahaRERA Chairman and to the delight of everyone, the news of six matters getting resolved was given to everyone. This day would be considered as one of the landmark day in real estate sector in Maharashtra wherein promoters and allottees came together to bridge the trust deficit



Since then, MahaRERA Conciliation Dispute resolution forum has received 512 applications wherein 442 have been disposed. Of total disposed, around 90% of the conciliation cases from Pune were amicably resolved and 85% in Mumbai.

Distribution of Conciliation Requests



On 1st May 2018, MahaRERA Conciliation and Dispute Resolution Forum conducted the MahaRERA day celebrating one year of implementation of MahaRERA. The program was graced by Hon'ble Housing & Urban Affairs Minister of State (Independent charge) Shri. Hardeep Singh Puri, Hon'ble Chief Minister Shri. Devendra Fadnavis, Maharashtra Housing Minister Shri. Prakash Mehta and so on.

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International and National Awards

United Nations Conference on Trade and Development (UNCTAD) held Geneva, Switzerland on 9 - 10th July 2018, the Intergovernmental group of experts on Consumer law and policy discussed the Case Study Online Conciliation at MahaRERA. The same was also published under Dispute resolution and redressal section.

National e-Governance award 2019 (silver) was awarded for the online platform of MahaRERA, which

Impact

MahaRERA conciliation and dispute resolution forum is first-of-its-kind initiative wherein neutral conciliators from promoters and consumers association guide the parties towards amicable settlement. The impact of MahaRERA Conciliation Forum is as follows:

- 28 conciliation panels established across Maharashtra on public demand and this number is increasing with time.
- More than 400 families' resolved their issues amicably and they find it difficult to believe that such a quick resolution to their long-pending dispute could have been possible under the normal litigation mechanism. Further, such mutually agreed settlements don't leave behind bitter taste between the parties.
- On an average MahaRERA receives about 60 conciliation requests per month and MahaRERA strives to enhance it by at least 25% year on year.
- Renowned and eminent Industry leaders are conciliators with MahaRERA Conciliation and dispute resolution forum, displaying belief and faith of the industry in this mechanism.
- More than 200 Crores of financial investment which was involved in dispute cleared amicably through the conciliation panels.

- **Cost Saving:** Huge Cost savings for consumers and promoters as they do not have to hire lawyers and this mechanism provides a quick turnaround. In the absence of lawyers in the proceedings, the parties are encouraged to vent their grievances personally and the Conciliators play the role of bringing both the parties to mutually agreeable terms



60 Requests per month

On an average MahaRERA receives about 60 conciliation requests per month



200 Cr

More than 200 Crores of financial investment which was involved in dispute cleared amicably through the conciliation panels



Huge Cost Saving

Huge Cost savings for consumers and promoters as they do not have to hire lawyers and this mechanism provides a quick turnaround

5.3. Ensuring Quality in Workmanship of all MahaRERA Projects

Background

On the first Anniversary of MahaRERA, 1st May 2018, Hon. Chief Minister, Shri Devendra Fadnavis commended MahaRERA on being pioneer in implementation of RERA and also entrusted MahaRERA with responsibility of ensuring quality of construction in real estate projects in their Second year of operations.

“MahaRERA must now focus on ensuring that the quality of construction of newly constructed projects is on a par with what was promised by Developer”

- Hon. Chief Minister, Devendra Fadnavis , 1st May 2018

One of the key issues in Real Estate sector was quality of construction. Before the enactment of Real Estate (Regulation and Development) Act 2016, promoter was not bound by any statutory liability with respect to the quality of construction. Once the possession of the apartment was handed over, Allottees were forced to rectify construction defects on their own despite them already having paid their hard earned money in the project of the promoter.

However, The Real Estate (Regulation and Development) Act, 2016 eradicated such problems and made the promoter liable for any construction defect, including structural defect or any other defect in workmanship, quality or provision of services. As per Section 14(3) of the Act, if any structural defect or any other defect in workmanship, quality or provision of services is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects or pay appropriate compensation to the allottees.

Genesis of Initiatives

With the mandate of ensuring Quality of Construction in real estate projects, MahaRERA conducted several brainstorming sessions with stakeholders as well as experts, including renowned professors of IIT Mumbai (Civil Engineering Wing).

It was observed that Quality of construction depends upon essentially two factors, quality input materials and quality workmanship.



Infact, both the factors are also dependent on each other. Even with quality input materials if there is poor workmanship in using the materials, the quality will suffer. Similarly, even great artists can't make gold out of dust.

With this in mind, MahaRERA decided to take a proactive approach to quality assurance in construction. MahaRERA decided that primary objective of Quality

Assurance process should be to prevent defects and avoid rework, which is always expensive. While construction, itself if quality of material and workmanship is ensured then real estate projects shall be defect free and adhere to quality standards.

MahaRERA took note of the fact that RERA Act outlines roles for a set of three professionals, Architect, Engineer and Chartered Accountant, for the successful completion of every RERA registered project. It was felt that the site engineer of the MahaRERA registered project can be made accountable for ensuring that materials used in the construction conform to an acceptable quality standard. As a first step towards this objective, MahaRERA, through Order No 5/2018 dated November 26, 2018, introduced Quality Assurance Certification in Form 2 A. Through this Certificate, the Supervisor of the work would have to certify and ensure that the basic input materials conform to a prescribed standard of Quality. This certificate has to be uploaded quarterly on the webpage of the registered project. This was made mandatory for all projects registered with MahaRERA after December 1, 2018.

(MahaRERA Order No. 5 / 2018 available at [https://maharera.mahaonline.gov.in/Upload/PDF/Quality%20Assurance%20Certificate% 20Form%202A.pdf](https://maharera.mahaonline.gov.in/Upload/PDF/Quality%20Assurance%20Certificate%20Form%202A.pdf))

The other important aspect towards achieving quality construction was ensuring quality workmanship. It was observed that lack of knowledge and experience of labour are the prime factors affecting the quality of workmanship. Hence, it is important to provide training to these labour for improving workmanship. With this, MahaRERA embarked on an ambitious project of skilling the workforce engaged in all MahaRERA registered projects.

01		Domain (10 Days)	<ul style="list-style-type: none"> • Trade specific domain skill. New developments in the domain area, supported by practical sessions. Training provided by the Master Trainers of RAGC supported by Demonstrators.
02		Platform (6 days)	<ul style="list-style-type: none"> • Training candidates to develop their confidence to conduct training sessions of workers at construction sites. Training provided by the Master Trainers.
03		On the Job Training (8 days)	<ul style="list-style-type: none"> • Practical / Mock sessions of training workers at ongoing sites, Identify training needs of sites. Regular inspection, reporting and audit by Task Assessors.
04		Assessment Training (1 day)	<ul style="list-style-type: none"> • Revision of Training and preparation for assessment
05		Final Assessment (1 day)	<ul style="list-style-type: none"> • Conducted by 3rd party assessors deputed by CSDCI

MahaRERA Skilling Initiative

MahaRERA aims to train all the 10 to 12 lakh unskilled/semi-skilled/ skilled workers in the ongoing MahaRERA registered projects spread across Maharashtra. These workers would be trained to upscale their skills and also to update them about the safety standards to be met on construction sites. Such workers include Masons, helpers, Carpenters, Bar Benders, Plumbers, Electricians and Painters, etc. (Details can be accessed at <https://maharera.mahaonline.gov.in/Site/1109/About-the-Initiative>)

While embarking on this initiative MahaRERA realised that there is lack of expert trainers in the industry who shall carry out this task. MahaRERA therefore, decided to overcome this hurdle by initiating a programme to train a pool of 500 Expert Trainers who would in turn, train the unskilled/semi-skilled workers in due course of time.

MahaRERA divided the Skilling Initiative into two phases:

- > Phase 1: Development of Expert Trainers
- > Phase 2: Skilling of Workforce of RERA Registered Projects

Training of Expert Trainers (TOET)

Hon'ble Chief Minister of Maharashtra has inaugurated and launched this programme of Training of Expert Trainers (TOET) on 19th February 2019 at Pune. This would create a pool of 500 Expert Trainers in a year or two.

The Expert Trainers are trained for a period of a month, both in theory and practical with a syllabus from Constructions Skill Development Council of India (CSDCI), which is an arm of National Skill Development Corporation (NSDC), New Delhi. During the training period, CSDCI also assesses the performance of trainers, conduct examination and awards a certificate after passing. MahaRERA has a program to train 500 such expert trainers at a cost of Rs. 3 Cr, at the rate of Rs. 60,000 per trainer through its own resources.



The Training Program is being executed in the following distinct stages:

- i. Experienced Candidates are nominated from Developers from their projects who are capable of being Master Trainers
- ii. Pre-Assessment of candidates: The three agencies undertake pre-assessment of candidates to determine suitability of candidate as Master Trainer
- iii. Training of 26 days: The candidates undergo rigorous training for 26 days
- iv. Post completion of training, Assessment and certification is conducted by NSDC
- v. Certified Master Trainers resume the site and train workers & certify them

Structure of the Course

The first batch of Expert Trainers has already been trained by these institutes and these trainers have been examined by National Skill Development Corporation, New Delhi and have certified them as trainers. The list of Expert trainers with their details, is uploaded on MahaRERA website.



Skilling of Labour Workforce at MahaRERA Projects

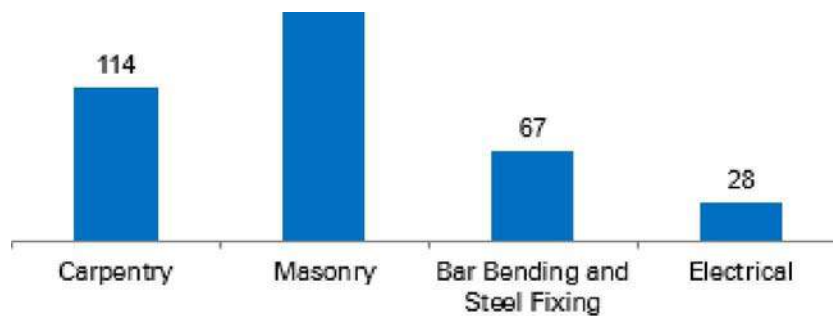
In order to skill the entire construction labour force in MahaRERA projects, MahaRERA reached out to Labour Department and Skill Development Department for their support. Labour Department agreed to fund the entire skilling initiative from the construction cess available with 'Maharashtra Building and Other Construction Workers Welfare Board' (MBOCWBB). Similarly, Maharashtra State Skill Development Society (MSSDS) volunteered to make available their systems and expertise for the initiative.

In collaboration with the three partner agencies, the expert trainers are being deployed on MahaRERA Projects' Construction sites to train the labour workforce. The key processes are as follows:



The worker undergoing 15 days training is also provided compensation of Rs. 4,200 towards wage loss. Post Training, the workers are assessed, examined and certified by CSDCI.

In line with MahaRERA's objective, even this initiative was online from Day 1. All the candidates undergoing training are registered online along with Aadhaar number to ensure zero duplication of beneficiaries. Biometric attendance is undertaken and updated online for every session. The entire candidate lifecycle management is conducted online.





Distribution of trained labour Workforce till date

170

Impact

The greatest impact of this initiative shall be enormous improvement in Quality of Construction in Real Estate Projects across Maharashtra. By ensuring usage of Quality input materials and quality workmanship, promoters shall be able to deliver good quality homes to the citizens. Other key benefits of this initiative are as follows:

- More than 10 Lakh Labour Workforce to be trained across all MahaRERA Projects across Maharashtra

- 500 Expert Trainers developed in different trades including Masonry, Carpentry, Painting, Bar Bending, Plumbing and Electrical.
- Enhancing Quality of Construction of all real estate projects across Maharashtra through usage of quality materials and quality workmanship.
- Saving Costs of both promoter and citizens as quality is ensured at construction and no rework / repair is needed at later stages.
- Enhancement in employability of the labour workforce.
- Till date, 4075 Real Estate Projects with about 4,00,000 apartments in Maharashtra ensuring usage of quality material after issuance of Order.

Key Impact of MahaRERA Skilling Initiative



Quality in Construction

Enhancing Quality of Construction of all real estate projects across Maharashtra



4075 Real Estate Projects

4075 Real Estate Projects with about 4,00,000 apartments ensuring usage of quality material after issuance of Order.



More than 10 Lakh Skilled Labour

More than 10 Lakh Labour Workforce to be trained across all MahaRERA Projects across Maharashtra



Saving Costs

Saving Costs of both promoter and citizens as quality is ensured at construction and no rework / repair



500 Expert Trainers

500 Expert Trainers developed in different trades including Masonry, Carpentry, Painting, Bar Bending, Plumbing and Electrical



Enhanced Employability

Enhancement in employability of the labour workforce

5.4. Self-Regulatory Organisations (SROs)

Challenges faced

One of the key challenges faced by MahaRERA, during the past two years, was lack of regular updates of project information by promoters. Though, more than 22600 projects were registered with MahaRERA, not all of them regularly updated the status of their projects. The key reasons for the same were:

a) Lack of Awareness

One of the Major Reasons for non-updating of information is lack of awareness among the promoter community about the provisions of the Act. Many promoters are not aware of their responsibilities under RERA. They believe that RERA registration is like one time license valid till end of project.

Some of them had also outsourced their RERA registration to Consultants / CA / Architects as one-time activity, who after registration ignored the project.

b) Ingrained Behaviour

Real Estate Sector has always encouraged opaque practices and thrived on information asymmetry. Hence there was resistance among small group of Promoters on regular updates of information.

Genesis of SRO

In order to overcome the ignorance and resistance among promoters, MahaRERA undertook extensive awareness and capacity building initiatives. MahaRERA was also clear from the start of the journey that participation of promoters associations is important for success of this initiative. Hence promoter associations became essential partners in implementation of RERA.

One of the key mandates provided to promoter associations including CREDAI, MCHI and NAREDCO was to spread awareness among their members and handhold them on regular updating of information and compliance to RERA provisions. The promoter associations, in partnership with MahaRERA, undertook several workshops and handholding sessions across the state. These associations also established MahaRERA compliance teams that were focussed on reaching out to its members and ensuring they update the information on MahaRERA portal in time.

This initiative was highly successful and members of these associations started regularly updating information of their projects on MahaRERA portal.

Encouraged by the success of this initiative, MahaRERA also requested the promoter associations to reach out to other promoters, who are not their members. Accordingly, Promoter associations started reaching out to non-member promoters to enhance their awareness and ensure updating of information on MahaRERA portal.

However, the non-member promoters were unresponsive to the promoter associations and questioned their authority.

In order to overcome this, Authority decided to introduce Self-Regulatory Organisations (SRO) concept in Real Estate Sector in Maharashtra

International and National Examples of SRO

Self-Regulatory Organisations (SROs) are organizations representing a particular segment of entities, who set and enforce rules and standards relating to the conduct of members in the SRO, establishing industry standards, developing and applying codes of professional ethics and ensuring consumer confidence.

SROs are well – established mechanism internationally and nationally.

International SROs

- **United States:** There are SROs in multiple industries including Real Estate, Financial Markets, Energy, Advertisement, Aviation among others
- **Australia:** SROs are established in Health, advertising, financial services, pharmaceuticals among others
- **Russia:** In Russia, Starting with 2009, all Russian developers are required to join a Self-Regulating Organization (SRO) for construction, according to the law. SROs are Not-for-profit established under law for carrying out control over compliance of members of the SRO with requirements of standards and rules of Construction and considering issues of imposing of disciplinary actions on members

Indian SRO's

Even in India, Self-Regulation is now being used extensively in India also:

- Under IBC, Insolvency and Bankruptcy Board of India (IBBI) have three Insolvency Professional Agencies (IPAs) which are the self-regulatory organisations that each Insolvency Professional is enrolled with.

- RBI's Malegam Committee Report had recommended formation of self - regulatory organisations (SRO) in the microfinance sector and accordingly RBI has established SRO for Micro finance sector

SROs in Real Estate Sector in Maharashtra

With this background, In order to ensure greater professionalism among promoters, bring a certain level of consistency in the practices of promoters, enforcement of code of conduct and to discourage fraudulent promoters, MahaRERA introduced Self-Regulatory Organization (SROs) Concept in the real estate sector in Maharashtra. (MahaRERA Order No. 10 can be accessed at <https://maharera.mahaonline.gov.in/Upload/PDF/order%2010-1110219.pdf>)

Before introducing the same, MahaRERA held numerous consultations with promoter associations to incorporate their suggestions.

The details of SRO system is as follows:

Eligibility Criteria

1) The basic eligibility criteria for Self-Regulatory Organizations (SRO) is as follows:

- a. The proposed SRO has to be a group / association / federation of promoters, which is a legal entity.
- b. The Proposed SRO should have atleast 500 MahaRERA registered projects of their members.
- c. Details of Membership fees, Duration of Membership, qualification of membership and code of conduct to be followed by the members may be decided by the respective SRO and shall be made available to their members.

Functions and Obligations of SRO

The Functions and obligations of the SRO are as follows:

- a. The SRO shall encourage its members to comply with the provisions of the Act, applicable rules, regulations, orders or circulars issued by the MahaRERA from time to time;

-
- b. The SRO shall be responsible for carrying out awareness and education activities among its members
 - c. The SRO shall specify standard of conduct for its members and also shall be responsible for the implementation of the same by its members.
 - d. any information or particulars furnished to MahaRERA by the applicant shall not be false or misleading in any material respect;

Recognition of SRO

Any group or association or federation of promoters, which is desirous of being registered as a SRO with MahaRERA, may make an application to MahaRERA in Form A, accompanied by a fee of Rs.10000.

The certificate of recognition of SRO shall be valid for a period of five years. However, MahaRERA may de-recognise any SRO if found to be in violation of the Real Estate (Regulation & Development) Act, 2016 or rules or regulations or orders made thereunder.

Participation in SRO

Going forward, each Promoter, applying for registration of his project in MahaRERA, have to be part of any one of the registered SROs.

In due course, this concept of SRO would be extended to the Real Estate Agents too.

Impact

Through this initiative, the following impact shall be achieved:

➤ Minimum Government, Maximum Governance

SROs shall greatly increase the enforcement and compliance to RERA provisions by promoters through minimum intervention of Government. SROs, which is a body by the promoters, of the promoters and for the promoters shall carry the baton of governance and monitoring of promoter behaviour. This is true example of Minimum Government and Maximum Governance.

➤ Greater Acceptance

SRO mechanism shall help promoters internalize RERA principles and ethical behaviour since adoption of rules shall be based on social norms and conduct of peers rather than top-down prescriptive rules. This shall instill deeper respect

and acceptance of the rules and result in better promoter behaviour, and avoid adversarial situations in which promoters try to find exceptions to externally imposed rules.

➤ **Increased transparency and consumer confidence**

One of the key responsibilities of the SROs shall be to ensure that all promoters are regularly updating the MahaRERA web portal on the status of their projects. This shall greatly increase transparency and consumer confidence in the real estate sector in Maharashtra.

➤ **Faster implementation and Reduced regulatory costs**

Through this initiative, we are leveraging the extended force of promoter associations across the state, to enhance compliance. This is speedy and cost effective method of increasing compliance in the sector. The cost of enforcement through SRO shall be less expensive than MahaRERA doing it entirely. Even from promoter's perspective, the cost shall be lesser as they would be able to adopt the best practices earlier, rather than paying penalties and lawyer fees for late adoption.

6. Punjab Real Estate Regulatory Authority

Following are the key milestones achieved by RERA, Punjab.

6.1. Successful Web Portal

Under Section 4 (3) of the Real Estate (Regulation and Development) Act, 2016 every Authority shall operationalise a web based online system for submitting applications for registration of projects within a period of one year from the date of its establishment. The present Authority was established on 10.08.2017 and the web portal was made operational on 13.04.2018. It provides not only the facility for submitting online applications, but the entire processing of applications for registration of projects and all real estate agents is handled online.

As far as the handling of complaints is concerned the filing and initial processing is online, but proceedings are carried out on paper file once the complaint is entrusted to a Member of the Authority or the Adjudicating Officer. This has been done since the actual file might be required by the Tribunal or the High Court during hearing of an appeal or Writ Petition against the order of the Authority/Adjudicating Officer. However, final orders are also uploaded on the Authority's website, and uploading of interim orders shall start shortly.

6.2. Better enforcement of provisions of the Act through pro-active measures under Section 59

Around 800 notices have been issued by the Authority seeking a response from builders who were liable to register their projects but had not submitted their application so far. Though some of these notices were initiated on the basis of specific complaints, a vast majority have been initiated suo-motu by the Authority. Lists of projects for which promoters had been granted licenses by various Competent Authorities in the State were obtained, as also list of projects out of the above in relation to which Completion Certificates had been issued. Notices were issued to the ones who did not have the Completion Certificate on the date of commencement of the Act. Proceedings under Section 59 of the Act were initiated, and this has had a salutary effect. Penalty has been imposed in about 50 cases so far.

6.3. Introduction of QR Codes in the Agent and Project Certificates for authentication

Registration certificate are issued to promoters and to real estate agents. Their authenticity needs to be maintained, and to ensure this embossing of the Certificate with QR code (Machine readable optical label) has been introduced. The information can be verified by consumers from the phone camera application. This will prevent any counterfeit certificates, and also tampering with the certificates once issued.

6.4. Application of late fee

The Authority has introduced the provision of levy of late fee on promoters of ongoing projects who did not submit their application within 3 months of the commencement of the Act. The existing Rules were silent about the time within which projects that are approved after commencement of the Act have to submit applications for registration. A period of 3 months has been prescribed for such projects also, and the Rules are being amended accordingly. The levy of late fee is also being incorporated in the Rules since the Appellate Tribunal had raised some issues about the Authority's competence to do so.

7. Rajasthan Real Estate Regulatory Authority

7.1. Invoking the provisions of section 63 and section 7 for enforcing compliance of order's of Authority

In the complaints filed under section 31 of the RERA Act, the Authority issues orders relating to registration, refund, interest, penalty, etc. To ensure compliance of these orders is an important area of the work of the Authority. An application for execution of order is filed by the home buyer under section 40 of the RERA Act, which deals with the recovery of interest, penalty, compensation and enforcement of orders, etc.; and reads as under:

- (1) If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.
- (2) If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed.

In this regard, rule 25 and rule 26 of the Rajasthan Real Estate (Regulation and Development) Rules, 2017 prescribe the manner of recovery of interest, penalty and compensation as well as for implementation of orders, directions or decisions of the adjudicating officer, the Regulatory Authority or the Appellate Tribunal.

Once the Authority passes an order for refund, and/or interest, the promoter has to comply with the order and provide compensation and/or interest to the home buyer. This period allowed for making compliance begins mostly from the date on which the order is issued by the Authority and is extended only if the promoter provides substantial reasons to the Authority.

However, there are several cases where the promoter fails or refuses to comply with the order or direction given by the Authority. In such cases, the Authority is approached by the home-buyer with an execution application under section 40 of the Act.

But, whenever an execution application is received from a home buyer, instead of initiating action under section 40 of the Act, Rajasthan RERA first issues a notice to the promoter under section 63 for imposing penalty and under section 7 for revocation of registration of the project.

Section 63 of the Act provides that if any promoter, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent of the estimated cost of the real estate project as determined by the Authority.

Section 7 of the Act, *inter alia*, provides that the Authority may revoke the registration of the project, if the promoter makes default in doing anything required by or under the Act or the rules or the regulations made thereunder.

The practice adopted by Rajasthan RERA of using section 63 and section 7 of the Act appears to be proving more effective in ensuring compliance of the orders of the Authority, in comparison to section 40 of the Act.

8. Tamil Nadu Real Estate Regulatory Authority

8.1. Project Registrations

1. TNRERA has ordered for registration of projects fulfilling either of the conditions i.e. 8 units or exceeding 500 sq.m.
2. The Government of Tamil Nadu has passed an order directing the Local Planning Authorities to insist Registration with TNRERA at the time of issuing Completion Certificate vide G.O. (Ms) No.166, Housing & Urban Development [UD4(3)] Department, dated 29.11.2018.
3. The Inspector General of Registration, Tamil Nadu has been requested not to entertain registrations of plots, flats, apartments and villas in projects without approval / exemption certificate from TNRERA
4. A decision has been taken in TNRERA to entertain complaints from home buyers of non-registered projects, provided if deficiency of service covered under the complaints continue even after 22.06.2017 i.e. the promulgation of TNRERA Rules, 2017.
5. Periodical reports on the planning permissions issued is being received from the Planning Authorities in Tamil Nadu to monitor the projects required to be registered mandatorily .
6. Separate appeal has been sent to the banks and newspapers in Tamil Nadu not to entertain financial assistance and advertisements respectively for non-RERA registered projects
7. While addressing the complaints of home buyers against delay in completion of the project by the promoter, TNRERA has intervened with lateral agencies and Government in favour of the promoter for getting approvals and clearances so that the completion is expedited ultimately to resolve the grievance of the home buyers. In one of the projects, M/s. Asvini Foundations (construction of Stilt + 14 floors consisting 364 units), TNRERA has permitted the Consortium of the land owner and Home Buyers' Association to pursue the project abandoned by the promoter.

8.2. Orders passed by the Adjudicating officers in select cases

C.C.P. No. 1 of 2018 – A. Sujatha & Anr – Vs – Marg Properties Ltd., - Disposed on 29-11-2018

Claim for refund and Compensation - Delay in Construction – Builder claimed no responsibility on the grounds of clauses in his favour – Section 51 and 52 of Contract Act – Section 4(2)(l)(D) of RERA Act – Discussed - Relief granted.

http://www.tnrera.in/adjudicating_judgements/2018/1-2018.pdf

**C.C.P. No. 99 of 2019 – S.Ramkumar – Vs – Marg Properties Ltd., -
Disposed on 30-08-2019**

Claim for Refund and Compensation – Builder claimed that the complaint as not maintainable challenging the RERA Act and Sec 3(1) and powers of Adjudicating Officer under Section 71 to deal with refund claim – Section 19(6) of the Act – Question of Limitation on the basis of last payment made by the Complainant – AIR 2005 Karnataka 292 relied on point of limitation by the Forum – Relief granted.

http://www.tnrera.in/adjudicating_judgements/2019/99-2019.pdf

C.C.P. No. 46 of 2019 – Manu Karan & Anr. – Vs – Devinarayan Housing Pvt. Ltd., - Disposed on 27-08-2019

Claim of compensation for delay in handing over – Challenged by the Builder on the basis of Section 3(2)(a) of RERA Act as project as not required registration and Forum has no jurisdiction – Relief granted to the Complainant.

http://www.tnrera.in/adjudicating_judgements/2019/46-2019.pdf

**C.C.P. No. 133 of 2019 – Pawan Kumar Gupta – Vs – SPR Constructions -
Disposed on 12-09-2019**

Claim for return of advance booking amount – Denied by the builder on the ground of forfeiture – Terms and conditions attached to receipt and price chart signed by the Buyer relied. Claim of GST and legal charges by the Builder – Relief granted as unfair trade practice and charging GST not warranted as no sale effected.

http://www.tnrera.in/adjudicating_judgements/2019/133-2019.pdf

**C.C.P. No. 59 of 2019 – K.Deepa – Vs – Akshaya Private Limited - Disposed
on 17-09-2019**

Claim for Refund and Compensation - Completion Certificate obtained – Flat not handed over – Reliability on Completion Certificate to escape liability – Section 3 of RERA Act – Jurisdiction of RERA for projects not registered – contention as compensation does not include refund of money – definition of compensation as including purchase money – discussed – contention rejected. Sections 71 read with Sections 12, 14, 18 & 19 of RERA Act discussed – Payment linked with progress of the construction – No payment by the Allottee – Delay in Construction – Effect– One sided agreement by the Builder – discussed. Relief granted.

http://www.tnrera.in/adjudicating_judgements/2019/59-2019.pdf

C.C.P. No. 77 of 2019 – Abhishek Agarwal & Ors – Vs – Ozone Project Pvt. Ltd., - Disposed on 26-09-2019

Claim of compensation for delay – Builder claiming as obtained Completion Certificate prior to the commencement of the Act – Jurisdiction challenged on the ground of arbitration clause in the agreement. Section 3 & 88 of the RERA Act discussed. Delay in payment by the allottee claimed – Construction delayed beyond due date – Progress of construction linked with payment schedule – Relief Granted to the Allottee.

http://www.tnrera.in/adjudicating_judgements/2019/77-2019.pdf

C.C.P. No. 78 of 2019 – P.Govindaraj & Anr – Vs - Casa Grande Engineering - Disposed on 31-07-2019

Claim of Refund and compensation – Reduction in the area of flat after booking – Advertisement by the Builder as the Buyer need not pay GST – Receipt of more than 10% of the sale consideration by the Builder – Section 13(i) of RERA Act discussed – Relief granted to the buyer.

http://www.tnrera.in/adjudicating_judgements/2019/78-2019.pdf

8.3. Important defense to relieve from the clutches of RERA (By TN RERA Appellate Tribunal)

I. Will long term lease for the period of 99 years come under the purview of RERA?

(Ref : Appeal No.2/18 of TNREAT dated 13.11.2018)

It is only a lease deed and not a sale deed. Therefore the definition of allottee under the act will not be applicable.

The above said defense is not sustainable for the following reasons:

- Though the document is titled a lease deed, the nature of document when read in full is indicative of that of a sale deed.
- The period of lease is 99 years which almost that of a sale.
- The lease payment is not paid either monthly or yearly, but it is one time full payment for the entire 99 years, which could only be denoted that it is an upfront full payment for the entire flat.
- The period of lease being 99 years, it is as good as the transaction in perpetuity.
- The payment of entire consideration amount and the lease premium at the rate of 1 per annum only, further make the intention clear that it was not an agreement of lease, but clearly an alienation which can be called as sale.
- Contended that the allottee does not include a person to whom such plot is given on rent it must be remembered that, the definition of the term allottee in the present context includes even when the plot sold is a freehold or leasehold. To that extend it has to be held that, the definition of allottee also includes the lease agreement though it may not include such agreement.

II. Will real estate project being done on no profit no loss basis come under the purview of RERA?

(Ref : Appeal No.1/19 of TNREAT dated 20.3.2019)

The above said defense is not sustainable.

- There is no provision contemplated under RERA Act to exempt the no profit no loss project from registration under RERA on the ground that the appellant is a non profit organization. It is pertinent to note that even the

Government Department namely the Tamil Nadu Housing Board which constructs plots and sells is not exempted from the purview of the Act.

III. Will industrial plot come under the purview of RERA?

(Ref : Appeal No.55/19 of TNREAT dated 27.9.2019)

The defense is that it was not the intention of the legislature to make the Act applicable to industrial projects and the same is evident from the bear perusal of the Act and drafting history. The Standing Committee on Urban Development in its 30th report envisaged including industrial projects along with residential and commercial project into the definition of the terms apartment and building in the Act. However the Act specifically omitted the word industrial projects disregarding the recommendations of the Standing Committee on Urban Development. Hence the Act has it stands today, only applies to apartment building and plots for residential and commercial use.

In the Standing Committee it had sought public opinion through a press release and analysed the memorandum/ suggestions received from various stakeholders/experts, etc. As such during the course of early evidence, Secretary, Department of Financial Services, Ministry of Finance deposed as stated supra. On that basis the Committee recommended that the building under clause-2(i) should have an all encompassing definition including residential, commercial and industrial projects. The above said recommendation was not considered by both the houses of parliament before passing the Act. It was also referred to Select Committee. The Select Committee also filed its report. These are the history of legislation of real estate Act. In the above said legislative history it was not shown by the appellant that it was drafted originally and the legislature intentionally omitted the word industrial project.

The very purpose of the enactment is only for the regulation of sale of plots and apartments and not for any other purpose. So the appellant has to sell the real estate plots for the purpose of industry within the clutches of the RERA.

9. Uttar Pradesh Real Estate Regulatory Authority

9.1. Protocol for Management of Complaints

Authors Rajive Kumar – Chairman, U.P. RERA Abrar Ahmed – Secretary, U.P. RERA Himanshu Sangal – Consultant, U.P. RERA	Uttar Pradesh Real Estate Regulatory Authority Naveen Bhavan, Rajya Niyojan Sansthan, Kala Kankar House, Old Hyderabad, Lucknow.
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Need for the Regulatory Authority

The real estate sector had come under tremendous pressure during the years 2015 and 2016. Large number of the real estate projects had come to a halt with little or no progress on the ground; the home-buyers, who had invested their life-time saving, had limited recourse to a rapid resolution of their problems; the developers were non-responsive; and the development authorities faced serious constraints in regulating them. The need of the hour was for transparency, discipline and the timely delivery of projects, which was too important to be neglected any further. Therefore, the Government of India resolved to establish a regulatory authority in all the states and the union territories across the country to help the consumers, bring about financial discipline and transparency and to develop and transform the real estate sector.

The Real Estate (Regulation and Development) Act, 2016, widely acknowledged as one of three most important reforms undertaken by the present Government, was enacted on March 25, 2016. Subsequently, by notifications, the Government appointed first day of May 2016 as the effective date for sections 2, 20 to 39, 41 to 58, 71 to 78 and 81 to 92 and appointed first day of May 2017 for coming into force of sections 3 to 19, 40, 59 to 70 and 79 to 80.

The completion of the real estate projects within the timeline declared by the promoter and protection of the rights of the home-buyers are the twin spirits of the RERA Act.

Accordingly, it has been provided under Section 31 of the Real Estate (Regulation and Development) Act, 2016 that any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter, allottee or real estate agent, as the case may be.

Management of Complaints at U.P. RERA – Beginning

With the launch of UP RERA website by the Hon'ble Chief Minister Yogi Adityanath, at a public function on 26th July 2017 online registration of projects, real estate agents and the complaints was initiated.

Over a thousand complaints were registered on the web-portal within a short period of time. Invoking the powers under section 81 of the Act, the interim Regulatory Authority delegated the powers to hear and decide the complaints to some of the senior officers working in the Housing department effective from November 2017.

The disposal of the complaints at various locations in the State was a challenge before the interim regulator. The interim regulator established a mechanism to ensure the disposal of the complaints through the officers authorized by it under section 81 of the Act using a web-based management system - a first in the country.

The establishment of the Permanent Authority took place on 4th August 2018, with the appointment of Shri Rajive Kumar (IAS 1981) as Chairman and Srimati Kalpana Mishra (HJS), Shri Balvinder Kumar (IAS 1981), (former Secretary to the GOI) and Shri Bhanu Pratap Singh (IPS 1985) (former DG-UP) as members.

The Authority had received 5350 complaints prior to the establishment of Permanent Authority in August 2018 and out of this 1911 complaints had been disposed of by the authorized officers. It will be seen that the Permanent Authority had a legacy of 3439 pending cases to be decided and large number of new complaints kept pouring in. This trend has continued and, therefore, the Authority conscious of its mandate to decide the complaints expeditiously, has been continuously improvising on the ways and means to address the complaints in a time-bound manner.

As stated above, the redressal of the complaints by the aggrieved persons is one of the twin spirits of the Act. RERA is a beneficial Act and the efficacy of a beneficial Act would be proportionate to the efficacy of the scheme it lays down for redressal of grievances and the effectiveness of the adjudicating mechanism to decide the complaints expeditiously in a judicious fashion. It is exactly on this parameter that the existing schemes of redressal of consumer disputes under the prevailing Acts have not been able to meet the expectations of the respective Acts, especially in case of the consumers in the real estate sector. It is exactly for this reason that RERA provides for a time limit of 60 days for deciding the complaints and the appeals.

A glimpse of the challenge before the Authority can be had from the following age-analysis of the complaints pending on 9th August 2018, the date on which the Permanent Authority assumed the office.

Ageing Analysis of the Complaints Pending on 9th August 2018

Ageing in days	Number of Complaints
> 365 days	5
>270 days <= 365 days	126
>180 days <= 270 days	537
>90 days <= 180 days	1203
>30 days <=90 days	924
<= 30 days	644
Grand Total	3439

The Initiatives of the Permanent Authority

The Authority seriously pondered over the relevant provisions of the Act conferring the rights and casting duties and obligations upon the allottees, the promoters and the real estate agents and the scheme of redressal of grievances provided under the Act. Important rights and obligations of the stakeholders, along with the powers of the Authority, as provided under the Act can be summed up as follows:

- 1- The rights and obligations of the promoters have been described under section 3, 4,6,11,12,13,14,15,16,17,18 and 19 of the Act.
- 2- The rights and obligations of the real estate agents have been described under section 9 and 10 of the Act.
- 3- The rights and obligations of the allottees have been described under section 19 of the Act.
- 4- The provision to file complaints with the Authority or the Adjudicating Officer, as the case may be, is given under section 31 of the Act.
- 5- The powers of the Authority to ensure compliance of the duties and obligations cast upon the promoters, real estate agents and the allottees and pass appropriate orders, including the orders relating to imposing of penalties, have been given under section 34(f), 35, 36, 37, 38, 40, 59,60,61,62 and 63 of the Act.

Therefore, conscious of the challenges before it and conscious of the mandate cast upon it, the Authority, in its first meeting on 12th August, 2018 took the following key decisions: -

- Establishment of the Regional Bench of RERA at Gautam Buddh Nagar for the benefit of stakeholders in NCR.
- Ensure establishment of two fully functional offices at Lucknow and at Greater NOIDA within 30 days.
- Decision to create two benches to hold the court work at Lucknow and NCR on all 5 days of the week.
- Lucknow bench was to hear the complaints from Non-NCR districts, whereas Greater NOIDA bench was to hear the cases relating to 8 districts of NCR.
- Decision to ensure hearing by two members in each bench in the initial phase.
- Authority would meet every week at Lucknow on Wednesday, for discussion, brainstorming and collective decision making in important matters.
- Decision to establish the RERA NCR office in the old office building of Greater NOIDA.

For the convenience of the consumers and in order to facilitate a quick resolution of the complaints pertaining to a high volume of projects and complaints in NCR, the Government, on the recommendations of the Authority, has established a regional bench of RERA at Greater NOIDA in district Gautam Buddh Nagar.

The extent of the challenge and the magnitude of the efforts put into by the Authority can be appreciated properly if one looks at the status of the complaints in retrospect. Thus a total of 20321 complaints have been filed before the Authority – a number far higher than in any other state of the country and the Authority has disposed of 13009 complaints. The permanent Authority has disposed of 11098 complaints since it started court work on 4th September, 2018, that is in a period of about one year. The Authority has disposed of the complaints at a monthly average of almost 800 complaints every month and in some months it has disposed of more than 1200 complaints. Given that the Authority has a chairman and three members, each of them has decided about 300 complaints in a month. This is all the more remarkable since disposal of complaints is one of the many tasks entrusted to the Authority.

It is interesting to see how this has been possible for the Authority to negotiate this challenge. This undaunting task required everybody in the Authority to work with cent percent commitment to the best of his/her capacity, appropriate staffing and use of

information technology. Some of the important carriers and instruments of this incredible feat have been:-

1. Electronic Management of the Complaints

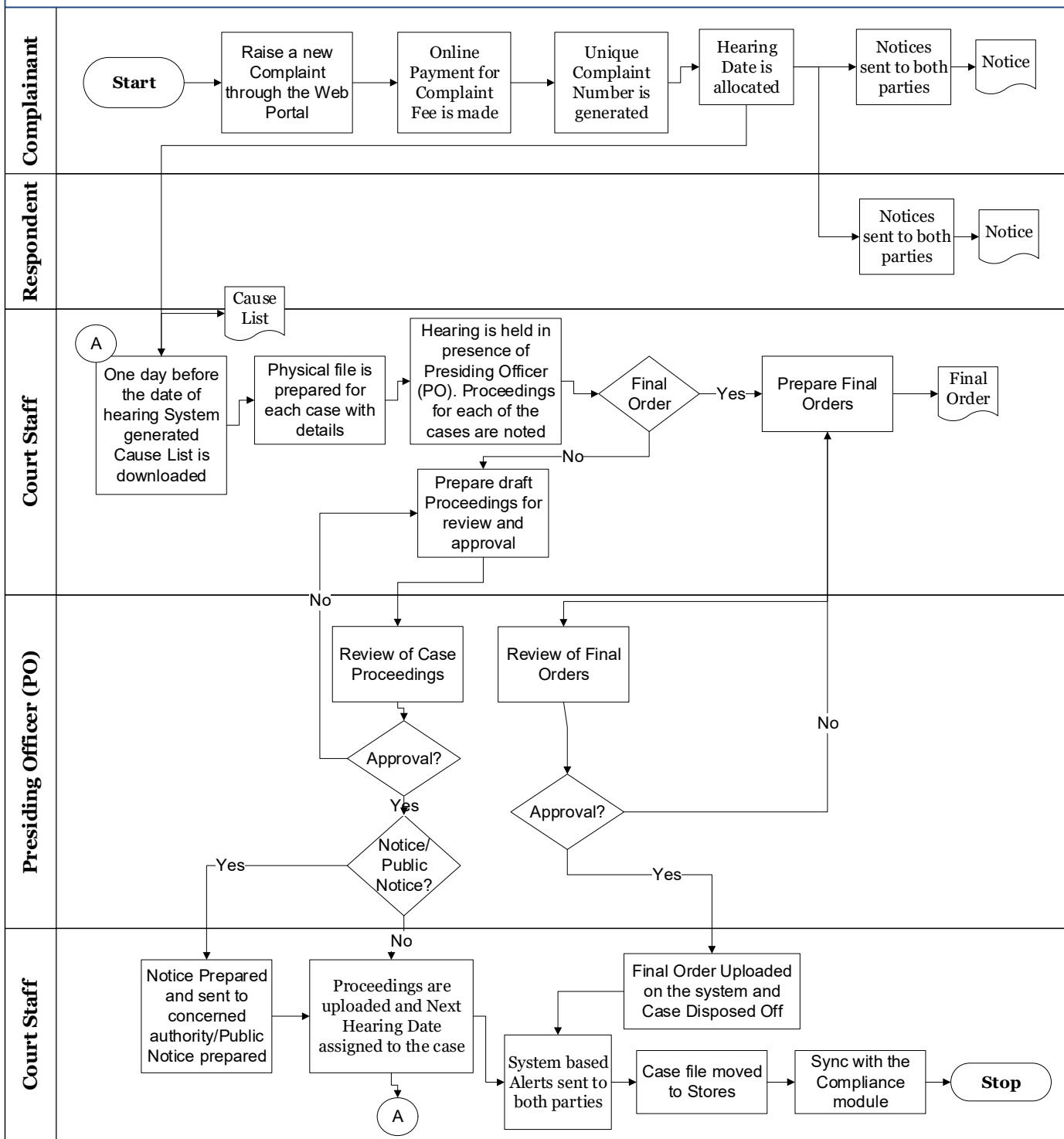
The Authority has established a well defined online process for handling of complaints, filed by the allottee or the promoter or the real estate agent, as the case may be. Some of the important steps in this electronic management system of the complaints are as follows:

- The complainant visits UP RERA website www.up-rera.in and files his complaint using the complaint link provided on the home page of the web portal. He pays the fee online using a payment gateway.
- He fills the online complaint form and it is mandatory for him to submit all the payment details along with the documentary evidence. He is required to upload all necessary documents in support of his complaint. This helps the Authority in expeditious and judicious disposal the complaints.
- The system allocates the complaint to the respective UP RERA benches based on the district in which the project is located. Complaints pertaining to projects in NCR are assigned to Gautam Buddh Nagar bench of the Authority and complaints from the districts other than the NCR are assigned to Lucknow Bench of the Authority.
- System generated notices are sent to both the complainant and respondent through emails. The complaint along with the attachments is made visible on the dashboard of the promoter. Adequate communication alerts are sent to both the complainant and respondent through email and SMS.
- The respondent is required to file his reply-written statement on the date of first appearance. The advantage of this system is that in some instances the case is decided even on the first date.
- At any point of time complainant can check the complaint status and proceedings online by entering his/her complaint number on the Complaint Status link provided on the UP RERA website or through the mobile App created by the Authority.
- On the date of hearing a system generated Cause List is printed and displayed on the notice boards for the parties to check their allocated bench and the sequence of hearing. The Cause list is also displayed on the LED screens placed in respective benches and offices.
- During the hearing both parties are required to present their case and arguments are heard by the Presiding Officer. Proceedings of the day are posted on the

complaint page of the portal as far as possible by the next working day and the next date is assigned. The parties get alert through email and SMS. A case is generally decided in three to four hearings.

- The final order is uploaded on the portal on the date of signatures of the bench which is instantly emailed by the system to the parties and is visible on the promoter's dashboard also. The parties are sent alerts through email and SMS when the final order has been passed and uploaded.
- U.P RERA web portal provides for an online provision for updating the proceedings of the hearing, allocation of next hearing date, uploading of interim and final orders.

Management of Complaints Process Flow



2. Supplementary level of servicing of notice and holding enquiries

As per the provisions of section 35 of the Act, the Authority has the powers of civil court under the Code of Civil Procedure in the matters of enquiries before it. It has been provided in the Special Operating Procedure (SOP) that the notices of the complaint will be sent to the promoter or real estate agent on the email used by him for creating his log-in while registering with the Authority. This is commonly called the registered email ID. The notice to the complainant is also sent on his registered email ID. If the email has not bounced, it will be treated as proof of sufficient servicing of the notice. Although the Authority gets the right to proceed ex-parte against the respondent in such cases, however, it is advisable to pass an order after actually hearing the parties and taking their evidence on record. By doing so, the Authority minimizes the possibility of applications for recall of ex-parte orders later on and reduce lingering litigation.

The Authority does not bar the allottees of a project which has not been registered with RERA, although it was required to be registered as per the provisions of the Act, to file a complaint with RERA and if the allottee of such a project files a complaint against a promoter whose registered email ID is not available with the Authority, the Authority cannot be sure about servicing of notice on the promoter through email, or even through post since some of the promoters are not available on the addresses disclosed by them to the allottees.

The Authority, in order to ensure the attendance of the respondent in such cases, publishes the public notices in some largely circulated newspaper of the area. These public notices create considerable financial burden on the Authority, still the Authority has used this mechanism quite generously and it has served as an effective tool for deciding the complaints on merit.

More often than not, there are contesting claims by the allottee and the promoter regarding the progress of the work in a project and the Authority needs to come to a right conclusion about the status of the project. The Authority, therefore, gets such projects inspected through its technical cell. The Authority has developed a simple and useful mobile App for inspection of projects by its officers. This App can be used for writing and submitting the inspection report online or for uploading the report on the website through a system. The inspection report is instantly available on the web page both of the complaint and the project. The exercise helps not only in deciding the complaint, but also in monitoring of the project and ensuring transparency and accountability of the promoter.

Sometimes, in cases where the Authority suspects of large-scale financial diversions, the Authority proceeds to carry out quick financial or forensic audit of the project accounts through the auditors on its panel.

It is established principle of jurisprudence that the burden of proof in support the claim by the parties lies on their own shoulders. However, these tools give the Authority sufficient reasonable ground for its decisions regarding the particular complaint or the project and to properly carry out its mandate under the Act.

3. Protocol for deciding a complaint relating to a project not registered in RERA

Whereas the Authority is discharging its mandate and providing speedy legal remedy to the aggrieved persons, the one area where the Authority faces challenge is in relation to complaints by the allottees of the projects which are not registered in RERA. The Authority does not bar the allottees of even such projects from registering their complaints in RERA. But the Authority can decide and grant relief only if it has jurisdiction in respect of that complaint. The jurisdiction of the Authority is qualified with the registration of the project in RERA. The Authority will have jurisdiction if the project is required to be registered in RERA even though not registered at this stage. The Authority also holds that it will have jurisdiction up to a period of five years from the date of completion of the project even if the completion or the occupancy certificate was issued before the commencement of RERA and the project might not be required to be registered in RERA.

How does the Authority get the required evidence to decide on the question of registration? Of course it is for the complainant to give the conclusive evidence which normally he is unable to provide. The evidence can be given by the promoter in case it appears. The problem is compounded when the promoter is absconding or the cases where the land for the project is not available or there is no sanctioned plan/valid sanctioned plan. These matters relate to a time prior to commencement of RERA. There are several other instances also. Since the allottee is a genuine sufferer he is not willing to take a no from the bench and he is also not appreciative of the dilemma of the Authority. It is normally the complaints relating to such projects which take a lot more time to decide than the time stipulated under the Act.

The Authority had to work out a solution for such matters. Presently when a complaint filed with the Authority is about a project not registered in RERA, the Complaint is referred to Technical Advisor of RERA to make a preliminary enquiry about the registration and jurisdiction of the Authority. He calls for a report from the concerned competent authority on relevant points within stipulated time and also sends a reminder in case the report is not received. The technical advisor also calls for evidence from the complainant and the promoter within the stipulated time. The difference is that no date for hearing is assigned at the level of the technical advisor and hence the party, especially the complainant is saved from the suffering of the repeated hearing dates before his case can be taken up before the respective bench. The technical advisor is required to submit the complaint file to the bench through web admin along with his

report within a month. The web admin assigns the date of hearing after receiving the report of the technical advisor. Thereafter the notices, etc are sent as in case of other complaints and the complaint is decided by the concerned bench on merit.

4. Listing of the complaints and management of the dates

When the number of complaints is so high, the proper management of the dates and mapping of the complaints on the basis of age of the complaint, promoter and the district of the project is key to ensuring quick disposal of the complaints. So the Authority has taken several measures, including but not limited to the following, for proper management of hearing dates.

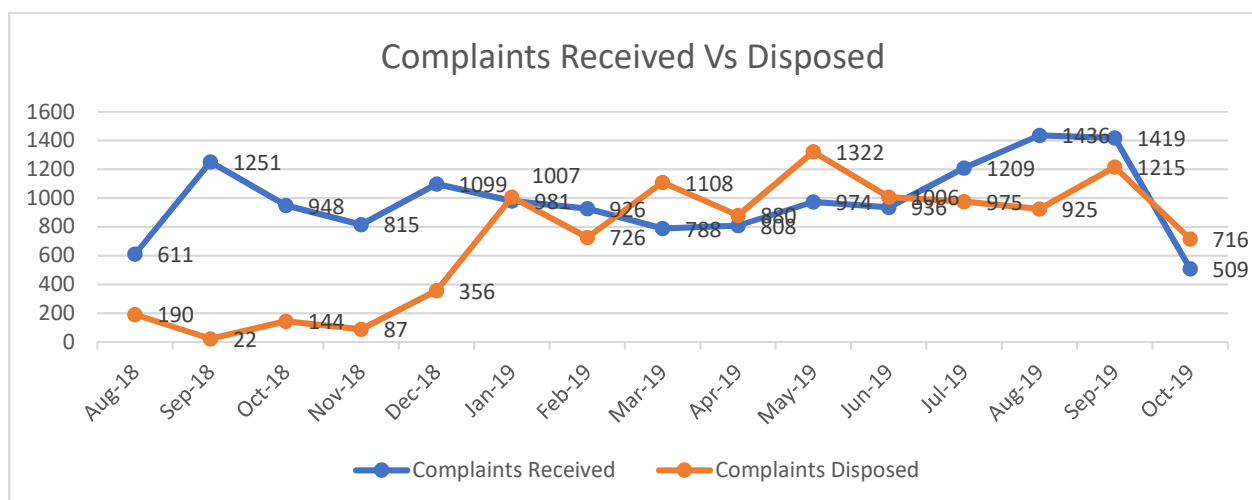
- 1- The complaints relating to eight districts of NCR, namely Gautam Buddh Nagar, Ghaziabad, Meerut, Muzaffarnagar, Bulandshahar, Baghpat, Hapur and Shamli have been mapped to NCR bench and those relating to other districts of the state to the Lucknow bench.
- 2- Initially every bench had two members and the chairman and all the members took their turns to hear the cases at both the benches. This was considered necessary for familiarizing the entire Authority with the issues in different parts of the state and also to develop a commonality of approach in the light of the Act and the Rules.
- 3- Soon the Authority had to come to terms with the ever-increasing number of complaints with its roots in serious challenges plaguing the real estate sector in NCR and Lucknow. The number of the complaints also kept on increasing because of the people's faith in RERA offering them the light of hope for the first time. The Authority, through its single- minded commitment, also added to the aspirations of the stakeholders.
- 4- Soon the Authority split to single-member benches, with two benches at both NCR and Lucknow working on all weak days. The number of benches has since been taken up to four at NCR and three at Lucknow.
- 5- The next step was the mapping of the complaints promoter and project wise also keeping in mind the nature of relief claimed by the allottee. So the complaints relating to the same project and promoter were mapped with benches and listed in continuous helping the parties as well as the bench to quickly present and hear the cases, as the case may be.
- 6- The complaints against the competent authorities are heard by the Chairman's bench.
- 7- The ageing analysis was done and older complaints are listed at weekly or fortnightly intervals.

- 8- There had been occasions when the benches were hearing as many as hundred cases, however now there is a cap of about 50 old and 20-25 new cases. Fresh cases are listed at the beginning.
- 9- The dates, once assigned, are generally not changed and even if some bench is not available on a given day, the cases are assigned to the link bench. By doing so the Authority is able to avoid inconvenience to the parties and to negotiate the hindrances in the timely disposal of the complaints.
- 10- A 90 day rolling hearing date plan was prepared and cases were listed together, pertaining to the same promoter, project, similar relief sought and at the same stage of hearing. A date assist tool has also been developed to assist the team in date assignment. The tool provides a day wise calendar view of cases listed in each bench, cases listed for any particular promoter, and the available slots. Using the tool, dates are assigned keeping in view the future spread of cases for a particular promoter/project. Authority is also developing a completely online module for date allocation which would be released along with the e-Courts module.

5. Human Resource

A qualified, trained and committed staff suitable for the job is the most important requirement for successful discharge of any demanding assignment. The Authority receives about 900-1000 complaints every month and decides almost the same number of complaints. The number of complaints decided by the Authority in some months is as high as 1215 which means that each of the benches decides about 300 complaints every month on an average. The magnitude of the task can be seen from some of the graphs that follow.

The graph showing the trend of the instituted and decided complaints before the Authority



Graph 1: Complaints – Received Vs Disposed Trend Graph (Data as on 17th October 2019)

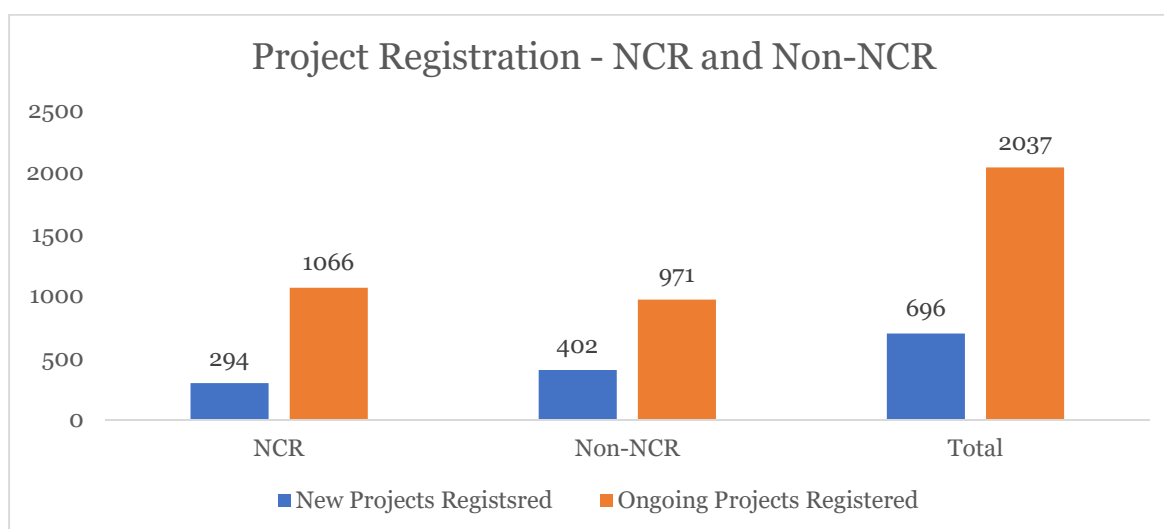
The complaints received and decided by UP RERA is the highest for any state in the country. Since August 2019 Authority has received 14971 new complaints and decided 11098 complaints. The Authority, as on 30th October 2019, has received a total of 20321 complaints out of which 13009 complaints have been decided.

Summary of complaints disposed by the Interim and Permanent Authority

No. of Complaints	Registered	Disposed
Pre-Authority Setup (Upto 9/8/2018)	5350	1911
Post Authority Setup (After 9/8/2018)	14971	11098
Total	20321	13009

Table 1: Cases registered vs disposed Pre and Post Permanent Authority Setup

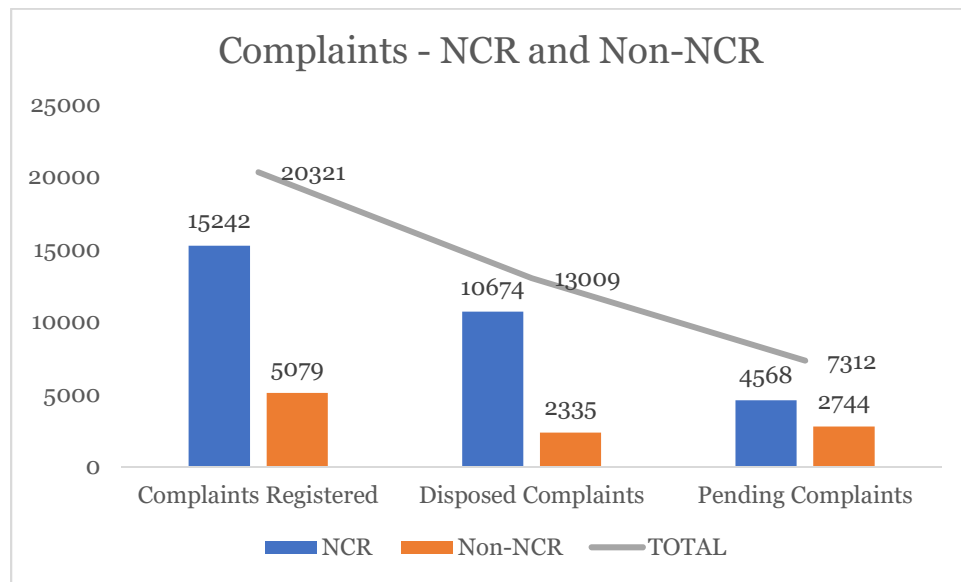
Most of the complaints registered with the Authority are from the NCR since most of the real estate projects registered with UP RERA are located in NCR as would be seen in the following figure:



Graph 2: Project Registration (Data as on 17th October 2019)

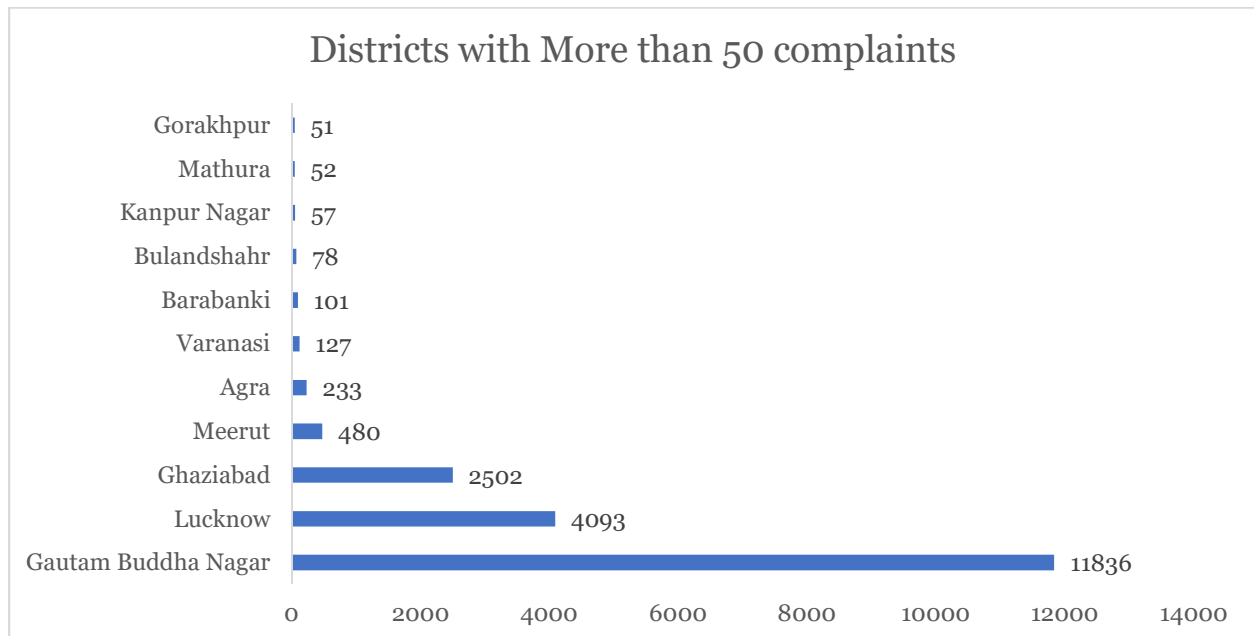
Similarly, most of the complaints registered with UP RERA are related to projects in NCR region.

A break up of complaints registered and disposed by the Authority for NCR & Non-NCR regions is depicted in the following figure:



Graph 3: Complaints – NCR and Non NCR

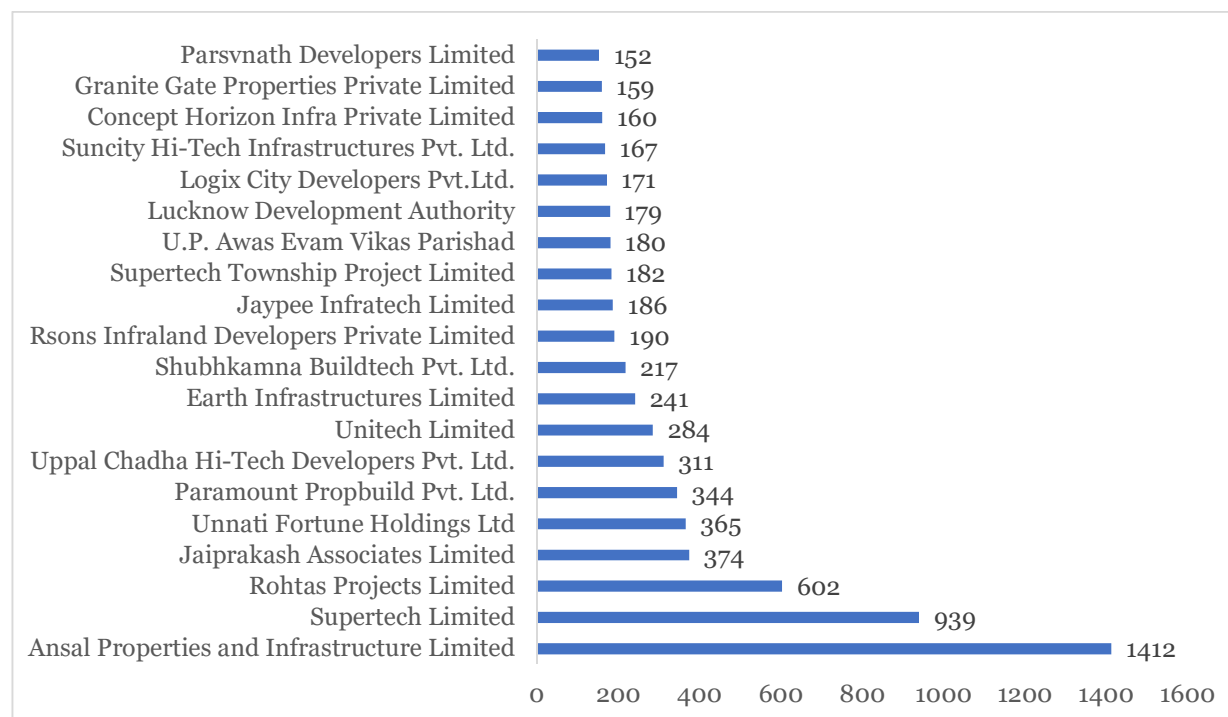
An analysis was undertaken by the Authority to identify districts with highest number of complaints. The graph below shows the districts from where more than 50 complaints have been registered in U.P. RERA.



Graph 4: Districts with more than 50 complaints (Data as on 17th October 2019)

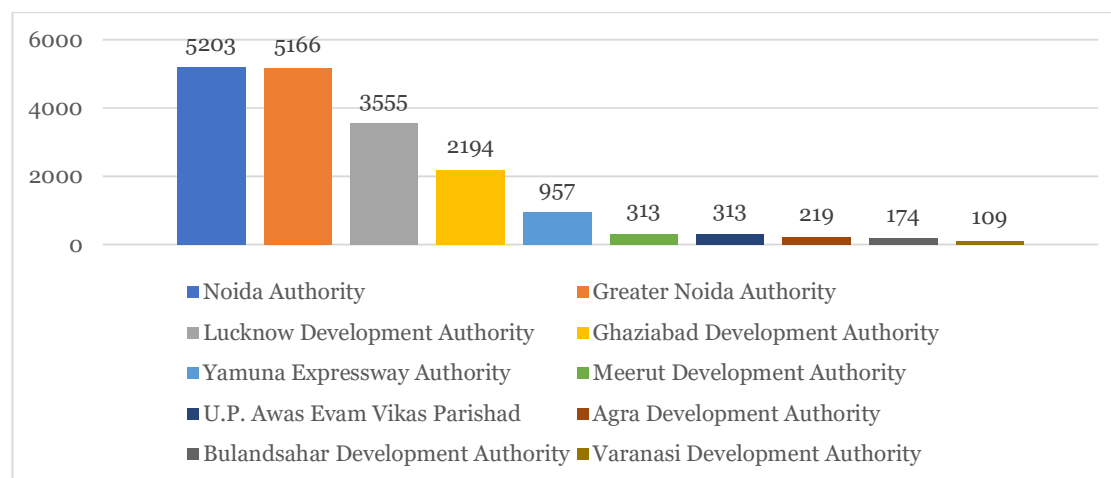
Similarly, an exercise was undertaken to identify the promoters against whom the highest number of complaints have been registered in U.P. RERA.

A graph showing 20 promoters with highest number of complaints is given below:



Graph 5: Top 20 promoters with maximum number of complaints (As on 17th October 2019)

Analysis pertaining to Development Authorities in UP having more than 100 cases listed is depicted in the graph below:



Graph 6: Development Authorities with over 20 complaints (Data as on 17th October 2019)

The above mentioned exercises were undertaken to arrive at the most useful mechanism to fast-track the hearings and to reduce the time taken in deciding the complaints.

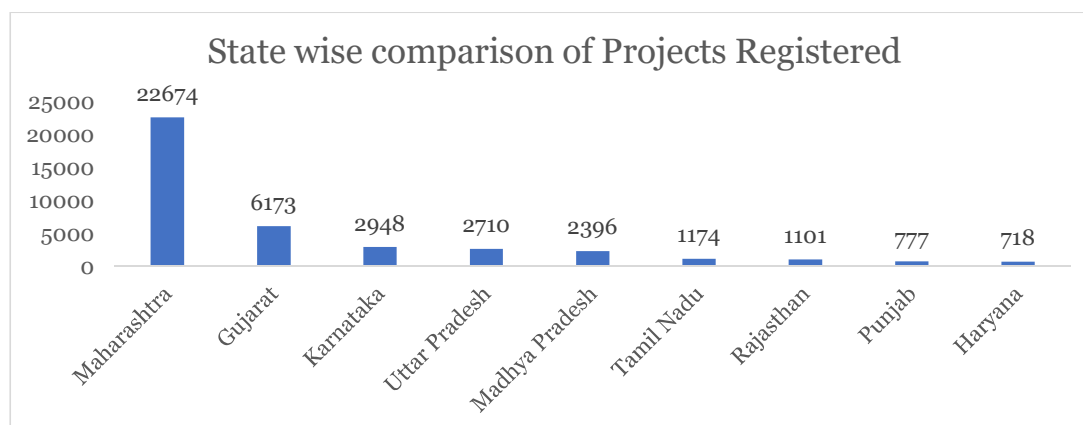
Receiving and hearing and deciding of complaints is more arduous activity that it may appear at the first glance. The activity starts with a well-defined interactive portal. It includes listing, downloading of complaints, preparing case files, arranging of files, putting up files before the bench for hearing, preparing case summary, taking the evidence on record, writing of proceedings, assignment of dates, updating the proceedings, preparation of the draft of orders, taking the signatures of the benches, uploading of orders, syncing of orders with compliance module, consignment of case files etc. Getting all this done timely and qualitatively was a challenge keeping in view that the required personnel were not available and that recruiting suitable personnel, even when the posts have been created, takes time.

Therefore, the Authority first relied upon its consulting partners for evolving suitable processes and help in developing corresponding systems. This job was and being done by the Project Management Unit at Lucknow and NCR offices in co-ordination with the IT Cell of the Authority. The Authority has employed a bunch of young and fresh law graduates as law-trainees who, while gaining experiences as interns, are contributing to the processing of complaints starting from day one to the signing of the orders. Needless to say they too benefit from the wisdom and the expertise of the benches and are being groomed for future.

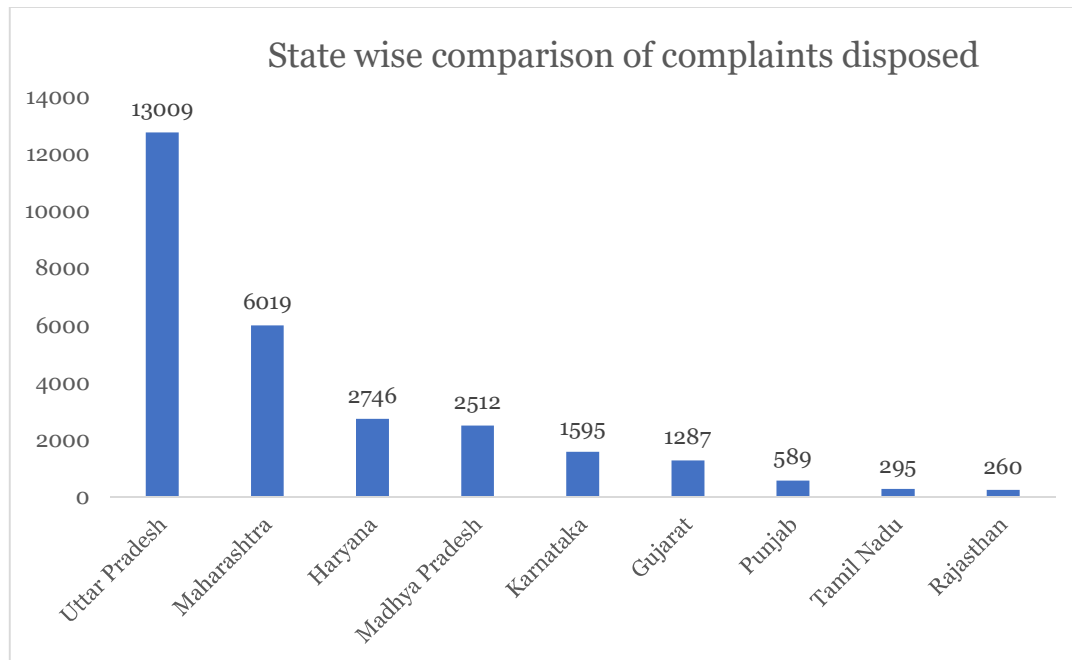
Atypical position of U.P. RERA among the states

The position and circumstances characterizing the U.P. Real Estate Regulatory Authority are different from the situation prevailing in most of the other states. The Permanent Authority assumed office at a slightly later date. Uttar Pradesh does not have the largest real estate of the country. Thus while the number of projects registered in Uttar Pradesh RERA is 2733, Maharashtra RERA is 22674, in Gujarat RERA 6173, in Madhya Pradesh RERA 2396, in Punjab RERA 777 and in Haryana RERA 718, the number of complaints disposed of in the corresponding states is 13009, 6019, 1287, 2512, 589, 2746. This is not the most desirable situation as the hearing and decision in complaints and execution of the orders is the most demanding task.

The following two graphs depict the comparative status of the registered projects and disposed of complaints in some of the important states of the country.



Graph 7: State wise comparison of projects registered as on 19th October 2019 Source: <http://mohua.gov.in/>



Graph 8: State wise comparison of decided complaints (Data as on 19th October 2019) Source: <http://mohua.gov.in/>

The state finds itself in this unenviable position because of some of the peculiar challenges in the real estate sector in the NCR of the state, mostly Gautam Buddha Nagar comprising NOIDA, Greater NOIDA and YEIDA.

U.P. RERA has decided more than two times of the complaints decided by Maharashtra RERA and about five times of Haryana or Madhya Pradesh RERA.

The Epilogue

The orders once passed by the Authority are synced with the compliance module on the website of the Authority for further and more challenging task of ensuring compliances and proceeding with execution of the orders. The challenges are arduous, but at U.P. RERA we are optimistic, rather confident, that with RERA we shall be able to mitigate the challenges in the sector, usher in order and discipline in the sector and ensure justice to the stakeholders, first and foremost to home-buyers.

Transforming Realty of the State with RERA-Today

Transformed Realty of the State with RERA-Tomorrow

9.2. Management of Compliance of Orders and the Process of Execution

Authors	Uttar Pradesh Real Estate Regulatory Authority
Rajive Kumar – Chairman, U.P. RERA	
Abrar Ahmed – Secretary, U.P. RERA	Naveen Bhavan, Rajya Niyojan Sansthan, Kala Kankar House, Old Hyderabad, Lucknow
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Timely completion of the real estate projects as declared by the promoter and protection of the rights of the home-buyers form the cornerstone of the Real Estate (Regulation and Development) Act, 2016.

Accordingly, Section 31 of the Real Estate (Regulation and Development) Act, 2016 provides that any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter, allottee or real estate agent.

The compliance of the orders of the Authority by the parties and in the wake of non-compliance of these orders by them, the execution of the orders through the Authority as per the provisions of the Act and the Rules forms the basis of the Act.

The rights and the obligations of the allottees, promoters and the real estate agents have been laid down under different provisions of the Act and these have been further elaborated under the relevant provisions of the Uttar Pradesh (Regulation and Development) Rules, 2016. Important rights and obligations of the stakeholders, along with the powers of the Authority, as provided under the Act are summarized as follows:

- 6- The rights and obligations of the promoters have been described under section 3, 4, 6, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of the Act.
- 7- The rights and obligations of the real estate agents have been described under section 9 and 10 of the Act.
- 8- The rights and obligations of the allottees have been described under section 19 of the Act.
- 9- The provision to file complaints with the Authority or the Adjudicating Officer, as the case may be, is given under section 31 of the Act.
- 10- The powers of the Authority to ensure compliance of the duties and obligations cast on the promoters, real estate agents and the allottees and pass appropriate orders, including the orders relating to imposing of penalties, have been given under section 34(f), 35, 36, 37, 38, 40, 59, 60, 61, 62 and 63 of the Act and the rule 23 and 24 of the U.P. Rules.

The Principle Underlying the RERA Act

Every legislation is reflection of the collective consciousness of the society expressed through the wisdom of its chosen representatives and is promulgated to meet the common aspirations of the target groups in case of special legislations like the present one. The provisions of the Act are prescriptive in nature meaning thereby that the stakeholders are either obliged to discharge some functions as per the commands of the Act or to desist from doing something contrary to the provisions of the Act. So, there is also a presumption that the stakeholders will themselves abide by the demands of the Act. The possibilities are that there would both be willing compliances as well as defiance and violations. Therefore, there will always be need for a regulator/adjudicator who will decide the conflicting claims of the parties, issue orders and directions, enforce compliances of the obligations cast upon the parties, impose penalties in case of non-compliances of its orders and, to deter the people from non-compliances, impose suitable penalties upon them. This Act also proceeds on the principles underlying any other similar regulatory beneficial legislation.

The attention is hereby drawn to section 34 (f) and section 38 of the Act. Thus while section 34 (f) empowers the Authority to ensure the compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder, section 38 empowers the Authority to impose penalty or interest, with regard to any contravention of the obligations cast upon the promoters, allottees and the real estate agents under this Act and the rules and regulations made thereunder.

The scheme laid down in the Act is that the Authority can and will enforce the compliance of its orders as per section 40 (1) and (2) of the Act and rule 23 and 24 of U.P. RERA Rules and impose penalties as per section 59, 60, 61, 62 and 63 of the Act. However, ensuring the compliance of the orders is the most challenging task before the Authority.

The complaints filed by the aggrieved persons mostly relate to refund of their investment with interest, delivery of possession with payment of interest on their investment on account of delay, correction of unreasonable demands, adherence with the sanctioned plan, etc. The orders passed by the Authority are also broadly under the same categories. The primary objective of the Authority is to ensure completion of projects. In cases where the relief of the refund is granted, the Authority normally prescribes a time limit of forty five days for payment by the promoter or in a couple of installments in some instances depending upon the circumstances of the case. The Authority, in its orders, specifies the date within which the possession has to be handed over.

In so far as the orders of the Authority involve the payment of some amount of money, the Authority can proceed to issue recovery certificate to the Collector / District Magistrate of the concerned district for realizing the amount due as arrears of land revenue using the powers conferred under section 40(1) of the Act and Rule 23 of the Rules. In so far any order other than the payment of money is concerned, the Authority has to take recourse to the powers

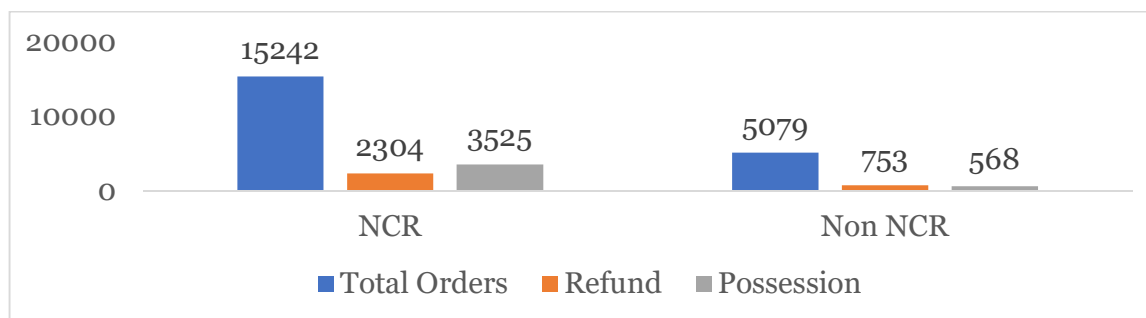
conferred on it under section 40(2) of the Act and Rule 24 of the rules. Here the order will be executed as if it were a decree of a principal civil court either by itself or through the principal civil court having jurisdiction in the matter. However, the Authority can proceed to get the order executed only after the time fixed by it for compliance of the order has expired and the complainant makes a written application for the same. So the sequence of the proceedings visualized under the Act will be as under:

- 1- The promoter or the opposite party will comply with the orders and submit a compliance report to the Authority.
- 2- In case the opposite party does not comply with the orders of the Authority and no appeal has been filed or there is no stay order against the order of the Authority, the complainant can file a request for execution of the order.
- 3- The Authority, on receipt of the request for execution of the order, issues a show-cause notice to the opposite party granting it fifteen days window to comply with the order and to submit the compliance report. The Authority may drop the proceedings in case it is satisfied by the compliance report. In case of non-submission of the compliance report by the opposite party or the compliance report being inadequate, the Authority may proceed to next step in execution, that is, issue of the recovery certificate or fix a hearing date for deciding the penalty under section 63 of the Act which may be up to 5 percent of the cost of the project in case of the promoter and up to five percent of the unit cost in case of the allottee or the real estate agent.

The significance of the orders of the Authority is that these orders create rights in favour of the concerned party. The orders of the Authority can have meaning only if the parties are willingly comply with its orders or, in turn, the Authority is able to ensure the compliance of the same. Or else, the orders will be a piece of paper only.

U.P. RERA has so far decided 13009 complaints and out of these orders it has granted relief of refund in 3057 cases and relief of possession with interest on prescribed rate in 4093 cases.

The details of the orders by the NCR and Lucknow offices and the details of the orders of refund of the investment and possession is given under the graph below.



Graph 1: Total Orders, Refund and Possession orders made for projects pertaining to NCR and Non NCR districts

The number of the cases requiring action by the Authority is rather too large and the challenge before U.P. RERA is to evolve and put into effect an effective mechanism to ensure speedy compliance of its orders in order to be able to meet the laid down objective of the Act and restore the confidence of the suffering complainants.

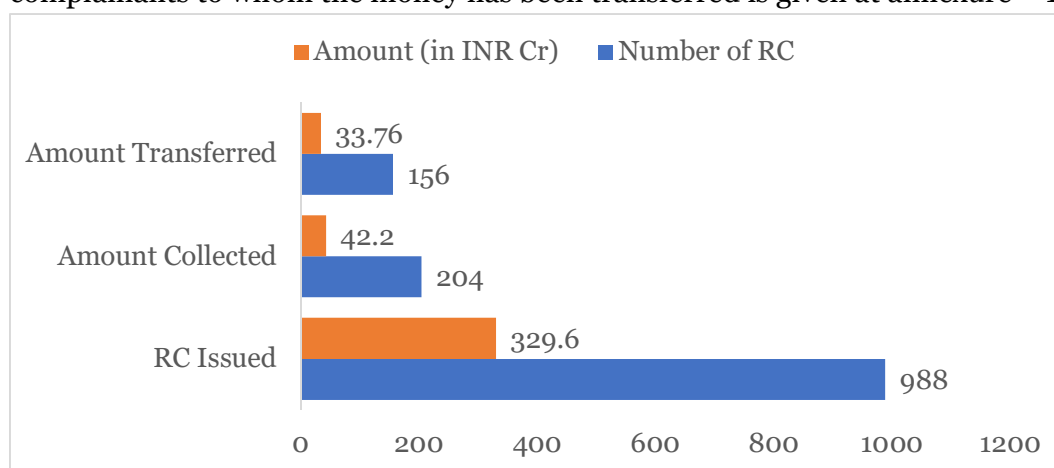
Initially, when the processes were at nascent stage, the complainant would move an application before the Authority for execution of the order. He would also contact the concerned officials on telephone or occasionally visit the RERA office in person. However, on receipt of the request for the execution, the Authority used to follow the same steps as visualized under the Act and the rules. Since the existing arrangement was not adequate to handle the ever increasing and demanding task of the execution of the orders, U.P. RERA has adopted a web-based electronic mode of monitoring compliance and execution of its orders.

Proceedings for recovery under section 40(1) of the Act

- 1- The Authority has created an online process for accepting execution requests, thereby reducing the overall effort required from the complainants. As part of this process, the complainant may submit an online request through the web-portal, after the expiry of the time limit provided for the compliance of the order. The complainants are required to submit the receipts of payments made to the promoter, Bank Account details, details of payments received from the promoter and particulars regarding the pending cases and stay orders from the appellate or the competent courts, if any.
- 2- Once the Authority receives a request for order execution, the concerned officer crosschecks whether there are any pending appeals against the order in the appellate court and whether there are any applicable stay orders against the orders of the Authority.
- 3- When there is no pending first appeal or stay against the order of the Authority, the concerned officer issues a showcause notice to the promoter seeking details of compliance of the order and why action should not be taken either under Section 40 of the Act in the matters relating to the payments and under Section 63 in the matters relating to possession of the unit or some similar order. The promoter is granted 15 days time to submit the compliance report.
- 4- If the promoter does not provide a response to the showcause notice or it is found unsatisfactory by the Authority, the file is forwarded to the accounts section of the Authority for calculating the amount of the recovery certificate. The accounts section gets the required task done through Chartered Accountant on the panel of the Authority, both at its Lucknow and NCR offices.
- 5- The 'Recovery Certificate' is issued to the District Magistrate/Collector of the district wherein the project is located.
- 6- When the money is received from the Collector, the secretariat of U.P. RERA writes to the complainant to furnish an affidavit containing bank account details, the details of payments received by him from the opposite party in the meantime, any details of court/stay orders and the undertaking that in case of there being any payments due to

the banks, the same will be made by him. Upon receipt of the affidavit from the complainant, the money is transferred to his account through RTGS.

- 7- The Authority monitors the progress of the collection against the recovery certificates and periodically generated reminders are sent to the concerned Collectors / District Magistrate on a regular basis. The Authority also holds review meetings with the Collectors / District Magistrate to impress upon them the need to expedite the realization of the recoverable amount.
- 8- The Authority also requests the Additional Chief Secretary, Department of Revenue and the Chairman, Board of Revenue for periodical review of the action by the districts on the recovery certificates issued by RERA.
- 9- The following graph shows the details of recovery certificates issued by the Authority, amount of money collected and transferred to the complainants. A list of the complainants to whom the money has been transferred is given at annexure – 1.



Graph 2: Recovery Certificate/Amount issued, collected and transferred.

- 10- U.P. RERA office continues to remind the complainants to furnish the affidavit, etc and the amount pending for transfer with the Authority is because of non-submission of the affidavit by the complainant or applicable orders of the appellate courts.

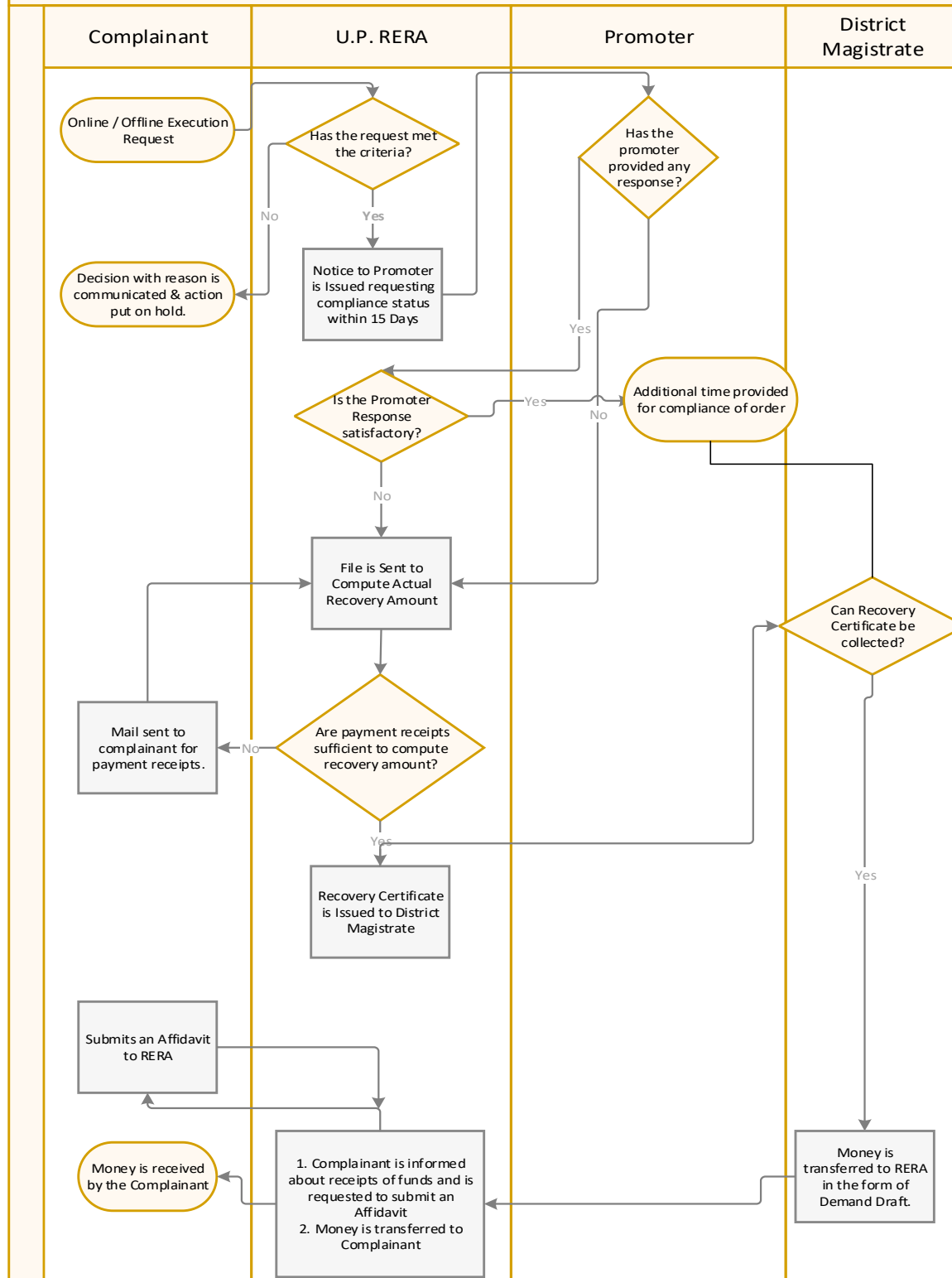
Proceedings under section 40(2) of the Act and Rule 24 of the Rules

1. In the matters other than the those relating to the payments, the Authority, on receipt of the request for execution by the complainant, issues a show-cause notice to the opposite party to make available the compliance report of the order within fifteen days of the notice. In case the opposite party does not furnish the compliance report or if the Authority is not satisfied with the response of the opposite party, the Authority sends a notice to it under section 38 and 63 of the Act specifying the amount of the penalty proposed to be imposed fixing time, date and place of hearing before the secretary. The complainant is also informed about the date of hearing. If the Secretary U.P. RERA is satisfied that the order has been complied with, the proceedings are dropped. In other matters, proposal is submitted by the secretary before the Authority for deciding the quantum of the penalty. The opposite party is further given an opportunity to be present before the Authority on the date of the meeting. If the

Authority decides to impose penalty under Section 63 of the Act, the opposite party is given thirty days' time to deposit the amount of penalty and in the meantime comply with the orders of the Authority.

- 2- The proceedings and penalty under section 38/63 of the Act are comparatively more effective to ensure compliance of the orders of the Authority.
- 3- The recourse to Rule 24 of the Rules and getting the order executed through the principal civil court appears to be impractical and may not result in speedy culmination of entire proceedings as envisaged under the Act for the following reasons:
 - The execution proceedings, through principal civil court, is a time taking process. It does take more than six months' time and in some cases much more.
 - The number is rather too large, already more than a thousand and is further increasing. Most of the matters relate to one district of Gautam Buddh Nagar followed by Lucknow and Ghaziabad. The civil courts are already burdened with pending cases, may not find it easy to complete the proceedings easily.
 - As per the provisions of the Act and the Rules the execution proceedings will have to be filed by RERA itself. Therefore, RERA will need the services of a large number of lawyers in district courts and a large legal cell in its offices. One of the consequences would be that RERA will end up contesting very large number of cases in civil courts which may not have been the intention of the legislature.
 - While some cases may still have to be referred to civil courts for execution, but that would be as last resort and hence within manageable limits.
- 4- Status of every stage of the order execution process is updated on the web-portal to keep the complainant updated on the progress.

Process Flow of Order Execution at U.P. RERA



Management of Compliance of the Orders by the Authority

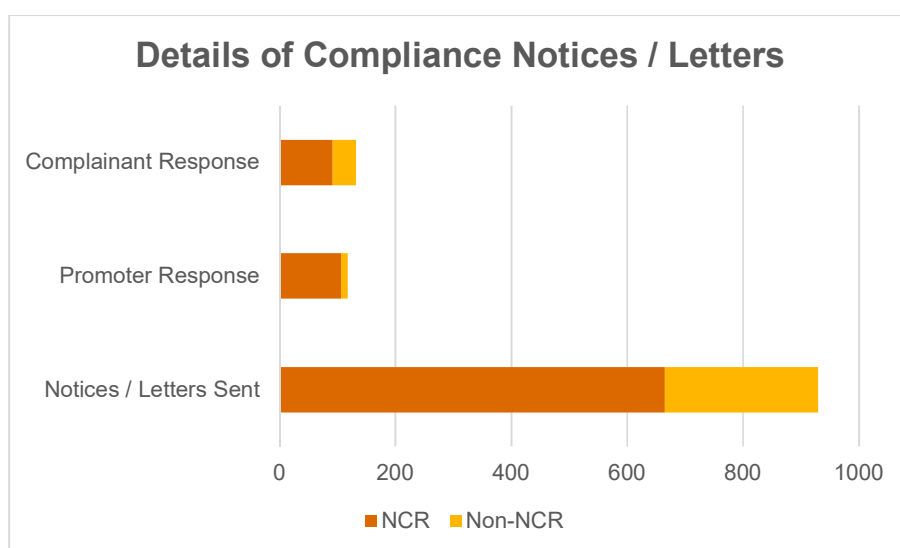
1. Compliance Module

Tracking the compliance of its orders and ensuring justice to the complainants is a big challenge before the Authority. Therefore, the Authority, in June of 2019, decided to establish a three-pronged approach to address this challenge through a web-enabled compliance tracking module. This module is synced with the complaint management system and request for execution of orders link on the web-portal of RERA. As soon as the final order is uploaded, details of the complaint and order including the type of relief and due date of compliance are auto-populated to this module. Similarly, the request for execution is also merged with it, as soon as it is submitted by the complainant.

2. Compliance Notices & Letters

The Authority closely tracks the due dates for compliance and sends notices to both the complainants and the promoters seeking details regarding the status of the compliance of the orders of the Authority. 'Compliance Letters' for the complainant and 'Compliance Notices' directed to the opposite party are now automatically generated and sent to complainants and promoters respectively on the day following the due date for compliance. To ease the process further, online functionality has been created under 'Complaint Status' for complainants and 'Promoter Dashboard' for promoters respectively, for providing responses on the status and uploading any supporting documents that will enable the Authority to take appropriate action.

About 929 compliance letter / notices have been sent since June 2019, against which the Authority has received responses on 118 notices and 132 letters respectively through the online functionality as seen from the following graph. The number of complainants / promoters adopting the e-module to update the status of compliance is gaining momentum and soon the Authority expects to switch over completely to the e-mode of compliance facility.



This approach helped the Authority restore confidence among complainants by creating a singular means to communicate with them and address their concerns. In fact, this approach has also led to an increase in execution requests from complainants, who were either previously unaware of the process or were simply waiting for the promoter to act in compliance of the orders of the Authority. Thus the Authority gets to know the status of the compliance of its orders even before the aggrieved complainant approaches it with the request for execution. The Authority also braces itself for the next round of action to ensure compliance from the opposite party.

3. Follow-up with the Promoters on Compliance of Orders and Recovery Certificates

The Authority was well aware that due to various reasons the response of the promoters in responding to its orders is tardy. This premise got further strengthened after the low number of responses received on the online compliance functionality. As an additionality, the Authority is also directly mailing to the promoters the list of all orders and recovery certificates pending against them, seeking an update on the compliance status. Further, the Authority, based on the details collected from online compliance response functionality and from direct mailers to promoters, is conducting periodical review meetings with promoters against whom large number of orders are pending for compliance, both at its Lucknow and Greater Noida offices.

The Authority prepares an excel sheet regarding the orders pertaining to particular promoters and sends the same to them with a notice for the monitoring meeting. The promoters are required to come with the compliance report against the specified columns. The approach helps the Authority in two ways – firstly, the frequent follow-up on the orders creates pressure on the promoters to comply and secondly, the Authority is able to single out unresponsive promoters for proceeding under section 38/63 of the Act. The Authority is also able to appreciate the genuine problems of the promoters in some cases as they too get a forum to put across their side of story.

4. Telephonic Follow-up with Complainants on Status of compliance of Orders

The Authority makes direct calls to the complainants calling forth details on the compliance of orders of the Authority. This approach is particularly important in the case of possession related orders, where the expected possession date is well in the future. The compliance status thus collected is cross-checked with the details provided by the promoters.

The approach helped the Authority to gauge the happiness among the complainants and identify mismatches in compliance status, as given by the complainant and the promoter, for further action.

Development of a Unified Online Compliance & Execution Tracking Module

In continuation to the digitization of the execution and compliance processes, the Authority unified both these processes onto a single module such that all activities post an order passed are captured on it. Following are the key functionalities of the module –

1. Online requests for execution can be accessed at one location, for both NCR and non-NCR related orders.
2. Show-cause notices are uploaded through this module and made available for access on the web-portal.
3. Recovery certificates are uploaded through this module and made available for access on the web-portal.
4. Progress on execution process is updated on this module and made available for complainants.
5. Compliance notices and letters sent to promoters and complainants, and related responses received are also tracked on this module.
6. Money received from the Collectors and transferred to complainants is also tracked on the module.
7. MIS and Dashboard functionality for immediate access to details of orders.

Compliance of the orders-first priority of the Authority

The Authority is relentlessly working to further improve the status of the compliance of its orders. The Authority is aware of the challenges in execution of orders, but it can not miss the significance of the proposition that the allottee-complainant has nowhere else to go. In some cases, the Authority is not able to grant relief to the allottees because of some orders of NCLT under the Insolvency and Bankruptcy Code which works as a check on carrying out of the orders of the Authority. The Authority also feels that some further enabling provisions are needed in the Act to make it more effective instrument of the protection of home-buyers. Things have and are improving with RERA and we can look forward to a scenario where, with RERA, there will be complete discipline and accountability in the sector and full protection of the consumer rights with security of investment and delivery of the possession of the apartment or plot in time.

Transforming Realty of the State with RERA-Today

Transformed Realty of the State with RERA-Tomorrow

9.3. Conciliation Forums

Purpose & Importance:

“Why go to court when you can go for mutual understanding” is the basic principle behind the establishment of a formalized, uniformed and decisive conciliation forum. While the RERA (Real Estate Regulation and Development Act) provides a quick and radical redressal system to aggrieved parties, it offers a tradeoff arrangement as well through conciliation forum. The Real Estate (Regulation and Development) Act, 2016 seeks to protect homebuyers from the perils of unscrupulous real estate developers. The Act establishes Real Estate Regulatory Authority (RERA) in each state for regulation of the real estate sector and also act as an adjudicating body for dispute redressal. RERA has thus become the most preferred option of home buyers for grievance redressal, as we see many complaints being filed before the authority.

Section 32 (g) of the Real Estate (Regulation and Development) Act 2016, provides for measures to be taken by the authority to facilitate amicable conciliation of disputes between the promoters and the allottees through dispute settlement forums comprising of representatives from consumers and promoters associations. Accordingly, UP RERA Conciliations Forum was established vide order No. 5166/RERA/2018-19 with the primary goal of addressing allottee’s and builders/developers/promoter’s issues and getting them resolved amicably in order to save valuable time and resources and also to encourage confidence amongst the stakeholders through transparent and inclusive process. UP RERA has established two conciliation forums (NCR AND Lucknow), with representatives from consumer groups, promoters’ associations and UP RERA Conciliator forming the core committee has turned out to be highly successful. Riding on the rate of success conciliation meetings are bringing more and more homebuyers and developers to the negotiation table instead of initiating formal legal proceedings before the RERA Bench. All types of complaints—related to a refund, compensation or possession—are being filed with conciliation forums. Meetings organized by the forums have representatives from the homebuyers’ association, developer associations such as Confederation of Real Estate Developers Association of India (CREDAI) and National Real Estate Development Council (NAREDCO), the builder, the buyer or his representative and a RERA officer or the conciliator. Primarily for these reasons, Uttar Pradesh, RERA had set up this alternative dispute resolution.

Modus Operandi:

With the conciliation forum in place, complaints have been resolved more quickly than before and also to the satisfaction of both the litigating parties. It also saves on the cost and time involved in litigation.

The process of conciliation begins with the complainant registering conciliation request online and then it goes to the promoter for his/her acceptance, once the builder accepts the request on UP RERA web portal, the complainant has to deposit a fee, after that the

conciliation process gets underway. The caveat here is that the request remains pending until the promoter accepts it. On confirmation of acceptance and payment of fee, the Conciliator invites the feuding parties for a hearing. They are expected to be present personally in the meeting of the forum.

The conciliator then facilitate a resolution of dispute between the parties on a given date through the inputs of experts and representatives of association and by providing a fair degree of opportunity of being heard at length. During such discussion, feuding parties after getting experience of problems of each other and, they tend to soften their declared stand. Conciliation proceedings also provide them an understanding of the sector so that they become realistic about the problems and solutions. If a settlement is reached, a consent agreement is drawn and signed by both the parties duly vetted by Member and Conciliator. Otherwise, the conciliation process is terminated for the particular complaint and the complainant is at liberty to pursue the case through RERA or before any other court.

The process of writing the settlement starts immediately after the compromise is attained during the discussion of the forum. Often, during the conciliation proceedings, alternative proposals are advanced and sufficient time is granted to work-out the options presented which usually takes approximately 1-2 weeks. Once the conciliation is arrived at, due signatures are obtained from the concerned parties and members of the forum present, post which the document is thoroughly vetted by the conciliator and immediately uploaded on the UP RERE Web Portal. For the cases referenced by the bench for conciliation, they are reported back with bench which eventually becomes the part of the order. However, if after signing the consent agreement, one of the parties fails or neglects to comply with the agreed terms, it will be treated as breach of RERA order and it would be taken note of by the authorities when they pass a judgment.

Why should the buyer & promoter care?

Under RERA Act'16, a home buyer one can lodge a complaint against any RERA-registered developer or real estate agent for his default in meeting commitments. But in a conciliation forum the buyer does not have to worry about court hearings and legal proceedings. The complaints can get the problems resolved which may include delay in possession, changes in construction plans, additional charges or lack of facilities promised, including parking space, storage space or elevator in an amicable manner. Also, for the promoter, the forum provides a platform to share its concerns that might range from funding issues, land disputes, authority related disputes, court-stays etcetera. The builder/promoter can share his/her challenges which led to the buyer to register the complaint and arrive at a solution in presence of the conciliator which is acceptable to both the parties. It also gives the promoter the complete understanding of the challenges faced by the buyer in an amicable environment which leads to further strengthening of understanding between the parties which in turn helps resolving the future conflicts as well that could arrive in future and most importantly due to amicable atmosphere there is no/little scope of bad blood between the buyer and the promoter.

Thus, establishment of conciliation forum not only takes the load off the RERA authorities but also brings about a speedy solution for home-buyers. Also, both parties can discuss the issues face to face, is an added advantage.

The Bottom-line:

As of now, for Conciliation Forum, UP RERA Authority, NCR regional office, more than 1500 matters are waiting to be heard by the conciliation forum in an amicable atmosphere. The UP RERA conciliation forum has thus far, achieved a staggering success rate of 81%, having 244 cases registered online to be heard, out of which 120 have been scheduled and 96 cases have been settled, whereas the bench transferred cases are to the count of 268 out of which 164 have been settled. Notably, the promoters such Supertech, Gaursons have shown tremendous enthusiasm towards the concept and implementation of the Conciliation Forum. In Conciliation Forum, UP RERA Authority, Lucknow office, out of 39 cases registered, 27 have been settled through the forum, whereas out of 161 bench transferred cases 144 have been amicably settled through conciliation forum.



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