Real Estate (Regulation & Development) Act, 2016 – What now??

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The Real Estate (Regulation and Development) Act, 2016, or RERA, has come into force beginning May 1st, 2017. The law is supposed to protect the interest of home-buyers and usher in transparency and accountability into the otherwise opaque and unregulated real estate sector. For the implementation of these regulations, each state and union territory will have to form their own Regulatory Authority (RA) which will frame regulations and rules according to the Act. As on May 1st, 13 states and union territories had notified their rules and provisions of the law. State Regulators will be responsible for registering each real estate projects and real estate agent operating in their state under RERA. The details for each of these registered projects would be available on a website which could be accessed by the public.

So far Uttar Pradesh, Gujarat, Kerala, Odisha, Andhra Pradesh, Madhya Pradesh, Bihar and union territories of NCT of Delhi, Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep have notified rules for implementation of RERA 2016.

Bihar and Odisha have notified rules in complete sync with the one notified by the Ministry of Housing and Poverty Alleviation. While other states like Uttar Pradesh, Haryana and Gujarat have provided certain exemptions to ongoing projects, thus diluting the law to a certain extent. States namely Delhi and Maharashtra have also given some major relaxation in terms of disclosures and lock-In period on investments made by developers.

RERA would have an impact on the entire industry, across all three segments namely- residential, commercial and retail. But more impact could be seen on the residential development in terms of supply especially, while the other two may have a lesser impact in terms of supply aqnd demand. Apart from developers, the regulations are also applicable on real estate agents/brokers who would have to now register with the Regulatory authority in order to deal in any form of Real Estate.

The various disclosures to be made by the developer and registering, and getting all necessary clearances before selling a project, are some of the provisions which would have a major impact on buyer's confidence. If RERA would help improve the buying sentiment in housing, is still an uncertainty, but it would definitely impact new launches negatively till the final rules are notified and the regulatory authority is appointed by the state.

About RERA and some notable provisions-

- Developers are required to deposit 70 per cent of the funds collected from buyers in a separate bank account in case of new projects and 70 per cent of unused funds in case of ongoing projects.
- Mandatory registration: All projects with plot size of minimum 500 sq.mt or eight apartments need to be registered with Regulatory Authorities.
- Developers can't invite, advertise, sell, offer, market or book any plot, apartment, house, building, investment in projects, without first registering it with the regulatory authority. Furthermore, after registration, all the advertisement inviting investment will have to bear the unique RERA registration number which is provided project-wise.
- Penalty in case of delay: Both developers and buyers are required to pay the same penal interest of SBI's Marginal Cost of Lending Rate plus 2% in case of delays.
- Liability: Developers will have a liability on the quality of construction and structural defects for five years.
- Punishment: Imprisonment of up to three years for developers and up to one year in case of agents and buyers for violation of orders of Appellate Tribunals and Regulatory Authorities.
- Changes in Project configuration and change in holding: The Developer would need approval from 2/3rd of the allottees excluding the developer and from RERA regulatory authorities.

Supply and Demand

The past three years have seen steady decline in inventory addition owing to slump in sales. Demonetization had impacted the real estate sales and now RERA may just have aggravated the situation from supply side.

On the part of the states, few of them seem to have taken developer friendly stance to some extent, thus diluting the law in aiding the buyer community.

Talking about the three largest real estate markets in the country namely, Mumbai, Bangalore and National Capital Region (NCR), each state has notified separate rules and thus the impact of the RERA may be different for all these markets.

- Mumbai which falls under the purview of Maharashtra Regulatory Authority has made it mandatory for even ongoing projects to register under RERA. Bangalore which falls under the purview of Karnataka Regulatory Authority for RERA, wherein the state is yet to notify rules for RERA may see more delay in inventory additions given the ambiguity surrounding the regulation. .
- NCR consists of Gurgaon, Noida and Ghaziabad micro markets apart from Delhi. Gurgaon and the other two micro markets falling under Haryana and Uttar Pradesh, respectively. Given the highest inventory overhang, the region may see negligible inventory addition for the next few quarters..

<u>CARE View:</u>

- New launches have been sluggish over the last couple of months, and the same scenario is expected to continue for at least a quarter, going ahead.
- The fear of penalties and strict deadlines as well as the need to raise money for individual projects will see developers focusing on new projects which will fall within the RERA ambit, while sidelining older ones where there is no regulation of delay. This may specifically happen in markets in the states of Uttar Pradesh, Haryana and Gujarat wherein there are exemptions for ongoing projects.
- Smaller local developers with higher dependence on advances from customers may find it difficult to operate under the new regulatory regime. The larger developers with more access to capital from banks, financial institutions and higher promoter funds would have an edge.
- Agreements between various parties i.e. land owners, developer and financial investors may undergo changes with in lines with the provisions of RERA.

- Financial institution may see a greater role in funding real estate sector with developers preferring to launch the projects only nearing completion and not while the project is under construction. While the payback time for the financial institution for projects may increase, the overall IRR may see an increase with the funds received from customer advances being allocated towards project completion first and repayment being subordinated.
- While the regulation is set to benefit the customers, there may be an increase in costs of the project, with higher requirement of funding from developer & investor which increase the funding costs and registration costs, etc. which ultimately would be passed on to the customer.

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