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“A critical examination regarding consumer rights and real estate fraud within the Real Estate Regulation and Development Act 2016.”

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Abstract

In India, unorganised real estate activities, deceit, fraud, and lack of accountability have been persistent problems for many years. RERA was brought into action to address these issues. This paper rationally evaluates the consequences of RERA legislation towards fraudulent activities and balancing the rights of the consumers. It assesses the main provisions of the Act, its implementation, achievements, and objectives. Using the key legal provisions, court suits, and stakeholder effects, this study analyses the outcome of objectives resulting from RERA. The suggested policies resolve the practical difficulties for rules enforcing to provide a better structure for protection in the Real Estate industry. The real estate sector of the world has been a very crucial economic region of trade for a long time. The Indian economy is heavily reliant on infrastructure development and enhancing productivity within the real estate sector. Although India remains the concern of major global economies due to robust growth, there is a rise in the scrutiny of the Indian market. While the sector has promising potential, it is persistently confronted with rampant project completion delays, frauds by developers, and a lack of transparency. These challenges have fundamentally deteriorated the relationship between homebuyers and the market, amplifying the demand for effective regulation while further eroding trust in the market. In response to these inadequacies, the Indian government instituted the RERA Act of 2016.

Keyword: Real estate sector, Consumer rights, RERA, Rera consumer protection, Real estate fraud, Builders liability, Homebuyers' protection, Disputes, Transparency

INTRODUCTION

The real estate sector in India has long been plagued by issues of asymmetry of information, delayed possession, contractual ambiguities, and financial exploitation of consumers. Homebuyers often found themselves at the mercy of powerful developers who operated in a largely unregulated environment, leading to widespread real estate frauds and an erosion of trust. In response to these persistent issues, the Indian legislature enacted the Real Estate (Regulation and Development) Act, 2016 (RERA) with the objective of bringing transparency, accountability, and fairness to the real estate market.

RERA represents a landmark legal reform aimed at safeguarding consumer rights by regulating the activities of real estate developers, mandating project registration, and ensuring the timely delivery of projects¹. The Act empowers buyers with enforceable rights and provides a specialized redressal mechanism through Real Estate Regulatory Authorities and Appellate Tribunals. However, while RERA has made notable strides in reshaping the legal landscape, challenges in its implementation, regulatory inconsistencies across states, and gaps in enforcement continue to hinder its full potential.

Overview

The Real Estate (Regulation and Development) Act, 2016 (RERA) was enacted with the primary objective of protecting the interests of consumers in the real estate sector, promoting transparency, and ensuring fair play in property transactions. Before the introduction of this legislation, real estate buyers frequently suffered from deceptive practices such as project delays, diversion of funds, non-disclosure of legal approvals, and changes in project layout, all of which culminated in significant financial and psychological distress for consumers.

RERA marked a significant policy shift, introducing statutory obligations on real estate developers, agents, and promoters. Key provisions such as mandatory registration of real estate projects, maintenance of a separate escrow account for project funds, disclosure of project details, and penalties for non-compliance were designed to eliminate fraudulent practices and empower buyers². The Act also established Real Estate Regulatory Authorities

¹ Singh, Anoop Kumar, "The Real Estate Regulation and Development Act, 2016: A New Framework for Consumer Protection", Journal of the Indian Law Institute, 59(3), 2017, pp. 395–412

² Bansal, Pankaj, "RERA and the Indian Real Estate Market: Compliance, Challenges, and Way Forward", Indian Journal of Legal Studies, 10(2), 2018, pp. 67–84

(RERAs) in each state to monitor project compliance and adjudicate consumer grievances through dedicated Real Estate Appellate Tribunals (REATs). This research topic delves into the consumer-centric nature of RERA, examining how the Act enhances consumer rights and rectifies power imbalances that historically favoured developers. It further analyses the extent of legal protection offered against real estate frauds, the role of regulatory authorities in enforcement, and the evolving judicial interpretation of consumer rights under the Act. Additionally, the study explores the gaps and challenges in the implementation of RERA, including inconsistent state rules, delayed justice delivery, and lack of awareness among stakeholders.

Main Aspects of RERA and Their Consequences

1. Compulsory Registration of Projects and Agents

An essential element of the Real Estate (Regulation and Development) Act 2016 is the registration of real estate projects and real estate agents with the respective State RERA authorities. The Act provides that any project which has more than 8 apartments or is greater than 500 square metres of land must register before advertising, booking, or selling. This provision guarantees that no project can be launched without proper approvals and disclosures.

Real estate agents also must register themselves to legally operate. This registration requirement helps eliminate unregulated middlemen who were previously a major source of misrepresentation and malpractice in property transactions³. It is mandatory to confirm credentials as a requirement of the registration process so that only genuine and qualified individuals operate in the sector.

2. Disclosure Requirements

RERA imposes strict disclosure norms on developers. During the registration, promoters have to put up significant project-related information on RERA's portal which may be accessed by the public. This consists of (but is not limited to):

- Approved layout and building plans
- Completion date
- Statutory approvals
- Current status of land ownership
- Details of the promoter including information on their prior work

3. Project Completion and Fund Utilisation

Diversion of funds from one project to another, which has caused massive delays and cost overruns, remains one of the underlying concerns in the estate business. To curb this, RERA makes it obligatory for 70% of the funds that are collected from the buyers to be kept in a designated escrow account in a scheduled bank. Withdrawals are only permitted in proportion to the completion of the project and after certification by an engineer, architect, and a chartered accountant, in whose name the funds will be preserved.

4. Timely Delivery and Compensation

One of the most noteworthy issues for buyers of property has been the timely delivery of possession. As mandated in RERA, the developers are required to complete all works and hand over the projects in accordance with the timeline they registered, at the time of registration. In the instance of delays, The Act stipulates that the buyers are entitled to:

- Compensation for delay.
- Alternatively, for reclaimable claims, a refund of the amount paid along with interest, paid partway through the process, should they wish to abandon the endeavour.

The interest is usually equal to the rate of interest that is charged on account of default by the buyer.

5. Fast-track dispute resolution

In an effort to mitigate complaints within a stipulated time frame, RERA makes provision for the setting up of:

- The primary level Real Estate Regulatory Authorities (RERAs) for the adjudication of disputes.
- The Real Estate Appellate Tribunals (REATs) for appeals and reviews.

These tribunals must resolve the complaint no later than 60 days from the date of filing. Apart from the above, dissatisfied parties also have the option to reach out to the civil courts and consumer forums if they are not satisfied with the decision of RERA. That being said, RERA attempts to reduce the requirement for lengthy litigations.

Aims of RERA

RERA has several aims, but these can be condensed into three guiding principles which are consumer protection, transparency, and accountability⁴.

1. Transparency

RERA considers it a breach of compliance for real estate developers to sell or advertise their projects before registration with the Real Estate Developers Regulatory Authority, hence requiring them to register. This further obligates developers to provide basic information regarding the land pertaining to the

³ Godge, A. and Kumar, A., "Features, Benefits, Impact, and Key Provisions of Real Estate Regulatory Authority (RERA) Act 2016", *Vidyabharati International Interdisciplinary Research Journal*, 13(1), 2021, pp. 998–1002.

⁴ Radhakrishnan, S. and Selvan, K.G., "A Review on Impacts of RERA Act, 2016 on Housing Sector in India", *International Research Journal of Modernization in Engineering, Technology and Science*, 5(2), 2023, pp. 2106–2112

project, project layout, approvals, name of the contractor, timelines, all of which must also be published on the state RERA website. Steps like these ensure that the consumer is not kept in the dark concerning the developer's credibility and progress of the project.

2. Accountability

One of the key purposes of RERA is the obligation on builders to answer to set timelines for project delivery and completion.

The law requires promoters to set aside 70% of the funds received from allottees in an escrow account, which shall only be utilised for that specific project. Such measures curtail fund diversion which has been a frequent reason for project delays. Builders are obligated to pay interest to homebuyers in case of delay or default, consequently legally binding the developer in the event of failure.

3. Consumer Protection

RERA has perhaps undergone its most defining change in its approach toward consumers. The act allows homebuyers to seek legal remedy through adjudicating officers and Appellate Tribunals. Builders and developers are obligated to provide compensation for failure to deliver as per agreements, and they may be sued for non-payment, construction, or other obligations enforced upon them. Furthermore, the legislation also makes provision against trade malpractice allowing the maintenance of equality of truth in promises such as area, sqft precision, quality, and offered facilities.

Function of RERA in Controlling fraudulent transactions in real estate

1. Proactive measures to prevent delays in projects and misallocation of funds.

The initial phase of projects under the Indian real estate spectrum was faced with numerous delays largely due to lack of funds and poor strategies set in place by the developers⁵. RERA intends to target such problem areas with its policy pertaining to the escrow account.

Under the provisions of law, RERA states that 70 percent of money received from buyers should be set aside in a separate account funded by money gained through constructing and purchasing land specifically for the project as placed in the charter under the invasion non-construction clause⁶. Withdrawals can only be made in accordance with the level of completion of the works and must first be verified by an engineer, an architect, and a chartered accountant. Such mechanisms have minimised diversions of funds and also ensured that construction is appropriately advanced within strict time limits⁷. Furthermore, RERA requires realistic timelines for the projects to be declared throughout the registration phase, and in case of any delays, interest penalties are payable to the homebuyer, which incentivises meeting strict deadlines.

2. Measures Against Non-Compliant Promoters

RERA established firm penalties and litigative actions for those developers who do not meet their obligations under the regime. Promoters are subject to these penalties if they do not meet project registration specifications, do not provide appropriate and accurate information, or do not abide by set terms towards allottees:

- Fines not exceeding 10% of the total cost of the project.
- Custodial sentences of up to 3 years for less severe cases.
- Suspension or total withdrawal of project registration are also measures.

In addition, developers are responsible for the defective title, substandard construction works, changes not sanctioned, and so on, which moves the reallocation risk burden from consumers onto the builders. As a consequence of such regulations, a large number of builders have changed their practices towards compliant ones, in turn limiting fraudulent activities.

3. Remedial Cases After RERA Implementation

RERA has proven to be a catalyst in the fulfilment of legal agreements by real estate companies to buyers of homes. This can be easily seen through the following landmark cases⁸:

- Jaypee Infratech Case (UP RERA): This involved hundreds of homebuyers who invested in the Jaypee Wish Town project which suffered from substantial delays. When the Supreme Court intervened with RERA, the insolvency procedure was modified in homebuyers' interest so that pending flats could be completed along with refunds.
- The Amrapali Group Case: In one of the most landmark cases, the Supreme Court, based on RERA and legal provisions, ruled for the Amrapali Group to have their registration cancelled, properties frozen, and NBCC (the governing body) was ordered to complete abandoned projects after forensic audits traced diverted funds. This case raised questions on RERA's leverage when paired with judicial action.
- DLF Case (Haryana RERA): DLF faced repercussions from the Haryana RERA due to not delivering possession on time, along with guaranteed delay controls, and unapproved changes to the structure of one of the projects located in Gurgaon. The authority charged penalties and ordered payment to rectify homebuyers.

⁵ Choudhury, Ananya, "Structural Reforms in the Real Estate Sector: Consequences of Implementing RERA", *Journal of Law and Public Policy*, 9(2), 2021, pp. 56–74

⁶ Verma, Asha, "Impact of Real Estate (Regulation and Development) Act, 2016 on the Indian Real Estate Industry", *National Journal of Real Estate Law*, 2(1), 2023, pp. 45–60

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⁸ <https://vakilsearch.com/blog/duties-functions-of-rera-authority/Last-visited-20-March-2025>

Achievements of RERA

1. Buyer Confidence Augmented

One of the greatest accomplishments of the Real Estate (Regulation and Development) Act 2016 is the boost in confidence among homebuyers resulting in an increase in trust. Previously, there was unpredictability, non-transparency, and excessive waiting during real estate deals in India, leading to a shift in sovereignty towards developers. This scenario has been altered by RERA through the introduction of:

- Builders' compulsory disclosures
- Fixed deadlines for completion of various stages of the project.
- Relevant pricing structures.
- Fines for violations.

All relevant stakeholders can now view the project approval, land title, and current progress. This level of transparency has empowered consumers to a great extent, allowing them to invest with far more confidence than previously.

2. Reduction in Fraudulent Activities

Before the enactment of RERA, it was common for companies to misadvertise, sell pre-launch units without requisite approvals, and siphon funds away for unauthorised uses. The framework lays down guidelines that successfully minimise such issues:

- Only projects whose developers have registered with the authority can be advertised for sale.
- Dishonest practices come with harsh consequences in the form of large fines or jail time.
- Buyers' funds which are not placed in escrow accounts are available for use by developers only for the purposes of project completion.
- Legal action is taken against developers who do not adhere to advertised boundaries, features, and specifications of the housing project.

3. Legal Empowerment of Consumers

These days, most homebuyers are able to resolve disputes more effortlessly than before, all thanks to RERA. Previously, aggrieved homebuyers had few avenues to pursue - typically lengthy and expensive civil litigation or consumer court, and often had no set date by which issues would be resolved⁹.

Introducing:

- Establishment of Real Estate Regulatory Agency at state level aimed at dealing with consumer grievances more effectively.
- For faster appeals: Real Estate Appellate Tribunals (REATs).
- Defined Resolution Time – There are usually 60 days to resolve disputes.
- Provisions for refund, compensation, and interest if there is a delay, fraud or breach of agreement.

It is a one-sided enforcement of rights and remedies against consumer passivity, no longer being a victim but being legally active instead.

Challenges and Limitations of RERA

1. State Delay on Implementation

Even though RERA is a central legislation, the implementation is up to the states. Each state and Union Territory was to¹⁰:

- Notify rules under the Act
- Set up a State Real Estate Regulatory Authority
- Construct an Appellate Tribunal for Real Estate.

In any case, many of these states have slowed down or diluted the rules, which compromises RERA¹¹:

- Several of the states have reasonable regulations such that the Act proceeds at least as quickly as the central one on project registration minima and sanctions.
- Part of the remaining states still does not have fully functioning authorities or user-friendly online portals active for clients to authenticate project information or register grievances.

2. Political and Economic Power of Developers with Legal Gaps

Real estate matters in India carry significant political and economic weight. Influenced by developer associations and lobbying groups, state governments have been compelled to relax certain provisions of RERA, among others.

- Smaller plots have ongoing projects that are exempt from rules.
- Deferments and presumption flexibility allow definitional changes.
- In certain cases, builders can rather easily obtain project extensions, countering the stringent deadlines envisioned under RERA.

Developers also routinely exploit legal loopholes and delays systematically:

- Making suspensive appeals to postpone provisional payments.

⁹ <https://lawfullegal.in/challenges-in-resolving-real-estate-disputes-in-india-a-legal-perspective/Last-visited-19-05-2024>

¹⁰ Joshi, Ashish B. and Singh, N., "Real Estate Regulation Act (RERA), 2016: Implementation and Issues", *International Journal of Management Studies*, 5(4), 2018, pp. 96–102

¹¹ <https://www.angelone.in/news/rera-is-a-great-idea-but-it-still-has-some-key-challenges-Last-Visited-at->

- Using vague provisions of purchaser entitlements to evade responsibility.

3. Overloaded Regulators

Another issue arises from the functioning of RERA authorities. Although the law legally mandates swift resolution of disputes ideally within 60 days it often operates like this:

- Much of the manpower and infrastructure available to sub-state authorities is limited.
- The absence of necessary technical and legal skills hinders effective adjudication.
- Some authorities function without staff on permanent premises or on a full-time basis.

This results in a backlog of complaints, sickness leave during operational delays in decision implementation, hindered execution of enforcement orders, and delays in enacting decisions.

4. Low Information Supply for Consumers

The reality most overlooked is that, for most consumers, they simply do not know enough information. Most homebuyers¹²:

- Do not verify if a project is RERA-registered.
- Are unaware of their legal entitlement to compensation or interest charges for delays.
- Have no idea how to navigate the RERA portal or lodge a complaint.

This phenomenon is particularly pronounced in the semi-urban and rural markets where developers continue to operate without thorough scrutiny.

Campaigns on awareness issued by the government or concerned bodies have not exceeded a bare minimum and have not had any impact.

Relevant Legal Decisions

1. Newtech Promoters and Developers Pvt. Ltd. v. State of UP and Ors.¹³ (2021 SCC OnLine SC 1044)

In the very important decision, the Supreme Court dealt with the issue if RERA supersedes the Consumer Protection Act: With regard to the jurisdiction of RERA and the Consumer Forums, the Supreme Court has positioned that both have concurrent jurisdiction. This means that the aggrieved home buyer has the liberty to approach either forum depending on his or her decision. The court stated that the mechanisms under the Consumer Protection Act provides wider relief. Additionally, the court stated that RERA will not provide suffering alleviation, but serves as a parallel remedy. This was one important decision further reinforcing buyer's right to forum of their choice which is appropriate for their grievance.

2. Pioneer Urban Land and Infrastructure Ltd. v. Govindan Raghavan¹⁴ (2019) 5 SCC 725

The court has analysed the case on so-called imbalance in the developer-buyer agreements whereby a disproportionate benefit is given to the developer. The court relied on the principle of good faith and fair dealing within contracts. In this context the court stated that such agreements are unilateral, unreasonable, and predatory. The court sought to protect consumers by refusing to enforce those terms and ruled in favour of the buyer emphasising the intent behind RERA's provisions and set a new standard in the face of abusive contract design.

3. M/s Imperia Structures Ltd. v. Anil Patni & Anr.¹⁵ (2020 SCC OnLine SC 894)

The case considered whether complaints could still be preferred before Consumer Forums after the enactment of RERA. The Court maintained that buyers have the right to approach Consumer Forums, and RERA does not limit this choice. It reiterated that RERA is an additional remedy, not an exclusive remedy. This judgement further consolidated the autonomy of the consumers in pursuing redressal while elucidating on the administrative ambiguity.

4. Ajay Kumar Shukla v. Parsvnath Developers Ltd. (UP RERA, 2020)

In this case, the complainant approached UP RERA on account of inordinate delays in the delivery of a purchased flat. The authority found in favour of the complainant and concluded that the developer had not complied with the timelines for possession. They ordered the builder to pay back the booking amount with interest. This ruling underscored the role of RERA in enforcing timely possession and penalising delays which were commonplace before the RERA framework.

5. Jaypee Infratech Insolvency Case (Chitra Sharma v. Union of India)¹⁶ (2018) 18 SCC 575

This case emerged from the insolvency proceedings of Jaypee Infratech. With the collapsing finances of the developer, thousands of homebuyers were at risk of losing their investment.

The Supreme Court stepped in and treated homebuyers as financial creditors under the Insolvency and Bankruptcy Code (IBC), granting them a place among creditors. The Court seemed to be motivated by RERA's protective mechanism that buyers were not left without a remedy in cases of insolvency.

¹² Patil, P. P., "Review and Analysis of RERA Act", *International Journal of Engineering Research and Technology (IJERT)*, 9(11), 2020, pp. 68–72

¹³ 2021 SCC OnLine SC 1044

¹⁴ (2019) 5 SCC 725

¹⁵ 2020 SCC OnLine SC 894

¹⁶ (2018) 18 SCC 575

6. Amrapali Group Case (Bikram Chatterji v. Union of India)¹⁷ (2019 SCC OnLine SC 682)

This is one of the landmark cases where Court ruled that the Amrapali Group had allegedly siphoned off the money received from homebuyers to other corporate entities and had not completed the housing projects. The Court withdrew Amrapali's RERA registration and gave construction works to the NBCC (a government body). The case became a hallmark of judicial activism that showed how courts can implement RERA principles to assist defrauded homebuyers and ensure that they receive the constructions they have paid for.

7. DLF Universal Ltd. v. Haryana RERA (2019)

In this case, DLF advertised a new real estate project without registering it under RERA and buyers accused them of falsely advertising timelines to complete the project. The Haryana RERA penalised DLF and endorsed the inescapable requirement of registering the project under RERA. The case enhanced the regulatory framework ensuring that developers cannot circumvent compliance obligations.

8. Kolkata West International City Pvt. Ltd v. Devasis Rudra (2021 SCC OnLine NCLAT 173)

In this matter, buyers applied for a refund pertaining to a project which had breached a reasonable period of delay. NCLAT pointed out that allottees possess the right to rescind from projects that are unduly delayed and that a full refund with interest will be given on demand. This decision boosted the confidence of buyers within the real estate market and it was upheld that the developer's excuses for delay were not sustainable under RERA.

9. Wg. Cdr. Arifur Rahman Khan v. DLF Southern Homes Pvt. Ltd.¹⁸ (2020) 16 SCC 512

This issue centred around the question of whether several homebuyers with a shared grievance could file a collective complaint. The ruling was affirmative meaning that they are allowed. According to the Court, aggregate complaints are not only permitted but encouraged under RERA and consumer law most particularly when they are allottees of the same housing project. The decision has resulted in a reduction in the rate of litigation and delay which promotes effective grievance redressal.

10. M/s TDI Infrastructure Ltd. v. Kuldeep Singh¹⁹ (2019 SCC OnLine NCDRC 604)

This was a consumer complaint case where the seller was alleged to have deceived the consumers at the time of sale by making deceptive advertisements as well as imposing an additional fee which was not included at the time of booking.

The NCDRC directed the refund of the excessive charges along with compensation, arguing that these actions breached RERA principles of transparency. It was this type of decision that served as a deterrent to developers from using misleading marketing strategies.

11. M/s Geetanjali Aman Constructions v. Hrishikesh Ramesh Paranjpe, the developer claimed exemption from RERA registration, citing Section 3(2)(a) of the Act. However, the Appellate Tribunal held that for exemption under Section 3(2)(a), both conditions — the project area being less than 500 sq. meters and having fewer than 8 apartments — must be met simultaneously. As only one condition was met, registration was mandatory. The Tribunal imposed a fine of ₹30 lakhs and directed project registration.

12. Mr. Jatin Mavani v. M/s Rare Township Pvt. Ltd., the complainant, part of a larger association that had already obtained relief, attempted to file a separate complaint for refund and interest. MahaRERA applied the principle of *res judicata* and held that individual complaints on the same cause of action were not maintainable once the association's plea was resolved.

13. Sushil Ansal v. Ashok Tripathi & Ors., the issue was whether homebuyers who had obtained a recovery certificate from RERA could be treated as "financial creditors" under the Insolvency and Bankruptcy Code (IBC). The NCLAT held that decree-holders were not automatically considered financial creditors and could not invoke insolvency proceedings solely to enforce recovery.

14. Baldev Singh v. Ultratech Township Developers Pvt. Ltd., the complainant sought a refund and interest due to a delay in possession. MahaRERA upheld the buyer's rights under Section 18 of the Act and ordered the builder to refund the paid amount along with interest, reinforcing the accountability of developers. These decisions collectively affirm RERA's role in consumer protection, while also clarifying the legal limits of concurrent remedies under other statutes.

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¹⁷ 2021 SCC OnLine NCLAT 173

¹⁸ (2020) 16 SCC 512

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