

Real Estate Laws and Media Perspectives: A Way Forward (RERA)

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Abstract

This paper examines the role of RERA (Real Estate Regulatory Authority) from the Constitutionality of the Regulatory Framework in the Real Estate regime to analyzing Real Estate Law from Indian perspectives and discusses its impact on the Real Estate sector in the areas that include Private Affordable housing and Government accommodation. A study on the RERA Act aimed to replenish the confidence of buyers in actuating transparency and accountability and at the same time the trust of investors. This paper also mentions how RERA is arbitrable in resolving the disputes of the Real Estate industry in the contemporary Indian context and how RERA is a primary mode of dispute resolution in real estate. Incorporating evidence from reviews, personal correspondence, and diaries, this study demonstrates the RERA Act 2016 adjudication and how RERA became a Game changer in the field of Real Estate. Information related to the impact of the implementation of RERA in the context of demolishing the Noida Towers and study on PMAY in both Rural and urban categories and reviewing the implementation of RERA from experiences of MAHARERA, comparing RERA and State legislations is discussed. This paper aims to study stalled projects under the RERA Act and review recent judgments. In this paper, key points of intersection between media law and RERA in India are also discussed.

Keywords: RERA, Real Estate, accommodation, Global trends, housing, MAHARERA, PMAY, legislation, industry, dispute resolution.

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Introduction

The Real Estate Regulation Act, 2016, (RERA) is passed by the Indian Parliament. The RERA seeks to protect the interests of home buyers and boost investments in the real estate sector. The RERA bill was passed by the Rajya Sabha on March 10, 2016, and on March 15, 2016, the same was approved by the Lok Sabha. The RERA (Real Estate Regulation Act) came into force on May 1, 2016. On May 1, 2016, 59 of 92 Sections were notified, and from May 1, 2017, the remaining Sections came into force. RERA is an Act that regulates and promotes the real estate sector, ensuring close-out watch of apartments, plots, and buildings effectively and accountable².

Objectives of RERA

RERA was enforced with the following objectives:

- Protect the interest of the buyers and ensure accountability.
- Reduce fraud and delays by displaying transparency.
- Standardize all the procedures and processes throughout India.
- To make sure and construct relation and symmetry between builder and buyer.
- Create and impose responsibilities between seller and buyer.
- Regulate and establish a mechanism to enforce contracts.

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² Akshaya V., Real Estate (Regulation and Development) Act, 2016, blog.ipleaders.in, <https://blog.ipleaders.in/real-estate-regulation-and-development-act-2016-2/>

- Establish and maintain a fast-track dispute resolution system between all stakeholders.
- In the real estate sector RERA will promote or encourage good governance that will lead to building confidence in the investor.

Table 1, RERA registration in States and Union Territories, as on January 2023³

State/ union territory	Registered projects	Registered agents
Andhra Pradesh	3,900	175
Bihar	1509	495
Chhattisgarh	1,606	707
Goa	1013	404
Gujarat	10,751	2,046
Haryana	1123	3334
Himachal Pradesh	139	134
Jharkhand	1055	10
Karnataka	6582	3763
Madhya Pradesh	4720	1329
Maharashtra	38,643	38,920
Odisha	822	126
Punjab	1191	2874
Rajasthan	2216	4786
Tamil Nadu	12910	2738
Telangana	5299	2521
Uttar Pradesh	3353	5795
Uttarakhand	361	354
Andaman and Nicobar Island	3	28
Dadra and Nagar Haveli – Daman and Diu	185	2
Delhi (National Capital Territory of Delhi)	81	566

RERA Approved Projects

- Some of the features of RERA-approved Projects are enumerated as under⁴:
- RERA approves both residential and commercial projects which also include development plots.
- Projects measuring more than 500 sq. meters or 8 units.
- Through RERA, some of the projects were also approved that were not completed before the commencement of the RERA Act.
- If a project is under renovation or is getting repaired or re-development is under process and all these processes which don't involve marketing, re-allotment, advertising, selling and don't include any registration will not come under RERA.
- Fresh registration is required for each individual plot.

³ Riddhi Chatterji, RERA full form: Everything you need to know, February 2, 2024, <https://housing.com/news/rera-will-impact-real-estate-industry>

⁴ Synopsis of RERA – Real Estate Governing Authority in India, www.cagmc.com, <https://www.cagmc.com/synopsis-of-rera/>

RERA approval process for a Project and Compliance process for a Builder

The process for the approval of a project by RERA and the compliance process for a Builder is as follows:

- Project registration.
- Advertisement.
- Website updating/ Disclosures.
- Carpet area.
- For any alteration or remodification in the project under progress then approval from 2/3 is mandatory.
- Project accounts – Audit.
- 70% of the funds collected from allottees need to be deposited in the project account. And Withdrawals from the said account is used for construction cost.
- Withdrawal must be in line with the percentage of the project completed.
- Withdrawal to be certified by an architect, engineer, and CA (Chartered Accountant).
- RERA is authorized to seize or freeze the bank accounts of the projects which are not complying to the RERA regulations.
- Customer and Promoter both are responsible for Interest for delay.

Furnishing of the following information by Builder to RERA

The following information is required to be given by the Builder to RERA:

- Number, type, and carpet area of apartments.
- Consent from affected allottees for any major addition or alteration.
- The RERA website must be updated with unsold inventory and pending approvals on a Quarterly basis.
- Project completion time frame.
- No false statements or commitments in advertisement.
- No arbitrary cancellation of units by promoter.

Registration of projects under RERA

- Authenticated copies of all approvals, commencement certificates, layout plans, development work plans, provisional allotment letters, agreement of sale, facilities proposals, and specifications must be given.
- Applying for project registration with RERA.
- Mandatory registration of all projects with RERA before launch.
- Registration of agents/brokers with RERA.
- All dispute resolution at RERA and associated RERA appellate tribunals within 6 months.
- Registration of different phases of a single project separately.
- Full details of projects launched in the last 5 years with detailed status and reason for delay must be submitted by developers to RERA.
- Timely updating of the RERA website.
- Developers can have a maximum of 1-year extension in case of delay due to no fault.
- CA (Chartered Accountant) must perform an annual audit of project accounts.
- There must be a conveyance deed for the common area in favor of RWA.
- Construction and land title insurance.
- Project completion time.

RERA approval for brokers**Section 3:**

Advertisements, booking, selling, or offering for sale without registration cannot be made by a promoter without registration with RERA.

Section 9:

Without obtaining RERA registration no agent can sell any project.

In every sale facilitated by the Agent, his RERA number needs to be documented.

Registration needs to be renewed

Registration can be blocked or revoked if any breach is made regarding conditions of registration for a specified time.

Section 10:

- No agent can sell a project which is not registered.
- Maintain books and records.
- Unfair or unbalanced practices must not be involved or encouraged.
- No agent should make an incorrect statement whether oral, written, or visual.
- Present that services are of a particular standard.

Publication of advertisements in the newspaper must be permitted or otherwise of services not intended to be offered. At the time of booking an agent needs to facilitate possession of all necessary and required documents to the allottee.

Impact on the Real Estate Industry

- Initial backlog.
- Increased project cost.
- Tight liquidity.
- Rise in cost of capital.
- Consolidation.
- Increase in project launch time.

At the start, extensive work needs to be done to get the new project or ongoing project details for registration. Project details of work executed in the last 5 years, Promoter and promotions details, detailed execution plans and their specifications, etc., need to be prepared. With RERA, there are specialized platforms such as State RERA for the resolution of disputes pertaining to buying a home and the aggrieved party will not have to look forward to solving their disputes in other consumer forums such as civil courts on such issues. RERA itself sets the groundwork for resolving disputes on a fast-track basis, the litmus test for its success will depend on the timely setting up of these new dispute- resolution bodies and how they function for solving the disputes expeditiously with a degree of finality. RERA will trigger fresh investment from Indian players as well as from global players as the investors in this industry will have more confidence with regard to the real estate industry in India⁵.

⁵ RERA can delegate its powers to hear complaints from home buyers: SC, [www.economictimes.com](https://economictimes.indiatimes.com/wealth/real-estate/rera-can-delegate-its-powers-to-hear-complaints-from-home-buyers-sc/articleshow/87679876.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst), Nov 13, 2021, 11:18 AM IST, https://economictimes.indiatimes.com/wealth/real-estate/rera-can-delegate-its-powers-to-hear-complaints-from-home-buyers-sc/articleshow/87679876.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Impact of RERA on the Buyer

The RERA will protect the interest of buyers and boost investment in the Real Estate sector. To protect the rights and interests of the buyers of the properties the RERA has been introduced. RERA will result to more equitable and fair transactions in the primary market. The transaction will be simpler, more transparent, and with more accountability. The developers must disclose the construction status on the official website of the Authority to increase translucency in project completion status. This must be done every quarter i.e., in every 3 months after getting the registration number from the authority. In case of any malpractice or cheating by the promoter or builder, the buyer or the allottee can file a complaint to RERA online. All the complaints brought to the notice of the respective RERA will be resolved within 120 days. Any change in the structure of the buildings or change in the layout plan cannot be done by builders or promoters alone without the concern of the buyer or allottee. All these measures, in addition to the sections mentioned RERA are set to boost the confidence of the investors.

Impact of RERA on Promoter/ Builders

Builders or Promoters must register critical information and statistics about the projects. This includes:

- Layout,
- Details of the promoter,
- Land details and status must be undisputed.
- Statutory approval from concerned departments must be proper.
- Details of the brokers,
- Architects and contractors,
- Certificates from Engineer and C.A.

In case of failure to register this information with RERA, the builders or promoters will be liable to pay heavy penalties. The builders are bound by a 5-year agreement with the buyer for quality affirmation of the building and these 5 years are calculated from the date of possession. This means that within five years of any structural damage or if there is any compromise in the quality, the builder must do the repair and compensate for it. According to section 18 of the RERA Act, 2016 builders or promoters should also have to ensure the formation of the Resident's Welfare Association within 3 months of the project completion. Buyers are eligible to claim a refund in case of delay or dissatisfaction with the property that is promised by the builder initially with quality during the agreement.

RERA has made sure that all the responsibility of complying with various provisions of RERA is saddled with builders, which specifies that:

- 75% of allottees' consent must be taken for any alteration or addition and for any transfer of ownership of the project.
- There should not be any launch advertisements before registering the details with RERA.
- A 5-year defect liability period assurance must be given to all buyers.
- Formation of resident welfare association within 3 months of the sale of majority units.

Impact of RERA on New Projects

Any project with a size of over 500 sq. Mts. or over 8 apartments is required to be registered under RERA. The developers must register each stage of construction independently with the State Authority. Since builders must register their new projects, they cannot pre-launch a project. The major source of capital raising used to be from Pre-launches. There is a limit on the number of deposit

builders that can accept from buyers. Now this will be an unsolved issue for the builders in terms of raising capital funds to source the project.

Under RERA a builder cannot take more than 10% as an initial deposit. Without registering a project initially with RERA, advertising a project is banned in such cases RERA can send notice to the builder and can act against the project under section 59 of the RERA Act, 2016.

Impact of RERA on Stakeholders

Real Estate Agents are required to register themselves under the Real Estate (Regulation and Development) Act (RERA), which is very much needed to be able to facilitate a transaction. The broker segment of Real estate in India is estimated to be a USD 4 billion industry, with an estimated 5,00,000 to 9,00,000 brokers. However, this segment has traditionally been unorganized and unregulated. With RERA in the picture, transparent measures can be implemented and with this, there will be a reduction in malpractices, and that in turn reduce the rate of litigation in the real estate industry. Further, this will also improve the quality of services in the real estate industry which results in balanced agreements, organized funding, and timely delivery to the buyers.

Delayed possession, Sections under RERA

If the possession of the property is delayed by the promoter or builder then a customer can cancel the agreement and request a refund. This has been defined under Section 18 of the RERA Act. In such cases, the promoter must return the entire amount paid by the customer along with interest. As per section 18 of RERA, the customer can also claim the interest amount per month from the builder or promoter for getting the possession delayed.

The format and procedure of paying interest to customers by Builder may vary from state to state as specified under the RERA. Under section 31 the customer can file a complaint in RERA against the builder in case he delays the possession as per the agreed terms. Any homebuyer as well as the Association of Allottees may file a complaint with the regulatory authority for violations of the said Act.

Filing a complaint under RERA

Certain obligations are imposed on builders or promoters by the RERA. Every homebuyer has certain rights under RERA. If the builder fails to discharge his obligations or violates the rights of the homebuyers, then a complaint can be registered against the developer by the homebuyer. Under RERA, a homebuyer can, in addition to the builder, file a complaint against the following⁶:

- Real estate agent.
- Promoter.
- Contractor, or another third person involved in such contracts.

Non-registration with RERA attracts a penalty of up to 10% of the project's estimated cost or imprisonment for up to 3 years. In some cases, RERA may impose both imprisonment and a fine. At the same time furnishing false information also attracts a fine of 5% of the estimated cost of the project construction.

Under Section 31 of the Real Estate (Regulation and Development) Act, 2016, Complaints can be filed either with the Real Estate Regulatory Authority or the adjudicating officer. A buyer must have the following details if they want to register a complaint against the builder.

- Name & address of the builder/promoter/contractor.

⁶ Prachi Darji, RERA is the Real Estate Regulatory Authority that helps you file complaints against antagonized builders! <https://www.myadvo.in/blog/file-a-case-under-rera/>

- Registration number of the project with address.
- The response of the builder.
- Detailed notes on what the buyer is requesting from the builder.

The complaints from homebuyers may be against promoters, builders, allottees, and/or real estate agents or developers. A buyer can file a RERA complaint online for any violation of the provision issued in the RERA Act by a builder or contractor. Complaints can be made in various cases such as:

- Delay in Possession.
- False advertisement.
- Advance payment issues, such as asking for more than 10% as Advance amount.
- No proper title of the project or no proper registration.
- Found defects in the ongoing construction or already completed project.
- Misusing the Ownership transfers.

You can file a RERA complaint form along with the requisite documents and the fee before a RERA or an adjudicating officer. Once the authorities receive the complaint, they will form an inquiry bench to hear from both the parties and all other parties who are involved in such transactions. After this, the matter is usually settled within 60 days of the filing of the complaint.

Table 2, Applicable penalties under RERA⁷

Applicable Sections	Offences committed	Applicable penalties
Section 9 (7)	Registration was secured through misrepresentation or fraud. Breach of terms for which registration obtained	Revocation of Agent Registration Number
Section 62	Contravention of Section-9 & Section 10	Penalty of INR 10,000/-day during which the default continues extending up to 5% of the cost of the unit sold
Section 65	Contravention of orders of RERA authorities	Penalty up to 5% of the cost of the unit sold
Section 66	Contravention of orders of Appellate tribunal	Imprisonment for up to 1 year or with a fine extending up to 10% of the cost of the unit sold

Methodology used by RERA

The Real Estate (Regulation and Development) Act (RERA) in India has a well-defined methodology for its implementation, which involves several key steps and processes. Here is an overview of the methodology of RERA in India:

⁷ Analysis of Penalties Under Real Estate Regulatory Authority(RERA), March 23, 2022, <https://www.lawinsider.in/columns/analysis-of-penalties-under-real-estate-regulatory-authorityrera>

- Registration of projects.
- Agents Registration.
- Project progress tracking and Regular Reporting.
- Grievance Redressal Mechanism.
- Penalties and accountability.
- Appellate Tribunal.

Maharashtra RERA:

On May 1, 2017, the Maharashtra Real Estate Regulatory Authority (MahaRERA) came into force. MahaRERA is the most active real estate regulatory authority in India, Maharashtra initiated a conciliation mechanism under Section 32 (g) of the RERA and it has become the first state in India to do such thing, by way of Alternative Dispute Resolution (ADR). The conciliation mechanism set up by MahaRERA can be invoked by any allottee or promoter (as defined under RERA). A dedicated website has been created to facilitate this and anyone can access the MahaRERA website.

On April 5, 2023, Maha RERA sent a second set of notices to 16,000 developers and asked them to update their detailed project information on the MahaRERA portal. The first set of show cause notices was sent in January 2023 to 19,500 developers of which only a small group complied. On the note of the 2nd part, MahaRERA has granted 15 days to promoters and developers to provide all details under Section 11 of the RERA Act, failure of which will result in penalty and even cancellation of project registration⁸.

Telangana RERA:

On July 31, 2017, the Telangana government announced its RERA rules. Then it is termed the Telangana State Real Estate (Regulation and Development) Rules, 2017 and it is also known as TSRERA and it is yet to appoint its permanent chief. These rules will come into effect from January 1, 2017, and are applicable to all real estate projects, whose building permissions are approved on or after January 1, 2017, by the respective authorities. A variety of services are provided for homebuyers, developers as well as real estate agents. The main aim of the TSRERA is to encourage ease of doing real estate business in the state⁹.

Andhra Pradesh RERA:

On March 27, 2017, the Andhra Pradesh government announced its RERA rules and it is also known as APRERA which has jurisdiction of Andhra Pradesh. The Andhra Pradesh government has also launched an online website. The intention of this website is to provide seamless registrations of projects & agents and for filing of complaints under the APRERA¹⁰.

Karnataka RERA:

On July 5, 2017, the Karnataka cabinet approved The Karnataka RERA Rules. After this, the Karnataka RERA announced that every promoter, ongoing project, and real estate agent has to register with the Karnataka RERA before it can reach out to the common public. As of February 2020, there were around 3,803 projects, 2,101 real estate agents and 3,775 complaints have been registered on the website of Karnataka RERA¹¹.

⁸ <https://maharera.mahaonline.gov.in/>

⁹ <http://rera.telangana.gov.in/>

¹⁰ <https://rera.ap.gov.in/RERA>

¹¹ <https://rera.karnataka.gov.in/>

Tamil Nadu RERA:

On June 22, 2017, the Tamil Nadu government announced its RERA rules and it is also known as TNRERA which covers Tamil Nadu as well as Andaman and Nicobar Islands. The factors of involving or terminating projects for registration depend on whether they belong to the Chennai Metropolitan Area (CMA) or outside the CMA. The principal intention of TNRERA is to encourage ease of doing real estate business in the state¹².

Kerala RERA:

Kerala RERA has been set up lately when compared to its neighboring states like Telangana, Maharashtra, and Kerala. There was a significant delay in announcing the Kerala RERA rules and then the Kerala Real Estate Regulation and Development Rules were notified in 2018. Initially, the Kerala RERA rules were repealed by the state government since they seemed to favor the builders, promoters and developers. Later, a dedicated portal was launched in early 2020 which is fully operational now in the entire state of Karnataka¹³.

Advantages of RERA:

Changes in layout, area, specifications, agreements, details about the broker, contractor architect etc. are minimized or completely removed by RERA by bringing uniformity in the real estate sector mentioning carpet area, common area, and build-up area. Strict compensation and imprisonment can be taken against the developers who don't meet the delivery timelines as promised during the agreement stage. The builder or developer will be penalized if the same quality that is promised during the agreement is not met during delivery time. The carpet area must be specified rather than mentioning the buildup area which is more than 20-30% of the carpet area usually. Before selling any residential or commercial space, registration with RERA is a must. The projects which are promoted by the developer must maintain a separate bank account. All builders must make sure the building is handed over with quality and must compensate buyers for any damage that occurs within a year of handover.

Disadvantages Of RERA:

- The new RERA Act is not applicable to ongoing projects, this will be a bottleneck in clearing the projects on time for ongoing projects.
- Sometimes Government agencies may delay the process of giving clearance to some projects which will affect the overall schedule and handover time.
- This Act is not applicable to developers with a project area less than 1000 sq m. and such developers will not come under the surveillance of RERA.
- Clearance is required before launching a project, without which there will be a delay in the process.
- Compared to disadvantages, there are more advantages with RERA. This is a very positive sign in terms of customers. It will help them to obtain their dream home with quality.

Media Perspectives:

Media law and the Real Estate (Regulation and Development) Act (RERA) in India intersect in several ways. Here are some key points of intersection between media law and RERA in India.

Media Reporting: Media outlets play a crucial role in disseminating this information to the public. They can report on RERA-registered projects, highlighting key details and ensuring that homebuyers have access to project-related information.

¹² <https://rera.tn.gov.in/>

¹³ <https://rera.kerala.gov.in/>

Media Ethics: Media law often includes ethical standards that journalists and media organizations are expected to adhere to. Responsible reporting on real estate projects under RERA ensures that accurate and unbiased information is provided to the public.

Exposing Unscrupulous Practices: Media reporting can expose unscrupulous practices by developers or real estate agents that violate RERA regulations. This can lead to penalties and legal action.

Legal Reporting: When disputes related to real estate projects arise, media law guides how these disputes are reported. Media outlets should report on legal proceedings accurately and fairly, ensuring that they do not prejudice the outcome of a case.

Access to Information: Media law may also include provisions regarding access to court records and proceedings, which can be relevant when reporting on RERA-related legal cases.

Defamation Claims: Developers and real estate agents may take legal action against media outlets for defamation if they believe that the reporting has damaged their reputation. Media law provides guidelines for handling such cases.

Advertising Standards: Media law also governs advertising practices in the real estate sector. Advertisements related to RERA-registered projects must comply with legal standards to ensure they are not misleading or false.

Discussion and Conclusion

After the introduction of RERA, the real estate industry trend is very positive and poised and it has enough abilities to take a quantum jump. However, there is a need to consider the issues that persist like regulation of the resale market, land title, frequent land frauds, etc. It is high time that the government looks into all these matters and has a depository just like NSDL to prevent land fraud. The RERA is committed to having a successful and effective way of doing real estate transactions with quality and timely deliveries. Its principal intention is to implement a standard form of real estate law in the country and help in taking measures for the progressive development of the sector in the country. To promote and encourage a sustainable way of development of the RERA, along with a customer-friendly environment with various policy measures. RERA has the capability to bring remarkable changes in economic and social transformation. This will also attract investments in the sector as well as restore the confidence of the buyers and other stakeholders in the sector.

Media law in India intersects with RERA by influencing how information about real estate projects and developers is reported, ensuring transparency and accountability, protecting consumer interests, and providing guidelines for responsible and ethical reporting. Media outlets must navigate these legal principles to provide accurate and valuable information to the public while complying with the law.

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