

J.B. Nagar CPE Study Circle

of WIRC

REAL ESTATE

(REGULATION & DEVELOPMENT)

ACT 2016

By CA RAJESH SANGHVI - 98210 12159

3 Segments in the Indian Construction industry namely :

(a). Residential & Commercial construction

(b). Infrastructure building which includes roads, railways, power etc &

(c). Industrial construction that consists of oil and gas refineries, pipelines, textiles etc.

Contributes to more than 11% of the nation's GDP.

Estimated that about USD 650 Billion (about Rs. 43 Lac crs) of investments will be needed in urban infrastructure over the next 20 years.

2nd largest employer & contributor to economic activity, after agriculture sector.

2nd highest inflow of FDI after the services sector

Employs more than 3.5 crs people.

Between 2005-08, the real estate sector grew by about 30%.

India will become the world's 3rd largest construction market by 2025

Estimates by CLSA

About 1,300 Billion US\$ (Rs. 85,000 crs)
to be invested in next 7 years

About 6 crs new houses to be constructed
from 2018 to 24

About 20 lac jobs to be created annually
GDP may go up by 0.75%

Boost due to Sec 80-IBA (Houses of 30 or
60 sq mtr)

The India story from 2003 to 2012

GOLD PRICES from Rs. 5,600/- in 2003 to Rs. 31,000/- in 2012

STOCK MARKETS from 3,000 in 2003 to 21,000 in Jan 2008 to about 18,000 in 2012

India – Rank 4

Cumulative illicit outflows from India during 2003 till 2012 is 439,587 Million \$ = Rs. 29 lac crores

Source : Raymond W. Baker - Global Financial Integrity

December 15, 2014

Report of Credit Suisse

India

2010

2016

Top 1% wealthy hold 40% 58%

Top 10% wealthy hold 68% 80%

USA

Top 1% wealthy hold 42%

RUSSIA

Top 1% wealthy hold 74%

CHINA Top 1% hold 44 %

Contributes to more than 11% of the nation's GDP

India GDP – 2066 Billion USD (About 135 lac crores)

1st USA 18,036 Bio : 31 crs Population : 98 lac sq kms

2nd China 11,007 Bio : 135 crs Population : 95 lac sq kms

3rd Japan 4,383 Bio : 13 crs Population : 3.77 lac sq kms

4th Germany 3,386 Bio : 8.13 crs Population : 3.57 lac sq kms

5th UK 2,858 Bio : 2.43 crs Population : 2.43 lac sq kms

6th France 2,418 Bio : 6.35 crs Population : 6.43 lac sq kms

7th India 2,066 Bio : 132 crs Population : 32.87 lac sq kms

Singapore 37th - 292 bio : 56 lac Population - 718 sq kms

Constitution - 7th schedule

Concurrent List - Entry 6

Transfer of Property other than
Agricultural land

Entry 7 Contracts

State List – Entry 18 – Rights

in/over Land, Land improvement,
colonization

Insurance – IRDA

Central Electricity Regulatory Authority

SEBI

FSSAI – FDA

Pension Fund Regulatory & Development

UGC / AICTE (now HEERA)

KVIC

The Agricultural & Processed Food Products

Export Development Authority

TRAI

Central Pollution Control Authority

**BUT NO REGULATOR
AT STATE OR
CENTRAL LEVEL FOR
HOUSING INDUSTRY**

Some Laws on Property etc

Indian Contract Act 1872

Transfer of Property Act 1882

Indian Easement Act 1882

Indian Registration Act 1908

All States have their own land & construction laws, Regulation mechanisms e.g

Mah Regional Town Planning Act 1966

Mah Municipal Corporation Act 1949

Mah Land Revenue Code 1966

Bombay Municipal Corporation Act 1888

Bombay Stamp Act 1958

Mah Co-op Societies Act 1960

Urban and Regional Development Plans Formulation and
Implementation Guidelines (URDPFI) 2014 by C.Govt
Two Volumes

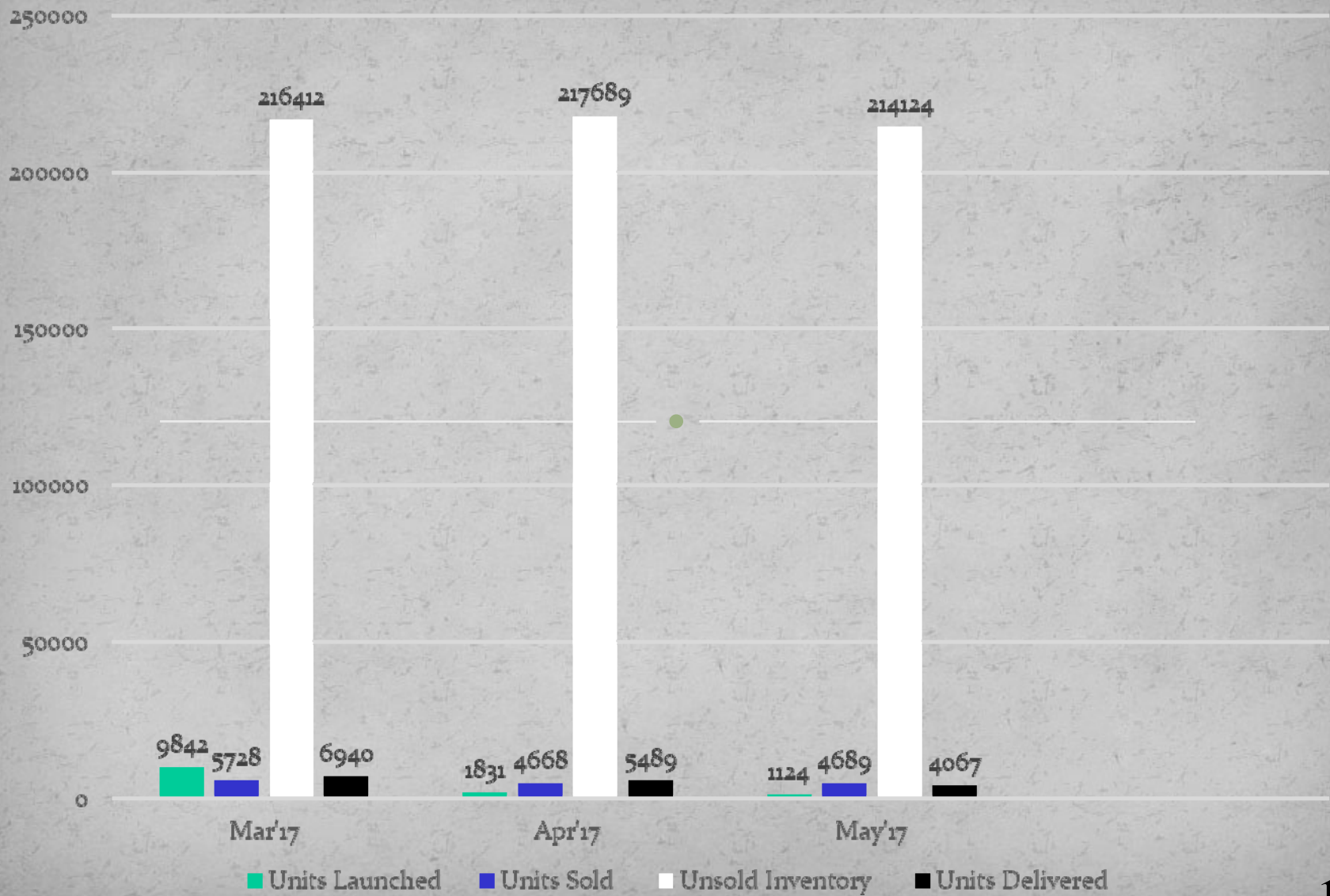
Volume-I contains planning process, contents of the plans suggested in the planning system etc

Volume-II A - on **legal aspects** covers the implications of 74th CAA, 1992; Land Acquisition, Resettlement & Rehabilitation Act, 2013; Review of the Model Town & Country Planning and Development Law, Model Municipal Law, Legal requirements for industrial development, State level planning framework & other National level requirements for heritage and environment conservation

The National Building Code of India was created in 1970. Revised in 1983, 2 - amendments in 1987 , further revised to make **NATIONAL BUILDING CODE 2005**

Contains regulations which can be immediately adopted or enacted for use by various departments, municipal administrations and public bodies. It lays down a set of minimum provisions designed to protect the safety of the public with regard to structural sufficiency, fire hazards and health aspects of buildings; so long as these basic requirements are met, the choice of materials & methods of design/construction is left to the building professionals. Covers aspects of administrative regulations, development control rules & general building requirements ; fire protection requirements ; stipulations regarding materials and structural design ; rules for design of electrical installations, lighting, air conditioning & lifts; regulation for ventilation, acoustics, plumbing services - such as, water supply, drainage, sanitation and gas supply ; safety of workers and public during construction ; & rules for erection of signs and outdoor display structures.

Mumbai Dashboard (Sources Proptiger Website)



IN THIS BACKDROP

COMES

R E R A

REAL ESTATE

REGULATION ACT

Passed by Rajya Sabha	10th March 2016
Passed by Lok Sabha	15th March 2016
Assent of President	25th March 2016
Publishing in Gazette	26th March 2016
Certain sections notified	1st May 2016

All India Act - 92 Sections

Rules by Central Govt or State Govt

Each State will have a RERA authority

Regulations made by such Authority

Appellate Tribunal to be established


भारत का राजपत्र
The Gazette of India

असाधारण
 EXTRAORDINARY
 भाग II—खण्ड 3—उप-खण्ड (ii)
 PART II—Section 3—Sub-section (ii)
 प्राधिकार से प्रकाशित
 PUBLISHED BY AUTHORITY

सं. 1075] नई दिल्ली, बुधवार, अप्रैल 19, 2017/चैत्र 29, 1939
 No. 1075] NEW DELHI, WEDNESDAY, APRIL 19, 2017/CHAITRA 29, 1939

आवास और शहरी गरीबी उपशमन मंत्रालय
 अधिसूचना
 नई दिल्ली, 19 अप्रैल, 2017

का.आ. 1216(अ).—केन्द्रीय सरकार, भूमिपदा (विनियमन और विकास) अधिनियम, 2016 (2016 का 16) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 1 मई, 2017 को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम के निम्नलिखित उपबंध प्रवृत्त होंगे, अर्थात्:—

- | क्रम सं. | धारा |
|----------|--------------------|
| 1. | धारा 3 से धारा 19 |
| 2. | धारा 40 |
| 3. | धारा 59 से धारा 70 |
| 4. | धारा 79 से धारा 80 |

[फा. सं. ओ-17034/275/2017-एच]
राजीव रंजन मिश्रा, संयुक्त सचिव

MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION
NOTIFICATION

New Delhi, the 19th April, 2017

S.O. 1216(E).—In exercise of the powers conferred by sub-section (3) of section 1 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016), the Central Government hereby appoints the 1st day of May, 2017 as the date on which the following provisions of the said Act shall come into force, namely:—

- | Sl. No. | Section |
|---------|------------------|
| 1. | Section 3 to 19 |
| 2. | Section 40 |
| 3. | Section 59 to 70 |
| 4. | Section 79 to 80 |

[F. No. O-17034/275/2017-H]
RAJIV RANJAN MISHRA, Jt. Secy.

2616 GI/2017

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SARVESH KUMAR
SRIVASTAVA

Digitally signed by SARVESH
 KUMAR SRIVASTAVA
 Date: 2017.04.19 18:43:28 +05'30'

As per Govt of India
notification dt : 19-4-2017, all
other sections have been
notified & the Act became
applicable full fledged all over
India w.e.f 1-5-2017

Definitions : Section 2

Registration of all Projects & Agents

Duties of Promoters

RERA Authority - Regulations

RERA Tribunal - CA's allowed

Offences, Penalties

Miscellaneous

Definitions : Section 2

Allottee - Person who has been allotted/sold or otherwise trfd (freehold or leasehold) & subsequent purchaser but not on rent basis

Apartment - Residential, commercial unit, flat, office - separate self contained part

Carpet Area - Internal usable floor area

No private balcony/ terrace/ Verandah

Includes internal walls - Excludes External walls

Definitions : Section 2

Garage – 3 sides wall enclosed space roof for parking - No open parking or Stilt space

Immovable Property

Includes Land, building, right of way, any other benefit arising out of land

Interest

Rule # 18 – State Bank Highest marginal Cost of Lending + 2% : $9\% + 2\% = 11\%$

Common Areas

Land of the entire project or of any phase
Stair case, lifts, lobby, common entrances,
exits, basements, common terraces, play
areas, open parking areas, common storage,
water tanks, ducts, community & commercial
facilities, premises for watch/ward staff,
Common AC-Gas, sanitation etc

Promoter

Person who constructs or causes constructions - Includes his assignees

Develops land into a project like plotting
with or without structures

Development authority or any public body
in respect of allottees - on land owned by
them or provided by Govt

Promotercontd

Primary Co-op Housing Society

Any person who acts as colonizer ,
builder, contractor, or by any other name

POA from owner of Land

Expln – Person who sells the Apts

Real Estate Agent

Any Person who negotiates or acts on behalf of one person to sell/Trf his Apts/plot in a Real estate project to another or help to buy – for remuneration/fees or any other charges & includes a person who introduces through any medium, buyers & sellers ...

Real Estate Project - Development

of Bldg/s, converting existing bldg into

Apts, development of land into

plots/apartments for sale of all/some

(Lease > 5 yrs) includes common areas

, external & internal development

works, easement, rights.

Development means carrying out the

Development of immovable property ,

engineering etc IN, ON, OVER or

UNDER the land or making material

change in property & includes

redevelopment

Advertisement” means any document described or issued as advertisement through **any medium**

Includes notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment. **Inviting** persons to purchase in any manner

Sanctioned Plan

All Plans & permissions sanctioned by
Competent Authority prior to start of
Project

Includes Site plan, building plan, service plan, parking & circulation plan, landscape plan, layout plan, zoning plan & such other plan & includes structural designs, if applicable. Environment permission etc, which are approved by the competent authority **prior to start.**

Planning Area

A Planning area or Development area or a Regional development plan, or any area specified by the State Govt or any competent authority - Any designated area to be planning area for future planned development by T & C Planning & as revised

Planning Area

As per FAQ # 2, whole of
Maharashtra has been declared

as Planning area as per MRTTP
Act 1966

Words or expressions not defined herein but defined in any other law in force or in Municipal laws or relevant laws of the State Govt , shall be applicable

RERA – All India Notified on 1-

5-16 & then from 1-5-17

Mah RERA authority

established on 8-3-2017

Mah Rules on 20-4-2017

Regulations on 24-4-2017

Rules (23) formed u/s 84 on various
issues – Not beyond Act

Regulations u/s 85 by State RERA
authority – consistent with
Act/Rules

Every Rule/Regulation to be laid
before State legislature – Sec. 86

Act is Supreme - Parliament

Then Rules - State

Then Regulations – RERA auth

Circulars, Orders , Directions as

per Reg # 38 read with 39 & 40

Registration with RERA – Sec. 3

**NO PROMOTER can Advertise,
market, book, sell or offer in any
Real Estate Project (new
projects & ongoing) in any
Planning Area without
registering the project with RERA**

No Registration Sec. 3(2)

If Land is below 500 sq mtrs

or

Total number of Apartments does not

exceed 8

or

No Sales/Mktg

But FAQ # 4 and 5 & 38 (Addl
FAQ) have given strange replies

If land area < 500 sq mtrs and

units > 8 then ??

Or vice versa

Phase Wise Registration

If Real estate project is developed in Phases then each Phase to be treated as a separate stand alone project & has to be separately registered – As per Mah Rules even a Bldg, Wing or defined floors can be a phase - **Plan well**

Sec. 4 : Procedure Regn with RERA

As per RERA Rules

Entity details, full details of projects in last 5 years-completed & ongoing , current status, any delays, cases pending, details of type of land & payments pending, copy of Approvals/ CC/ Permissions/ Sanctioned Plans, Demarcation of land.

Procedure for Regn with RERA

Latitude/ Longitude, development works, proposed facilities (water, emergency evacuation , fire etc), Boundaries, Proforma of Allotment letter/Agreement for Sale &/or Conveyance, Details of apartments in carpet area, balcony/verandah, garages, Agents, contractors , architects, engineers etc.

Declaration supported by Affidavit

Order 19 rule 3 – CPC 1908 - Affidavits

Mention facts which are true to the knowledge of the deponent

Mention paras which are true to the belief of the deponent & state grounds for such belief & Source of information

Don't mention hearsay or argumentative matters

Verification is a must

Declaration cum Affidavit - Form B

(A). Legal title to the land along with legally valid documents with authentication.

(B). Land is either free from encumbrances or state nature of encumbrances incl name, right, title or interest of any other person in/over land & details

(C). **Time period required for completion of project or phase**

Contents of Declaration - Affidavit

(D). 70% of Amt realized from allottees to be kept in separate Scheduled bank for construction/Land cost of the Regd project

Amount to be withdrawn to cover the cost of project, in proportion to the percentage of completion of the project

Withdrawals to be allowed only if certified by Engineer & Architect & CA.

A/c's audited by CA within 6 months of 31-3

To be uploaded on promoters website. Funds to be restricted to same project

Contents of Declaration - Affidavit

(E). All pending approvals shall be taken on time

(F). Promoter has furnished such other documents as prescribed by the Rules or regulations

Non discrimination against any allottee

Web based system for online submission of applications

Maharashtra Rules (Regn) Notified on 20-4-17

Rule 3 – New Projects after 1-5-17

Form No. “A” & Affidavit in Form No. “B”

Submit docs in triplicate

Details of proposed FSI (may be more) vis-a-vis

Sanctioned FSI (may be less) – Disclose proposed

Details of proposed Bldgs/Floors (may be more)

vis-a-vis Sanctioned Bldgs/Floors (may be less) –

Disclose the Proposed Bldg/Floors

Maharashtra Rules (Regn) Notified on 20-4-17

Rule 3 – Fees is Rs. 10/- per square metre on area
of land proposed to be developed - Min
50K/Max 10L

If Appln withdrawn in 30 days – Min Rs. 5K
shall be retained

Disclose Land cost, construction cost &
estimated cost of project.

Maharashtra Rules (Regn) Notified on 20-4-17

Rule 4 – Ongoing Projects as on 1-5-17

No OC or CC received as upto 1-5-17

Form No. “A” & Affidavit in Form No. “B”

Regn for Bldgs or Wings for which No OC/CC

DCR 1991 - Completion certificate – Reg 6(6)

(Appendix XX & XXI) & Occupancy Certificate is

Reg 6(7) (Appendix XVIII & XXII – Part OC XXIII)

r.w.s 353A of MMC 1888.

Maharashtra Rules (Regn) Notified on 20-4-17

Rule 4 – Ongoing Projects as on 1-5-17

But if Building occupied and no ongoing construction work found then no Regn under

RERA - Ans in FAQ # 14

An ongoing project in one where construction is still not complete, OC is yet to be recd and Building has not been occupied by allottees.

Approach for deemed conveyance

Maharashtra Rules (Regn) Notified on 20-4-17

Rule 4 – Ongoing Projects as on 1-5-17

Same details as new – extent of work carried out

Estimated period of completion – May be different
from earlier declared in agreement

Certificate from Architect certifying % of
completion of work Bldg wise

Certificate from Engineer certifying estimated
balance cost to complete work of each bldg

Maharashtra Rules (Regn) Notified on 20-4-17

Rule 4 – Ongoing Projects as on 1-5-17

- # Certificate (**FORM No. 3**) from CA certifying estimated balance cost to complete the project &
- # Certificate of Balance amount receivable from customers (to whom sold & Agrmt made)
- # Certificate of estimated amount receivable from unsold premises on RR value

Regn last date was 31-7-17 extended to 30-9-17

Maharashtra Rules (Regn) Notified on 20-4-17

Rule 4 - Ongoing Projects as on 1-5-17

They can sell and advertise till 31-7-17.

After that they could not till Regn is done

2/3rd sanction of allottees will **not be needed** for

changes in plans , if changes are directed by

Competent Authority

Penalty for Ongoing Project Registration after 31-07-2017

Period	Penalty(in Rs)
01-08-2017 to 02-08-2017	50,000/-
03-08-2017 to 16-08-2017	1,00,000/-
16-08-2017 to 31-08-2017	1,00,000/-
01-09-2017 to 30-09-2017	2,00,000/- or amount equivalent to double the registration fee, whichever is more, subject to a ceiling of Rs. 10,00,000/-
After 5pm of 30-09-2017	Shall proceed as per the provision of Section 5 (1) (b) of the RERA

RERA order No. 2 dt: 2-8-17

Decided to keep process of registration open
For Appln recd on 1 & 2nd Aug 17, levy penalty
of 50,000

Else proceed as per Sec 5(1)(b)

RERA order No. 3 dt: 10-8-17

For Appln recd from 2 to 16th Aug 17, levy
penalty of Rs. 100,000 or regn fee - More

After 5 pm of 16/8/17 proceed as per Sec 5(1)(b)

RERA order No. 4 dt: 8-9-17

For Appln recd from 16-8 to 31-8-17, levy
penalty of Rs. 100,000 or regn fee -
More

For Appln recd from 1-9 to 30-0-17, levy
penalty of Rs. 200,000 or double the
regn fee – More – Max Rs.10 Lakhs

After 5 pm of 30/9/17 proceed as per Sec
5(1)(b)

Till 31-7-2017 – 11,000 application recd
Later RERA says 10,852 recd online till 31-7-17
Another 2,200 in August 17

But 1st Proviso to Sec. 3 of RERA Act clearly
states that ongoing projects have to be
registered in 3 months from 1-5-17

Does RERA have these powers ? Sec.34 & 37

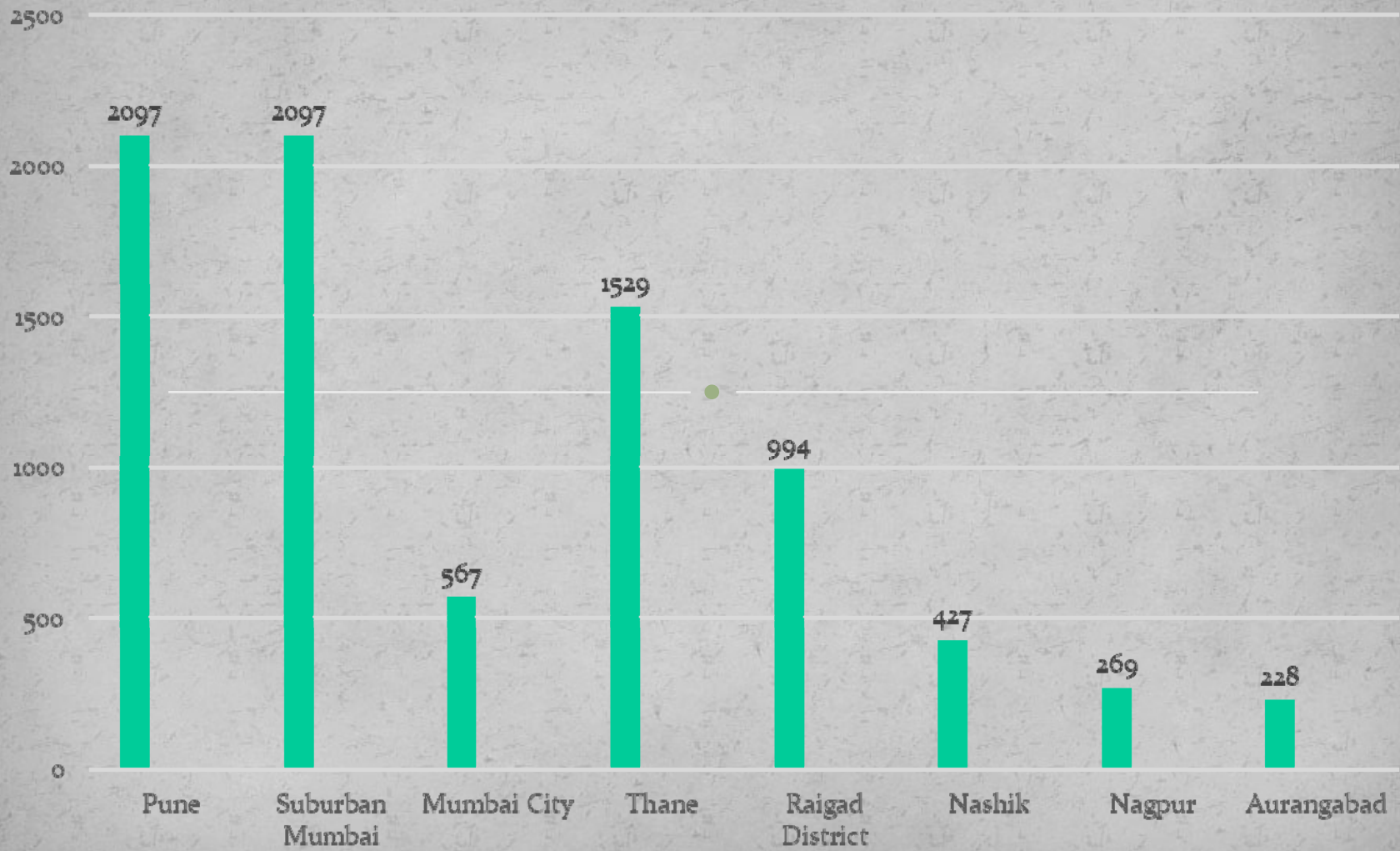
Against over 18,000 ongoing projects
registered in the country,
Maharashtra has registered nearly

12,900 ongoing projects

Source- ET Real Estate, date August

29,2017

Projects Registered Under Maharashtra RERA (Sources Mumbai News-Times of India- 02-08-2017)



■ Projects Registered Under RERA Maharashtra

Units Registered in Thane and Mumbai (Sources- Moneycontrol Website {Analysis by JLL India}- 19-09-2017)



Number of Months Project Postponed (Sources The Economic Times- Wealth- Real Estate – 14-09-2017)



The total carpet area of projects registered under MahaRERA ,
was approx **8.462 crore sq.ft**

of which the total sold area was **4.35 crore sq.ft** – or 51 percent
– *by Analysis by JLL India- Source Moneycontrol News, date
September 19, 2017.*

13,400 total registration application of which 13,300 already are
registered and out on the Public domain. A majority of
them, Close to 13,000 are ongoing projects and that
translates to about 15.5 lakhs of apartments and two lakhs
plots - *Source ET Now, date September 22, 2017.*

57 % of residential units registered have extended their
timelines by over a year, while close to 30 % have extended
their contracted project deadlines by over two years- *Source
- The Economic Times- Wealth-Real Estate, date September
14, 2017.*

RULE # 5

USAGE OF THE MONEY
PARKED IN THE DESIGNATED

BANK A/C – 70%

Advisable – 4 A/c's per project

Master – 30% - 70% - GST

RULE # 5

FOR NEW PROJECTS - STATES
THAT PROMOTER WILL SUBMIT
3 CERTIFICATES TO THE
BANKER OPERATING THE
DESIGNATED BANK A/C

BUT CIRCULAR # 3 Dt : 7-6-17 states
that ... since the Promoter has to get
his project a/c audited (form No. 5) it
is not proper to submit these 3
certificates & they may be retained
by the promoter & in turn the
promoter may give self declaration
to the banker

RULE # 5 - 70% Designated a/c

NEW PROJECTS AFTER 1-5-17

CERTIFICATE FROM ARCHITECT IN

FORM No. 1 CERTIFYING %

COMPLETION OF EACH BLDG / WING

CERTIFICATE FROM ENGINEER IN

FORM No. 2 CERTIFYING COST

INCURRED ON EACH BLDG / WING

RULE # 5 - 70% Designated a/c

NEW PROJECTS AFTER 1-5-17

CERTIFICATE FROM CA IN **FORM No. 3,**

CERTIFYING COST INCURRED ON

CONSTRUCTION & LAND COST &

PROPORTION OF COST INCURRED (

CONSTR & LAND) TO TOTAL

ESTIMATED COST OF PROJECT

Incurred means mercantile – Circular No. 7

RULE # 5 - 70% Designated a/c

NEW PROJECTS AFTER 1-5-17

THIS PROPORTION TO TOTAL
ESTIMATED COST WILL DETERMINE
THE MAXIMUM AMOUNT THAT CAN

BE WITHDRAWN FROM THE

DESIGNATED 70% A/C

AFTER CC – NO SUCH CERTIFICATION

NEEDED - FULL WITHDRAWAL

RULE # 5 - 70% Designated a/c

OLD ONGOING PROJECTS ON 1-5-17

SAME ALLOCATION OF 70 – 30%

HOWEVER IF ESTIMATED

RECEIVABLES IS LESS THAN

ESTIMATED COST OF COMPLETION ,

THEN 100% OF AMOUNT TO BE

DEPOSITED (NOT 70-30)

RULE # 5 (Expln-I) - 70% Designated a/c

OLD & NEW PROJECTS

LAND COST IS - ACQUISITION COST,

TDR, PREMIUM , DEVELOPMENT

RIGHTS, FUNGIBLE FSI, LEASE

CHARGES, LEGAL COSTS,

CONSIDERATION TO OUTGOING

DEVELOPER FOR RELINQUISHMENT ,

SD, etc

RULE # 5 (Expln-II) - 70% Designated a/c

OLD & NEW PROJECTS

LAND COST IN CASE OF GIFT,

INHERITANCE OR OTHERWISE (NO

ACTUAL PAYMENT) IS READY

RECKONER RATE

But Circular No. 7 dt : 4-7-17 speaks of
Indexed Cost of Acquisition (not of RR rates)

If land/development rights/lease rights
became property of builder prior to 1-4-2001
—— then RR rates of 1-4-2001 ——

Indexation is based on year of RERA
registration or Commencement certificate
vis-a-vis year when held by builder

Circular No. 7 dt : 4-7-17 also defines that
under Rehabilitation scheme (SRA,
Cessed, Redevelopment of tenanted
properties, Society redevelopment) , all
amounts paid as non refundable like rent for
house, corpus, shifting charges etc is LAND

COST

Interest on borrowing for such Rehab
component is also LAND COST

RULE # 5 (Expln-IV) - 70% Designated a/c

OLD & NEW PROJECTS

LAND COST - REHAB PROJECTS INCLUDES

COST OF REHABILITATION (like SRA),
ONSITE COSTS, CONSTRCN OF REHAB
BLDG, CLEARANCE OF ENCUMBRANCES,
RELATED OVERHEAD COSTS, SECURITY
DEPOSIT.

Certified by Engineer, Architect or CA

RULE # 5 (Expln-III) - 70% Designated a/c

OLD & NEW PROJECTS

CONSTRUCTION COST

EXCLUDING LAND COSTS

ALL ONSITE & OFFSITE COSTS

Incl Taxes & Principal Sum / Interests

paid/payable to FI, Bank, NBFC &

Money Lenders

MAHARASHTRA MONEY LENDING ACT

2014

Come into force from 16-1-14

57 sections

Money lending license compulsory

Interest rates to be defined by State Govt

Records to be maintained

No suit for recovery if no license

Maha RERA - Circular No. 5 Dt : 28-6-2017

Marketing & Brokerage exp – Not from
70% designated bank a/c.

Principal of Loan not to be added to

cost of construction in Form No. 3

Amount to be withdrawn to cover the cost of project, in proportion to the % of completion of the project

How to determine % of completion of project ??

Rules or Regulation may help or ICAI
Guidelines or Engineering or such
Technical methods

Or it can be total cost of project incurred (though not paid) to total cost of project.

Eg. say estimated total cost of the regd project or any regd phase is say **Rs. 100 cr**

Assume as on a particular date the costs incurred (though not paid) incl land is **Rs.26 cr**

Hence % completion of project is **26 %**

Assume amt recd in bank a/c (70%) is Rs. 35 crs

So use only upto Rs. 26 crs

Continuing the eg.

We retain the estimated total cost **Rs. 100 cr**

Further say as on a particular date the cumulative costs incurred (though not paid) incl land is **Rs. 58 cr**

Hence % completion of project is **58 %**

Assume cumulative amt recd in bank a/c (70%) is Rs. 90 crs.

So use only upto Rs. 58 crs

FAQ's - MAHARASHTRA RERA

Q. 1: (B) Will sale of TDR amounts, form part of sales realization, and thus required to be deposited in the separate account for utilization towards construction cost of the project?

Ans: Separate account is meant for amounts collected from allottees only.

Regulation # 4 : Audit (Annual Report on Statement of Account) of every Registered project within 6 months of year ending

Format of Report given in Form No. 5

Only by Statutory auditor - Certificate giving CA and auditor need to be different.

If Auditor finds any certificate false or incorrect info is given or misuse of funds, then RERA may file complaint with ICAI or such Institutes

ICAI Guidance Note on Accounting for Real Estate Transaction 2012

Percentage Completion Method

Applicable after 1-4-12

Project Costs : Cost of land, Development rights, Borrowing costs directly for project, costs relatable directly to project. Depr of site equipment, designs, guarantee work, expected warranty costs, claims from 3rd parties.

ICAI Guidance Note on Accounting for Real Estate
Transaction 2012

Not a part of Construction costs if they are

material :

-- General Admin costs

- Selling costs
- **Cost of unconsumed material at site**
- **Advance payment to sub-contractors**

Costs that can be attributed to any project

Insurance – specific

Construction / development
overheads

Non specific design costs

Use some rational costing method

ICDS – 3 (For Contractors)

Clause 16 & 17 - Recognition of revenue
& costs based on Stage of Completion
of Contract on reporting date

Proportion of work completed

No recognition till 25% of completion

ICDS - 3

Clause 18 - % of completion of work -

How to be determined ?

% of contract costs incurred to
estimated total contract costs

Or survey of work performed

Or physical proportion of contract work

ICDS - 3

Clause 19 – in determination of Contracts costs , costs of future activity & advance payment to subcontractors is NOT

included.

ICDS - 4

Revenue Recognition – Para # 6

Companies [Cost Records and
Audit] Rules, 2014

as amended upto 15th July 2016

THE INSTITUTE OF COST
ACCOUNTANTS OF INDIA

Whether Companies (Cost Records and Audit) Rules 2014 would be applicable to Construction companies ?

All Construction companies who meet with the threshold limits laid down in the Companies (Cost Records and Audit) Rules, 2014 & undertake jobs with the use of own materials [whether self-manufactured/produced or procured from outside] shall be required to maintain cost records & get cost audit conducted

Construction is a Non regulated sector

Threshold limits for Records : Turnover of **35 crs**
has been prescribed

Micro enterprise or small enterprise as per MSMED
Act, 2006 have been taken out

Threshold limits for Cost audit : Turnover of **100 crs**
for all product and services and 35 crs for for
individual product or services

**GUIDANCE NOTE ON MAINTENANCE OF
COST ACCOUNTING RECORDS FOR
CONSTRUCTION INDUSTRY INCLUDING
REAL ESTATE & PROPERTY
DEVELOPMENT ACTIVITY**

By

**THE INSTITUTE OF COST ACCOUNTANTS
OF INDIA - 2012**

IMPORTANT

Need sensitive & intricate planning to determine how to determine PHASE to
be registered

Rules – Phase may consist of a building or a wing of the building with multiple wings or defined number of floors

IMPORTANT

Need sensitive & intricate planning to determine cost of project, credit period from suppliers/vendors, purchase policies, time plan of collections from allottees, bank funds if needed, policy for allocation of overheads, etc

No Registration u/s 3
unless plans are approved
by Local authorities &
permissions / sanctions
are in place

Sec. 5 : Grant of Registration

Registration to be granted in 30 days else

deemed to be granted in 7 days

Registration number, Login Id & Password

Registration valid for period of project or

phase - Sec. 5(3)

Application shall be rejected after hearing &

with reason

Sec. 6 : Extension of Registration

Extension may be granted on Application by the Promoter only if Force majeure i.e only war or flood, drought, fire, cyclone, earthquake or natural calamity natural

Reasonable Circumstances without any default on the part of the Promoter, extension may be granted for the period of **1 year** max.

Opportunity of being heard - Rule # 7 – Form E

Rule # 6 Registration

Regn Certificate by RERA is Form No. “C”

Period of Reg will **EXCLUDE** periods of

Stay by Courts, Competent Authority,

Statutory Authority, High power

Committee, Govts **Or due to such**

mitigating circumstances as RERA may

decide (RERA will hear allottees)

Sec 7 : Revocation of Registration

On receipt of complaint or suo motu or recommendation of the competent authority

If the Promoter :

makes default in doing anything required or

Violates any of the terms or condition of the approval by competent authority

Does any unfair practice/irregularities – includes false or misleading representation of service of particular standard or false representation of approval or affiliation which is not held by him

Sec 7 : Revocation of Registration

Makes publication of advtg or prospectus of services which are not intended to be offered

Promoter given 30 days of notice & heard

RERA may not cancel but continue Regn subject to such terms and conditions it may think fit in interest of allottees

Sec 7 : Cancellation of Registration

If cancelled - Promoter name, Photo, inform all other RERA's , details will come on all RERA website.

RERA shall facilitate remaining development works, Bank a/c freezed , Protect allottees , such directions as may be necessary. Consult State Govt – take action to complete work – 1st Pref by Allottees . Or to Competent authority

Sec 9 : Registration of Real Estate Agents

Compulsory Registration if they want to deal/facilitate - sale
any apartment in a Real estate project

Rule 11 to 17 - Form No. " G " – Fees Rs. 10K Incl / Rs.1 Lac
Non Incl - Regn for 5 yrs

The Authority shall grant a single registration for the entire
State

Concept of deemed registration – 30 days

Renewable on same fees – Form No." J "

Agent commits breach of any condition or misrepresentation
or fraud – regn can be cancelled – Hearing

Sec 9 : Registration of Real Estate Agents

Rule # 11

Brief details of entity, PAN, Aadhar, Photos, IT returns of last 3 years, Projects / promoters with whom he has worked in last 5 years, Civil & Criminal cases pending against him.

Sec. 10 : Functions of Estate Agent

No to deal with/in unregistered project

Maintain books of accounts/records – IT Act

No unfair trade practice – False statements

(oral or written), show/speak false approvals,

No False claims of services

Help allottee get all papers/documents

Other functions as may be prescribed

Mah – Website – Details of Promoter

Rule # 20

All Details in Regn process

EXCEPT

Past 5 years projects / status / cases

Development works & facilities

Proforma of Allotment letter/ Sale Agrmt/ Conveyance

Number & Type of Flats, Carpet area, Balcony, etc

Garage Details & Affidavit & Details under Rule 3(2)

Sec. 11 : Functions of Promoter

Create/update his web page on RERA website

Put all details as given in Regn application on webpage. Quarterly update on number/types of Apts/garages booked, status of project, update list of approvals taken & pending

At time of booking issue allotment letter

Repair structural/other defect free if intimated in 5 years from date of possession.

Sec. 11 : Functions of Promoter

Get OC/CC, Lease deed.

Execute a Regd Conveyance Deed of Apts or

Conveyance of common areas to association

Promoter can cancel Allotment only in terms of

Agreement for sale.

Promoter shall prepare & maintain all such

other details as may be specified by the

Authority

Rule # 9(1) : Functions of Promoter

Formation of Society / Legal Entity

Promoter has to **Submit application** for formation within 3 months of 51% of total number of allottees having **booked** their Apts –

Same in Sec 11(4)(e)

Forming of Apex Body (of Co-op Societies)

within 3 months of OC of last Bldg

Rule # 9(2) : Functions of Promoter

Conveyance to Allottee / Association - Sec. 17

**In case of Plots – Conveyance to Allottee in
3 months of full payment.**

In case of Single Building – Conveyance to

Assn of Allottees : Period stated in Agrmt

***ELSE* 3 months of OC OR 51% of total**

allottees having paid Full Consideration,

whichever is EARLIER

Rule # 9(2) : Functions of Promoter

Conveyance to Society/Legal Entity–Sec 17

In case of Layout – Structure (Excl

basement/podium) - If No Period is

stated then , Conveyance of structure shall

be transferred in One month of Co-op

Soc/Body formation ?? or 3 months of OC

- whichever is Earlier ??

Rule # 9(2) : Functions of Promoter

Conveyance to Society / Legal Entity

In case of Layout – Land - If No Period

is stated then , Conveyance of land

(with basement/podium) shall be

transferred in 3 months of Apex body

or Co-op Soc formation or 3 months of

OC - whichever is Earlier

Rule # 9(4) : Functions of Promoter

Unilateral Deemed Conveyance under
MOFA allowed.

If Conveyance done, still the Promoter
can sell other units without
permission of earlier allottees.

Sec 12 : Obligations of promoter reg Advtg & Prospectus

If any Allottee makes Deposit/Advance on the basis of the information contained in the Advtg or notice or any model apts and if he sustains loss due to falsity or incorrectness of such Advtg or model etc, the allottee can claim compensation from Promoter

However if this person wants to withdraw from the project he will be returned his entire investment + interest + compensation

Sec. 13 : Deposit / Advance by promoter

No advance/application fee of more than 10% of cost of Apt is allowed unless Agreement for Sale is made & registered

Format of Agreement - Prescribed and shall specify the particulars of development which includes specification of internal and external development work, the manner and date in which payment is towards cost of Apartment, date of possession, interest payable in case of default by the promoter etc

Agreement for Sale

Supreme Court of India

Sunil Kumar Jain

vs

Kishan & Ors

27 April, 1995

Citations: 1995 AIR 1891 , 1995 SCC (4) 147

“ It is settled law that the agreement of sale does not confer title and, therefore, the agreement holder, even assuming that the agreement is valid, does not acquire any title to the property ”

Rulings by MahaRERA

Mrs. Raisa Mohammed Iqbal
Gour.....Complainant

Vs

Mr. Tejpal Madhukar Rupji (Rupji Constructions)

Date : 29th September 2017

Issues & Order

In agreement date of completion was Dec 2022, but in RERA it was stated as Dec 2019.

Directed to execute Deed of Rectification

Sec. 14 : Adherence to Sanctioned plans

No alterations/addition – Not withstanding any other law or agreement - No additions, alterations , fittings, amenities or plans, specifications **of Apartment without previous consent of allottee**

Minor alteration due to architectural & structural reasons may be done on recommendation & verification by an Authorized Architect or Engineer after intimation to allottee

Sec. 14 : Adherence to sanctioned plans

No alterations or addition in sanctioned plans, layout plans or specifications of Bldgs or common areas in the project without consent of 2/3rd Allottees

Same family treated as one allottee

Sec. 14(3) : Adherence to sanctioned plans

If Structural defect, worksmanship ,
quality, services or any obligations of
promoter - Intimated in 5 years of
Possession - Rectification free of cost
in 30 days - Else compensation

Sec. 15 : Transfer of a project to a third party

Before majority rights in a project is transferred / assigned – Prior written consent of 2/3rd

Allottees & approval of RERA

New promoter - same obligation

NO extension of time due to transfer

In case of default or delay intending promoter

shall be liable – What about earlier promoter ??

Sec 16 : Obligation of Insurance

Promoter must obtain insurance as may be notified by the appropriate Government, in respect of :

Title of the Land & building & Construction of the project.

Pay the premium

The insurance must be transferred to the benefit of allottee or the association of allottee while entering into agreement for sale.

On formation of the association of the allottees all documents relating to the Insurance must be Hand over to the association.

Sec. 17 : Transfer of Title

Execute Regd Conveyance in favour of Allottee alongwith undivided proportionate title to common areas to the Association of the allottees as the case may be & hand over physical possession to allottee or common association & all title documents in such specified time as per State laws. Else 3 months of OC. After OC & handing physical possession , promoter will hand over plans/documents in 30 days

Rule # 9(2) : Functions of Promoter

Conveyance to Allottee / Association - Sec. 17

**In case of Plots – Conveyance to Allottee in
3 months of full payment.**

In case of Single Building – Conveyance to

Assn of Allottees : Period stated in Agrmt

***ELSE* 3 months of OC OR 51% of total
allottees having paid Full Consideration,
whichever is EARLIER**

Rule # 9(2) : Functions of Promoter

Conveyance to Society/Legal Entity–Sec 17

In case of Layout – Structure (Excl

basement/podium) - If No Period is

stated then , Conveyance of structure shall

be transferred in One month of Co-op

Soc/Body formation ?? or 3 months of OC

- whichever is Earlier ??

Maha RERA Order No. 4 Dt : 27-6-2017

Rule 9(2) speaks of conveyance of structure - as per agreement or in 3 months of OC or 1 month of formation of society - earlier

Model sale agreement speaks of 3 months of formation of society. MOFA Sec. 11 rw Rule 9 speaks of conveyance in 4 months from society formation

Hence agreements before 1-5-17 – MOFA to apply & those time lines will apply

Maha RERA Order No. 4 Dt : 27-6-2017

It clearly states that RERA rules are subsidiary legislation , the substantive provisions being the Act

Hence for all agreements after 1-5-2017 , RERA provisions on Sec. 17 will prevail

Rule # 9(2) : Functions of Promoter

Conveyance to Society / Legal Entity

In case of Layout – Land - If No Period

is stated then , Conveyance of land

(with basement/podium) shall be

transferred in 3 months of Apex body

or Co-op Soc formation or 3 months of

OC - whichever is Earlier

Sec. 18 : Return of Amount & Compensation

Fails to complete or give possession or due to discontinuance of business or De-registration or any other reason

Allottee withdraws then : Return amount + interest + Compensation to allottee

Allottee remains then : Interest p.m till possession

Sec. 18 : Return of Amount & Compensation

If defective title – Any loss caused to

allottee – for such claim No

limitation of time Adjudication

officer

Fails to discharge other obligations

Compensation – Adj officer

Sec. 19 : Rights Duties of Allottee

Information, plans , sanctions details
etc of project – Right to claim refund,
interest & compensation – Possession
within 2 months of OC - Pay interest
for delay – Pay any other charges as
decided

Sec. 20 : RERA

Corporation, perpetual succession ,
seal

Chairperson & Min 2 members – 5 yrs

No financial / other interest – No
abuse

Just because of Vacancy or defect in
appointment RERA no invalid

Sec. 31 – Any **aggrieved** person incl a
Regd consumer assn can file complaint
against promoter/agent/allottee.

Complaint in Form “A” - Fees 5,000/-

AGGRIEVED PERSON

Supreme Court case of Ravi

Yashwant Bhoir vs District Collector

(Civil Appeal No. 2085 of 2012 in Civil

Appellate Jurisdiction - SC) para # 44, a

stranger who has no locus standi cannot

be made a party to any proceedings

COMPLAINTS

SOP issued by RERA vide Circular No.

09 dt : 24-7-2017

How complaint to be filed, what has to
be done thereafter, assignment to bench,
service of documents, hearings,
acknowledgement, emails etc

Sec. 36 - Interim orders can be given during inquiry on satisfaction without notice to other side if deems necessary

Can refer matter to Competition

Commission if RERA feels that in any agreement, action, practice, the promoter is preventing or restricting competition or creating monopolistic situation

Sec. 37 & 38 - RERA can impose penalty or interest or give such directions – to promoter, agents or allottees – 60 days

RERA can rectify its orders in 2 years if

mistake apparent from record –

However no amendment if an appeal is pending – Follow Natural Justice

Sec. 41 – Central Advisory Council by Central Govt to
advise on macro issues

Sec. 43 Real Estate Appellate Tribunal

State Govt to form in 1 year from 1-5-16

One Judicial/ One Technical member.

Sec.44(5)-Appeal against any order/ direction
/ decision of RERA/Adj officer – 60 days

Rule # 9 - Form No. “C” - Triplicate - Fees Rs.

5,000/-

Any State Govt, Competent authority or
any person aggrieved by any order,
decision or direction of RERA or Adj
officer can appeal - Even regd consumer
association can file appeal

Sec. 43(5) - If Promoter files an appeal,
atleast 30% of penalty or total amount
payable to allottee to be paid upfront

REAT

Interim orders can be given

Endeavour to decide in 60 days - else

record reasons in writing for not

disposing the appeal in that period

It can make such orders as it thinks

fit

Sec. 53 - Tribunal not bound by
CPC 1908 or rules of evidence in
Indian Evidence Act 1872 - It will
guided by principles of Natural
justice. It can review its decisions
Sec. 114 of CPC rws order 47 Receive
evidence on Affidavits

Sec. 56

CA/CS/CMA/advocates or in person
or officers – can appear before
RERA, Adjudicating officer or REAT
Memo of Authorization {LA} as per
Form No. 6 of Regulations

Sec. 57 – Order of Tribunal executable as
decree of civil court – refer to other Civil
Court for execution

Sec. 58 - Appeal against Tribunal to HC

In 60 days – Where Project located

Only Question of law as per Sec. 100 of
CPC

OFFENCES - PENALTIES - ADJUDICATION

Sec. 59 - **Non registration** -

Promoter Penalty UPTO 10% of
Cost of Project as determined by
RERA or Imprisonment upto 3
yrs or further 10% or both

Sec. 60 - Promoter – Gives False
information or violates Sec.4 -

Penalty upto 5%

Sec. 61 - Promoter – Violates any
provision (other than 3 & 4) ,
rules/regulations - Penalty upto 5%

Sec. 62 - Real estate agent – Regn &
Functions – Violation - Penalty Rs. 10K
per day upto 5⁰% of cost of
Apartment/Plot – done by him

Sec. 63 – Promoter - Failure to comply
with any order/ direction of RERA –
per day till 5⁰% of cost

Sec. 64 – Promoter - Violation of Tribunal
order/ direction – Penalty per day upto
10% of cost of project or imprisonment
or both

Sec. 65/66 - Real estate agent – Violating
RERA or tribunal orders/directions – Per
day upto 5% or 10% of apartment cost
&/or imprisonment upto 1 year

Sec. 67/68 – By Allottee - Violation
of RERA order/ direction – Penalty
upto 5% of cost of Apartment or
Plot - Tribunal order – upto 10% or
imprisonment for 1 year or both

Sec. 69 – Companies/Firm – Person
(Director/manager/Secretary or any
officer) responsible/In charge &
company will be held

Firms – Include all partners –

Connivance / attributable is imp

Compounding of offence permitted

Sec. 71 – Adjudication – To decide
Compensation Sec. 12 (Advtg) ,14
(Repairs in 5 yrs) , 18 (Not
completing or defective title – No
Law of Limitation), 19 (Allottee
rights) - Dist Judge level – Form “B”

Fees 5,000/-

Sec. 71 – Adjudication officer

If complaint on similar issues , the Allottee can withdraw complaint before Consumer courts & approach Adjudicator – Dispose preferably in 60 days – else record reasons for not disposing.

Power to summon etc – Fix Amt

Sec. 72 – Adjudicator will take into
account facts like -

Disproportionate gains or unfair
advantage , if quantifiable

Amount of loss caused if any

Repetitive nature of default etc

VERY IMPORTANT

Sec. 79 – No Civil Court will have jurisdiction to entertain any suit on any matter which the RERA authority or tribunal or Adjct officer is empowered under this Act. No injunction by any court

Sec. 82 – State Govt can
supersede RERA for 6 months

Sec. 84 – State Govt will make
Rules

Sec. 85 – State RERA will make
Regulations in 3 months - 24-4-17

Sec. 88 – RERA Act shall
be in addition to & not in
derogation of the
provisions of any other
law in force.

Sec. 89 – RERA Act shall

have effect

notwithstanding

anything inconsistent in

any other law in force

Maharashtra RERA website made
/ managed by TCS who also
maintains Aaple Sarkar
Convenience fees to be levied.

Maharashtra RERA Rules on
Recovery Interest, Penalty ,
Compensation, Complaints 2017

Notified on 19-4-2017

9 Rules & 3 forms

Sec. 40 - Interest, penalty, compensation
to be recovered as land revenue & as
court order – Rule 3 & 4

Maharashtra RERA Rules on Appt
of Chairperson, officers ,
employees , service conditions

2017

Notified on 17-4-2017

**Maharashtra Real Estate
(Regulation and Development)
(Regn etc) Rules 2017**

Notified on 20-4-2017

**Language - English but Marathi also
allowed**

RERA or REAT orders will enforceable
like court orders

Sec. 70 - Compounding of offences -

As per Rules dt: 19-4-17, Minimum 5% till
10% - For Sec. 59 (5%) , 64 (Reat order
5%) , 66 (Reat - agent - 5%) & 68 (Reat-
allottee - 5%) Only

Maha RERA Regulations

24-4-2017 / 48 Regulations

Takes Birth from Act Sec. 85

Regulations to be consistent

with Act & Rules

FAQ's - MAH RERA

(13). Is it mandatory for the promoter to obtain permissions for the real estate project before applying for registration to Maha RERA?

Ans : Yes, the **layout of the real estate project has to be approved**. However, the promoter may include some buildings in his application of registration where apartments are proposed and the Building approvals are pending. **Building Approval for the apartment must be obtained before the agreement for sale is signed between the promoter and buyer, regarding the said apartment.**

FAQ's - MAH RERA

Q.7 : Newspaper REPORTS say No Development Permission (New Construction) as BMC is not clearing garbage/debris, shortage of water supply (i.e. infrastructure & environment requirement) No FSI also will be given to redevelopment project. Will the promoters be held responsible for such delays in ongoing projects ? If policy changes by Govt or by High Court verdict, the project will be delayed. Who will be responsible ?

Ans: Affected promoters may bring such issues up before MahaRERA. MahaRERA will take action in accordance with the Act and Rules, in consultation with concerned stakeholders

Bombay High Court

Civil Appellate Side – PIL No. 217 of 2009

Judgement dt : 29th Feb 2016

Observations - Para 23 – The State Govt is encouraging unsustainable growth

Order – Page # 36

No Development permission / IOD shall be granted by MCGM or State Govt on fresh applications from 1-3-2016, for construction of new residential or commercial buildings, incl Malls, hotels, restaurants. No CC to be issued. No effect on 33(5) to 33(10) or construction of Hospital or Educational institutions.

Mah - FAQ 44. The promoter can hand over the common amenities only after completing subsequent phases. What should he commit to the customer for the registered phase ?

Ans

A promoter should meticulously plan the buildings of the registered phase & common areas and then declare the individual date of handing over possession of the building & common areas. Each phase along with the development works shall have to be completed & handed over to the allottee within the time frame defined by the promoter, during registration, for that phase of the project.

FAQ's - MAHARASHTRA RERA

46. Can project finance taken by promoters from financial institutions be withdrawn from designated 70% account ?

Ans : Yes, if this is declared at the time of registration and subject to provisions of Sec.4 of the Act and rules made there under. However, the money withdrawn should be utilized towards construction expenses of the project, on priority.

FAQ's - MAHARASHTRA RERA

48. Whether money collected from allottees towards stamp duty, registration, share money for society, deposits for maintenance, corpus funds, infrastructure charges, parking charges etc, are required to be deposited in the designated bank account (70 %)?

Ans: Yes, since these are part of the project cost

Read Clause # 15 of Draft Agreement ??

But when you read Circular No. 7
Dt : 4-7-17, it is stated therein that
such "*Pass through charges*" should
NOT be deposited in the designated
70% account but in some separate
account. Same guidelines for GST
collected.

CLARIFICATION - MAHA RERA Dt : 11-5-17

A Landowner may handover his land to a promoter for 20% share in Apts &/or 20% share of revenue from sale of Apts or some amount - Investor advancing money & entitled to say 20% share of total area developed. ???

These landowners are treated as Promoters. Payments to them , not treated as Cost of project & hence not permitted from 70%

CLARIFICATION - MAHA RERA

Define Co-Promoter

Any person/entity who under any agreement or arrangement with the promoter is allotted or entitled to share of total revenue from sale of Apts OR share of total area

Liabilities as per agreement with promoters
Same condition of 70%-30% and restrictions on withdrawals. Open **separate** 70% bank a/c on sale from allottees (if they sell)

Give Form No. B - Affidavit

Circular No. 7 Dt: 4-7-2017

The designated bank a/c { 70% } shall have a no lien – But can be put in Fixed deposit Cancellation refund , to the extent of 70%, can be from this designated a/c

Agreement between promoter & co-promoter should clearly specify liabilities and roles. Specify the primary promoter who will be responsible for completion of the project.

Rulings by MahaRERA

Mr. Vishal Kamble.....Complainant

Versus

Mr. Amol Lalchand Bhilare and Mr. Kiran
Ambadas Gote.....Respondents

Coram : Hon'ble Dr. Vijay Satbir Singh,

Date : 26th September 2017

Issue amongst promoters is not beyond RERA

Rulings by MahaRERA

The MahaRERA also observed that the complainant is one of the co-owner of the plot of land under the registered project bearing No. P52100001226. There are about 40 co-owners of the said plot of land and they are having area sharing in the project as per the registered development agreement executed in the year 2012. However, their names have not been not uploaded as co-promoters in said project. As per the provisions of RERA Act, 2016. Rules and Regulation issued there under, all relevant information should be disclosed while registering the project with the MahaRERA. However, this has not been happened in this case due to the internal disputes of the parties.

The MahaRERA therefore directs the complainant to provide the details such as Bank account declaration Form B of co-promoter. Aadhar Card etc. to the respondents within a period of two days from today. On receipt thereof, the respondents are directed to correct and update the relevant information in registered project with the MahaRERA by joining complainant and other owners as co-promoters within a period of 5 days.

FAQ's - MAHARASHTRA RERA

Q. 6 : How "Existing Member's" interest is protected in re-development project ?

Ans: Existing members are members of the society which is a co-promoter in the redevelopment project. Complaints to MahaRERA can be filed against such registered projects, with respect to violations/contraventions of provisions of Act, Rules or Regulations.

Means for matter inter-se, approach civil courts

FAQ's - MAHARASHTRA RERA

Q.13: In the case of joint development, where owner is there, is he liable to the development and would the owner include government authorities also i.e. land owning authorities.

Ans: Yes, they are co-promoters.

Mah – FAQ 56. What if part OC has been received for a project. Is it exempt from registration

Ans

NO

MOFA 1963 - 18 Sections (Rules in 1964)

Sec. 3(2) – Liabilities of promoter – carpet area

Sec. 4 - Promoter not to receive more than 20% payment without making Regd Agreement for sale - prescribed form

Sec.5 - Promoter to maintain separate bank a/c and make payments from that a/c

Sec. 6 - Promoter has to pay outgoings till transfer to purchaser or Transfer to society

Sec. 7 - No Alterations or changes without permission of buyer. Within 3 years rectify defects free of cost.

MOFA 1963 - 18 Sections

Sec. 8 - Failure to give possession , then refund with 9 % interest

Sec. 10 - Formation of society mandatory – Time as specified or 4 Months of minimum number of allottees

Sec. 11 - Conveyance – Time specified - If no time stated in Agrmt then 4 months of Co-op Soc

Power to Dep Registrar of Co-op Societies as Competent authority – Offences to Magistrates₁₇₈

Maharashtra Housing (Regulation & Development) Act 2012 – MHA

56 Sections

Gazette published 24-2-14

Draft Rules 6-9-2014

Part notification on 8-7-14 (some Sections)

— Not yet notified till 2015 —

Was supposed to repeal MOFA 1963

RERA will repeal MHA 2012 though not notified still – Hence MOFA may not go

No Housing Regulatory Authority under MHA was established

FAQ's - MAHARASHTRA RERA

Q.12: (1) If a promoter has declared FSI, common amenities etc. in the MOFA Agreement, can he reduce the same while registration of the project & if he reduces, what is the remedy to the consumer?

Ans: Violations in the terms of the MoFA agreement have to be taken up with the competent authority under MoFA. Complaints to MahaRERA have to be against registered projects, with respect to violations/contraventions of provisions of RERA Act, Rules or Regulations

FAQ's - MAHARASHTRA RERA

Q.14: Pl. enlighten on the buildings which are occupied fully for last several years but no O.C./BCC till date. Are such buildings required to be registered under RERA?

Ans: An on-going project is one where construction is still not complete, OC is yet to be obtained and building has not been occupied by allottees. Such on-going projects have to be registered with MahaRERA.

Buildings without OC/BCC but occupied by allottees have to approach Competent Authority under MoFA for deemed conveyance and thereafter approach planning Authority for OC

Bulletins on Complaints under MahaRERA

(Source HT, date September 07, 2017)

MahaRERA has so far received 96 complaints.

Complaints would be disposed of within the stipulated 60-days period.

The most common complaints is of delay in projects.

Builders don't execute the agreements, despites buyers paying them more than 20 % of the amount.

The agreements are not as per the model agreement format in some case.

Complaints are also of infighting among builders executing the project.

RERA Rules in other States

(Source MeraRera Website)

State	Rules
Kerala	RERA for Kerala will not entertain old complaints RERA for kerala to only add new projects State Act only provided only a two-year warranty
Gujarat	Gujarat has excluded ongoing projects from the Act Gujarat has exempted all projects launched before notification of the rules on November
Rajasthan	NoC from Environment and Airport Authority of India (AAI) Developers have to seek NoC from six different departments
Uttar Pradesh	Buyers can stop payment to builders if promises are not pleased

RERA Rules For On-site and Off-site Expenses in different State

State	Expense
Rajasthan	On-site
Tamil-Nadu	On-site
Karnataka	On-site and off-site
Haryana	On-site
Chhattisgarh	On-site
Madhya-Pradesh	On-site
Maharashtra	On-site and Off-site
Andhra-Pradesh	On-site

Thank You

CA Rajesh Sanghvi

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