



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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Implementation and Enforcement of RERA: Issues and Concerns

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ABSTRACT

The Real Estate (Regulation and Development) Act, 2016 was enacted to bring transformation in the real estate sector. The act sought to correct the longstanding asymmetries existing between promoters and buyers. This article will find the gap between the legislature intend and enforcement by not questioning the adequacy of law rather focusing on the challenges faced . in nutshell it will underscore the importance of strengthening mechanism of enforcement and implementation of the act and positioning RERA broadly for future consumer centric regulatory legislation ad success of its enforcement.

INTRODUCTION

The Real Estate Sector in India has long been marked by delayed project deliveries, lack of accountability, and weak consumer protection. For decades the homebuyers were compelled to rely on civil courts for redressal often facing prolonged litigation and uncertain outcomes. Recognizing these systemic issues, the legislature enacted the Real Estate (Regulation and Development) Act, 2016 (RERA) with the objective of introducing transparency, efficiency, and

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fairness in real estate transactions. The Act sought to regulate promoters, standardize practices, protect consumer interests, and restore confidence in a sector that significantly contributes to the national economy.

RERA introduced several structural reforms, including mandatory registration of real estate projects and agents, disclosure requirements, escrow mechanisms, and the establishment of dedicated regulatory authorities and appellate tribunals. These measures were designed to shift the regulatory framework from a largely unregulated environment to a consumer centric model. While the Act represents a progressive step towards balancing the rights and obligations of stakeholders its success largely depends on effective implementation and enforcement.

Despite the comprehensive legal framework provided under RERA several practical challenges persist in its execution across states. Delays in enforcement, lack of uniformity in administrative practices, and dependence on external authorities for recovery of dues have raised concerns about the actual efficacy of the Act. This article critically examines these implementation and enforcement challenges, highlighting the gap between legislative intent and regulatory reality, and explores possible measures to strengthen RERA's enforcement framework.

FEATURES AND ADVANTAGES OF RERA, 2016

Features:

To promote real estate sector the act requires to establish Real Estate Regulatory Authority, to ensure apartment of building, sale of plot in a precise manner to protect the interest of consumers under this sector. Mechanism for speedy redressal of dispute and appellate tribunal to hear appeal.

Registration of the residential real estate projects need to be done without which a promoter cannot sale or offer, such registration also includes the details of the project and upload in the website of RERA and plan of the site.

Amount collected from buyers to be recorded in a separate bank account and not to be used which goes beyond the construction ad completion of project. Imposing fine on promoters who does any illegal trade or activities.

Advantages:

Investor has gained confidence which also includes foreign investors prior to commencement of this act which was earlier unregulated and high risk due to lack of accountability, mandating registration of projects and escrow account maintains record and transparency.

One of the significant advantage includes shift towards consumer centric governance by clearly defining rights and obligations of buyer as well as promoters which improved the customer management and quicker resolution of disputes.

Earlier the disputes relating to delays and misrepresentation was adjudged in civil courts which leads to time taking litigation but under RERA its own adjudicating mechanism provide more effective dispute resolution.

REGISTRATION OF REAL ESTATE PROJECTS AND AGENTS

Real Estate Projects:

Applicant or promoter have to file an application before the authority of RERA in a form and provide relevant documents and fees of registration which will be replied within 30 days from the date of application either approving or rejecting, once successfully registered a login ID, password and registration number will be provided. Within 7 days the registration is deemed to be registered in case no reply came after expiry of 30 days.

In registration form the promoter mentions the time frame during which he will construct and handover the project to the buyer, due to Force majeure if delay happens it is the discretion of the regulator to grant extension of registration considering the circumstances of the case and on application made by the promoter under section 6 of the Act.

The registration can be revoked when any complaint or by the promoter itself when any default has been made or involved in any kind of irregularities which affects the buyers, such process is initiated by giving prior notice before 30 days by the authority.

If on revocation of registration any development work remains it need to be proceed further through section 8² which will be decided by the authority but cannot work in force if any appeal is pending against the revocation order.

Agents:

To bring standards and professionalism brokers registration of agents are also mandatory under this act through section 9³ without which no sale or purchase can be done. The process is quite similar to the registration of project by filling an application form and will get a reply of either acceptance or rejection (Opportunity of hearing).

Promoter at initial stage cannot take more than 10% as advance of the cost of the property from the buyer and it is the responsibility of the promoter to provide service if any defect in the quality is not at par without taking cost from the buyer. Consent from two third of allottees are required in a situation promoter is in the view to transfer his rights to an outsider which will not affect the earlier allotment made also need to make insurance for the title and construction of such real estate project.

AUTHORITIES UNDER RERA

Real estate regulatory Authority is established by central government which consists of chairperson and members having power to restrain promoter by issuing interim orders if ay act goes beyond the regulations of the act also issue directions on a regular basis and can correct any mistake made within period of two years of date or order through amendment.

Central advisory council is also constituted by central government which consists of members from various ministries of central as well as state representatives and other members. It deals with implementation, development and coordination I the real estate sector.

Real estate appellate tribunal

² The Real Estate (Regulation and Development) Act, 2016, s8

³ The Real Estate (Regulation and Development) Act, 2016, s9

Parties who are not satisfied with the orders of RERA can appeal within 60 days of passing of such order and CPC⁴ will not be applicable on such subject matter. And further can be appealed to High Court and then Supreme Court.

ISSUES

In spite of having an RERA Act, 2016 which was made keeping in mind for protecting the homebuyers and enforcement of orders by adjudicating authorities and officials there lack the gap when it comes to implementation which dilutes the effectiveness and faces various challenges. Some of the key challenges are mentioned below.

- i.) RERA does not have its own execution wings, by referring to section 40 of the RERA Act it mentions that district collector has the authority to recover the interest, penalty or any compensation which comes under the land arrear, Such system creates delay.
- ii.) Multiple positions with regard to administration leads to prolonged inaction both in passing of orders and recovery proceedings also there is no strict timelines for enforcement which creates further problem.
- iii.) Each state has its enforcement practices of RERA guidelines, which shows that there exists no centralized system to track compliance with RERA orders and to hold the enforcement agencies accountable, which also hampers the right and protection of the buyers.

SUGGESTIONS

The challenges of enforcement under RERA,2016 need to be addressed by moving mere adjudication and building strong execution policy and tactics such as creating a robust mechanism for enforcement and recovery within the scope of RERA also a group of dedicated officers can be empowered who can directly execute orders by attaching bank accounts against default developers which will aid to reduce delays and improve compliance.

⁴ Code of Civil Procedure, 1908

Introducing strict timelines for RERA execution orders as the act covers speedy redressal but has not given importance to enforcement limit which will ensure accountability of the officers, authorities and to prevent prolonged inaction by restoring the confidence in the regulatory mechanism.

The mindset of various developers that the RERA orders are negotiable has to be removed by penalizing the no compliance and mandating automatic consequences such as suspension or restrictions in launching new projects for willful noncompliance and understanding the gravity of issue.

CONCLUSION

The experience of RERA over the years reveals an important regulatory lesson that the legal reform achieves real impact only when backed by effective execution. While the Act has succeeded in redefining standards of disclosure and accountability in the real estate sector, its enforcement mechanisms remain its weakest link. Orders passed in favour of homebuyers often struggle to translate into actual relief, thereby reducing the deterrent value of the regulatory framework and weakening public confidence.

For RERA to evolve into a truly effective regulatory regime, enforcement must be treated as a central pillar rather than an ancillary function. Strengthening execution powers, prescribing clear timelines, and ensuring strict consequences for willful non compliance are essential steps in this direction. A regulatory framework that delivers timely outcomes will not only protect homebuyers but also promote discipline and credibility within the real estate market. In the long run, robust enforcement will determine whether RERA remains a symbolic reform or matures into a dependable instrument of regulatory justice.