



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

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016: A REGULATORY TURNING POINT

Jahnvi Singh

INTRODUCTION

Valued at over ₹17 lakh crore, the Indian real estate sector constitutes approximately 7% of the country's gross domestic product, has long been a cornerstone of economic growth, urban development, and employment generation. Despite its economic importance, the sector remained largely unregulated for decades, allowing opacity, delays, and exploitative practices to become the norm. For millions of Indians, homeownership often involving life-long savings turned into a high-risk venture. Developers routinely launched projects without securing statutory approvals, collected advances from buyers, and diverted funds to unrelated ventures, leaving more than five lakh housing units stalled across the country by 2016.

Homebuyers were left with little effective legal recourse. Consumer forums were overburdened, civil litigation was slow and costly, and disputes frequently dragged on for years. This regulatory vacuum not only eroded buyer confidence but also distorted market discipline, discouraged genuine investment, and facilitated the circulation of unaccounted money within the sector. The real estate industry increasingly resembled an unregulated "Wild West," undermining both consumer protection and economic stability.

Against this backdrop, the Real Estate (Regulation and Development) Act, 2016 (RERA) emerged as a landmark legislative intervention. Enacted on March 25, 2016, and brought into force from May 1, 2016, with states notifying rules by 2017, RERA was the result of sustained advocacy by homebuyer associations, parliamentary committees, and critical reports such as the 2011 Standing Committee findings that exposed systemic malpractices.

The Act promised a comprehensive overhaul of the sector by introducing transparency, accountability, and a robust regulatory framework aimed at restoring buyer trust and promoting sustainable growth.

REGULATORY VACUUM AND SYSTEMIC FAILURES BEFORE RERA

India's real estate market experienced rapid expansion in the early 2000s, driven by urbanisation and rising housing demand. However, by the end of the decade, the sector descended into systemic disorder marked by chronic project delays, opaque practices, and weak regulatory oversight. Homebuyers routinely faced possession delays extending over several years, while promoters diverted funds from ongoing projects to finance new developments a practice commonly described as "robbing Peter to pay Paul." A 2013 Economic Times investigation underscored the gravity of the situation, revealing that Mumbai alone had over 50,000 stalled housing units.

Before the enactment of RERA, buyers lacked access to a specialised and effective redressal mechanism. Although remedies were available under the Consumer Protection Act, 1986, the law was not tailored to address the complexities of real estate transactions, making dispute resolution slow and ineffective. Consumer forums were overburdened, civil suits were time-consuming, and cases often dragged on for years. Policy initiatives such as the Rajiv Awas Yojana (RAY), launched in 2011 with the objective of creating a "Slum Free India" by promoting inclusive urban planning and tenure security, reflected recognition of deeper structural problems within the housing sector. However, weak enforcement and limited regulatory reach meant that such schemes failed to curb promoter malpractices or ensure timely project delivery.

The absence of a dedicated regulatory authority allowed promoters to operate with minimal accountability, leading to misleading advertisements, financial mismanagement, and widespread buyer exploitation. This regulatory vacuum eroded consumer confidence, weakened market discipline, and highlighted the urgent need for a comprehensive, sector specific legal framework, ultimately paving the way for the enactment of the Real Estate (Regulation and Development) Act, 2016.

LEGISLATIVE FRAMEWORK

RERA applies across India (excluding Jammu and Kashmir at the time of enactment) to both residential and commercial projects exceeding 500 square metres or comprising more than eight units, including plotted developments. Section 89 grants the Act overriding effect, providing that its provisions shall prevail over any inconsistent laws for the time being in force. In practical terms, this means that where there is a conflict between RERA and any state legislation or other statutory provisions, the mandates of RERA take precedence. This ensures uniform application of consumer protection standards in the real estate sector, particularly in matters involving promoters, allottees, and the regulatory authorities. While Section 89 grants the Act overriding authority over inconsistent state laws, RERA continues to operate in harmony with general property laws such as the Transfer of Property Act, 1882, particularly in matters concerning sale, lease, and transfer of property rights. This balanced approach ensures regulatory certainty while preserving coherence within the broader legal framework.

The Act comprises ten chapters and sixty sections, supplemented by state specific rules. States such as Maharashtra have emphasised digital compliance and public disclosure through advanced online portals. A Central Advisory Council under Section 46 ensures policy coordination and uniform implementation across states.

CORE OBJECTIVES OF RERA

The preamble of RERA outlines five core objectives:

1. Ensuring transparency in real estate transactions
2. Protecting allottees from promoter malpractices
3. Establishing dedicated Real Estate Regulatory Authorities
4. Creating adjudicatory mechanisms for speedy dispute resolution
5. Providing effective appellate remedies

Operationally, RERA mandates the deposit of 70% of buyer funds into an escrow account (Section 4), restricts advance payments to 10% without a registered agreement for sale (Section 13), and enforces strict project timelines. As a result, average project delays have

reduced from approximately 3.5 years in the pre-RERA era to under two years. The Act also standardises sale agreements and maintains publicly accessible project databases.

PROJECT REGISTRATION MANDATES

Section 3 of the Act prohibits promoters from advertising, marketing, booking, or selling any real estate project without prior registration. Exemptions apply to completed projects, projects below 500 square metres, or those with fewer than eight units. Ongoing projects were required to obtain transitional registration.

Under Section 4, promoters must submit extensive documentation, including title details, encumbrance certificates, sanctioned plans, parking layouts, draft allottee agreements, auditor information, and litigation history. Registration fees generally range between ₹10 and ₹50 per square metre. Authorities are required to grant or reject registration within 30 days, providing reasons in case of rejection (Section 5). Registration remains valid until project completion, subject to justified extensions.

Quarterly disclosures under Section 11 require promoters to update approvals, construction progress, allotments, and encumbrances. Deviations exceeding 10% invite regulatory scrutiny, while non-compliance attracts penalties of ₹5,000 per day. Under Sections 7 and 8, registrations may be revoked for fraud or persistent defaults, leading to account freezes, public blacklisting, and state intervention to safeguard buyer interests.

EXPANDED PROMOTER OBLIGATIONS

Section 2(zk) defines “promoter” broadly to include developers, landowners in joint ventures, and transferees after the first sale. Promoters, unlike builders, are primarily responsible for compliance, marketing, and dealings with allottees.

Key obligations under Sections 11–18 include:

- Disclosure: Uploading sanctioned plans, specifications, timelines, and approvals on RERA portals
- Financial Discipline: Depositing 70% of receipts in escrow, withdrawable only against certified project progress

- Standard Agreements: Adherence to prescribed formats, with no unilateral alterations
- Handover: Mandatory issuance of occupancy and completion certificates, along with a five-year structural defect liability
- Alterations: Major changes require consent from two-thirds of allottees

Promoters may cancel allotments only after issuing a 30-day default notice or through mutual consent. Refunds must be processed within 45–60 days. Transfers of promoter rights under Section 15 require approval from both the RERA Authority and two-thirds of the allottees.

Promoter obligation	Governing section	Breach consequence
Sale without registration	3	Fine up to 10% of project cost, imprisonment for persistent default
Excess advance	13	Refund with 10 -12% interest
Delay in possession	18	Interest at MCLR + 2%
Failure to update	11(1)	₹5,000 per day
Plan deviations	14	Penalty u cost

ALLOTTEE SAFEGUARDS

“Allottees” under Section 2(d) include original and subsequent buyers, excluding tenants. Section 19 guarantees allottees the right to access project information, receive timely possession or refunds with interest, obtain completion documents, and secure conveyance deeds within three months of handover. Allottees also have the right to form associations for post-handover management.

Their obligations include timely payments and compliance with society regulations. Complaints under Section 31 must generally be filed within two years of project completion, and civil court jurisdiction is barred unless statutory remedies are exhausted.

RERA AUTHORITIES

State governments establish RERA Authorities under Section 20, comprising a Chairperson and two members with at least 15 years of professional experience. The Authority monitors compliance, maintains databases, issues advisories, and exercises civil court like powers, including summoning witnesses and imposing penalties.

ADJUDICATION AND APPEALS

Section 31 allows aggrieved parties to file complaints before the RERA Authority.

Compensation matters are handled by Adjudicating Officers, while appeals lie before the Real Estate Appellate Tribunal. Appeals under Section 44 require a mandatory pre-deposit of 30–50% of the imposed penalty.

In *New Tech Promoters & Developers Pvt. Ltd. v. State of Uttar Pradesh* (2021), the Supreme Court upheld this requirement, holding that it prevents frivolous appeals and protects allottees from prolonged litigation. In *Pioneer Urban Land & Infrastructure Ltd. v. Union of India* (2019), the Court recognised homebuyers as financial creditors under the Insolvency and Bankruptcy Code, aligning insolvency proceedings with RERA remedies.

PENALTIES FRAMEWORK

RERA prescribes a graded penalty regime, including fines up to 10% of project cost, daily penalties for ongoing violations, and imprisonment for wilful non-compliance. Real estate agents operating without registration face daily penalties. Several states have further strengthened these provisions through amendments.

INTERFACE WITH OTHER LAWS

The Real Estate (Regulation and Development) Act, 2016 does not operate in isolation but functions within the broader framework of India's property and commercial laws. While RERA is a special legislation enacted to regulate the real estate sector and protect the interests of homebuyers, it consciously coexists with other general and special laws governing property transactions, registration, insolvency, and contractual rights.

A) RERA AND THE TRANSFER OF PROPERTY ACT, 1882

The Transfer of Property Act, 1882 (TPA) governs substantive aspects of property transactions such as sale, mortgage, and lease of immovable property. RERA does not replace these provisions but supplements them by regulating the conduct of promoters and ensuring transparency in transactions. While Sections 54 and 55 of the TPA deal with the transfer of ownership and the rights and liabilities of buyers and sellers, RERA introduces additional obligations such as mandatory disclosures, escrow requirements, standardised agreements for sale, and timelines for project completion. Thus, the TPA governs the transfer of title, whereas RERA regulates the process leading up to such transfer, particularly in the context of real estate development projects.

B) RERA AND THE REGISTRATION ACT, 1908

The Registration Act, 1908 mandates compulsory registration of documents creating or transferring rights in immovable property. RERA reinforces this requirement by obligating promoters to execute registered agreements for sale and conveyance deeds in favour of allottees. While the Registration Act determines the validity and evidentiary value of property documents, RERA ensures that such documents are executed in a transparent manner, free from misleading terms, and within prescribed timelines. Non-registration under the Registration Act renders documents inadmissible in evidence, whereas non-compliance under RERA attracts regulatory penalties, demonstrating their complementary operation.

C) RERA AND THE INDIAN STAMP ACT, 1899

The Indian Stamp Act, 1899 governs the payment of stamp duty on instruments relating to property transactions. RERA does not interfere with state-specific stamp duty regimes but operates alongside them by ensuring that agreements for sale, conveyance deeds, and related instruments are executed lawfully. Proper stamping and registration remain prerequisites for enforceability, while RERA focuses on consumer protection and promoter accountability.

D) RERA AND THE CONSUMER PROTECTION ACT, 1986

Prior to RERA, homebuyers primarily relied on the Consumer Protection Act, 1986 for redressal of grievances. However, consumer forums were not specialised to handle complex real estate disputes, leading to delays and inconsistent outcomes. RERA introduced sector-specific adjudicatory mechanisms, thereby reducing dependence on general consumer law. Nevertheless, remedies under the Consumer Protection Act are not completely barred, and allottees may seek relief where appropriate, subject to the principle against parallel proceedings.

E) RERA AND THE INSOLVENCY AND BANKRUPTCY CODE, 2016

A significant interface exists between RERA and the Insolvency and Bankruptcy Code, 2016 (IBC). Through the 2018 amendment, homebuyers were recognised as financial creditors under Section 5(8)(f) of the IBC, enabling them to initiate insolvency proceedings against defaulting promoters. In *Pioneer Urban Land and Infrastructure Ltd. v. Union of India* (2019), the Supreme Court upheld this classification and clarified that RERA and IBC operate in distinct but complementary spheres. While RERA focuses on regulation and consumer protection, IBC addresses insolvency resolution. In cases of conflict, IBC proceedings may take precedence due to their time-bound resolution mechanism, though both statutes are intended to coexist harmoniously.

STATE LEVEL IMPLEMENTATION

Maharashtra has emerged as a leader in implementation through MahaRERA, registering over 50,000 projects by May 2025. Uttar Pradesh has revoked more than 1,000 project registrations for non-compliance. Gujarat introduced stricter banking norms in 2025, mandating three separate bank accounts for each project, with 70% funds locked in escrow. Karnataka requires 100% escrow deposits for new projects. Despite progress, several states continue to face staffing shortages and mounting case backlogs.

LATEST DEVELOPMENTS (2025)

In March 2025, the Supreme Court expressed dissatisfaction with RERA's uneven enforcement across states, calling its performance "disappointing" and urging stricter implementation. The introduction of "RERA 2.0" amendments in 2025 strengthened compliance standards, enhanced project monitoring, and increased penalties for misinformation.

UP RERA's action against incomplete "canvas flats" in May 2025 marked a significant buyer centric reform, penalising developers who fail to deliver promised amenities. Maharashtra's continued leadership in registrations and Gujarat's financial discipline reforms further reflect the evolving regulatory landscape.

IMPACT ASSESSMENT

As of January 2026:

- Over 1.2 lakh projects are registered nationwide
- More than 75,000 complaints have been resolved
- Approximately ₹4,000 crore has been refunded or paid as interest
- Inventory overhang has reduced by nearly 40%
- Annual FDI inflows have doubled to nearly USD 5 billion

The Supertech Emerald Court case stands as a notable enforcement milestone, demonstrating RERA's capacity to address large scale violations.

CONTINUING CHALLENGES

Despite bringing much-needed reform to India's real estate sector, RERA has not been able to eliminate structural and operational challenges entirely. Several practical limitations continue to dilute its effectiveness, particularly at the implementation level.

- **MISUSE OF STATUTORY EXEMPTIONS**

Promoters often exploit the exemptions provided under Section 3(2) of the Act, especially for projects measuring less than 500 square metres or comprising fewer than eight units. By artificially fragmenting larger developments into smaller phases, builders avoid mandatory registration, thereby denying allottees the protections guaranteed under RERA.

- **USE OF SHELL AND BENAMI ENTITIES**

Accountability is further undermined by the use of shell companies and benami entities to mask real ownership and divert project funds. High profile instances, such as the deployment of multiple interconnected entities by major developers, have exposed how promoters evade regulatory scrutiny while shifting liabilities away from the principal company.

- **UNEVEN ENFORCEMENT ACROSS STATES**

While metropolitan regions demonstrate relatively stronger compliance and monitoring, enforcement in Tier-II and Tier-III cities remains weak. Many state RERA authorities suffer from inadequate staffing, limited infrastructure, and delayed adjudication, resulting in inconsistent application of the Act outside major urban centres.

- **DELAY IN RENTAL SECTOR REFORMS**

The slow adoption of the Model Tenancy Act, 2021 has stalled the development of a uniform and transparent rental housing framework. With only a handful of states implementing its provisions, the rental segment continues to remain largely unregulated, leaving both landlords and tenants vulnerable to arbitrary practices.

- **DIGITAL ACCESS AND AWARENESS GAPS**

RERA's reliance on digital portals for disclosures and grievance redressal has created accessibility barriers for buyers in rural and semi-urban areas. Limited internet penetration and

low digital literacy restrict the ability of many allottees to verify project details or track compliance, reducing the practical reach of the regulatory regime.

CONCLUSION

The Real Estate (Regulation and Development) Act, 2016 represents a paradigm shift in India's real estate governance. By addressing long-standing asymmetries between promoters and homebuyers, RERA has introduced transparency, accountability, and legal certainty into a previously opaque sector. While implementation gaps and enforcement challenges remain, recent judicial scrutiny and state level reforms indicate renewed momentum. If supported by consistent enforcement, institutional capacity, and technological integration, RERA has the potential to permanently transform homeownership from a risky gamble into a secure and sustainable investment, strengthening both consumer confidence and India's broader economic framework.

REFERENCES

Statutes

1. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 3(2) (India) (enacted Mar. 25, 2016).
2. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 4 (India).
3. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 11 (India).
4. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 13 (India).
5. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 18 (India).
6. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 19 (India).
7. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 31 (India).
8. Real Estate (Regulation and Development) Act, No. 16 of 2016, S 89 (India).
9. Model Tenancy Act, 2021 (India).
10. Transfer of Property Act, No. 4 of 1882, S 54-55 (India).

11. Registration Act, No. 16 of 1908 (India).
12. Indian Stamp Act, No. 2 of 1899 (India).
13. Consumer Protection Act, No. 68 of 1986 (India).
14. Insolvency and Bankruptcy Code, No. 31 of 2016, S 5(8)(f) (India).

Cases

1. New Tech Promoters & Developers Pvt. Ltd. v. State of Uttar Pradesh, (2021) 10 SCC 321 (India).
2. Pioneer Urban Land & Infrastructure Ltd. v. Union of India, (2019) 8 SCC 416 (India).

Legislative & Government Reports

1. Standing Comm. on Housing & Urban Poverty Alleviation, Report on Real Estate Regulatory Bill, 2013 1 (Dec. 2011).

Secondary Sources & Websites

1. RERA Compliance Varies Sharply Across Indian Cities, Realtyninfra (Feb. 25, 2025), [https://realtyninfra.in/regulatory-divide-rera-compliance-varies-sharply-across-indian-cities/.\[realtyninfra\]](https://realtyninfra.in/regulatory-divide-rera-compliance-varies-sharply-across-indian-cities/.[realtyninfra])
2. 52 Shell Companies Helped Unitech Promoters Launder Money, Econ. Times (Dec. 7, 2021), [https://economictimes.indiatimes.com/news/india/52-shell-companies-helped-unitech-promoters-launder-money/articleshow/88154821.cms.\[economictimes\]](https://economictimes.indiatimes.com/news/india/52-shell-companies-helped-unitech-promoters-launder-money/articleshow/88154821.cms.[economictimes])
3. 2 Years and Many Reminders Later, Just 4 States Adopt Tenancy Law, Indian Express (Oct. 1, 2023), [https://indianexpress.com/article/india/2-yrs-and-many-reminders-later-just-4-states-adopt-tenancy-law-8964595/.\[indianexpress\]](https://indianexpress.com/article/india/2-yrs-and-many-reminders-later-just-4-states-adopt-tenancy-law-8964595/.[indianexpress])
4. Contours of Internet Access in Rural-Urban Landscapes in India, Reg'l Studies Ass'n (Sept. 21, 2021), [https://regions.regionalstudies.org/ezone/article/digitisation-in-india/?doi=10.1080%2F13673882.2021.00001100.\[regions.regionalstudies\]](https://regions.regionalstudies.org/ezone/article/digitisation-in-india/?doi=10.1080%2F13673882.2021.00001100.[regions.regionalstudies])
5. RERA Regime - The Exemption Conundrum, Chambers & Partners (Feb. 14, 2024), [https://chambers.com/articles/rera-regime-the-exemption-conundrum-3.\[chambers\]](https://chambers.com/articles/rera-regime-the-exemption-conundrum-3.[chambers])

6. Smaller Projects a Major Worry for Consumer Body, Times of India (Apr. 14, 2017), <https://timesofindia.indiatimes.com/city/pune/smaller-projects-a-major-worry-for-consumer-body/articleshow/58187049.cms>.^[timesofindia.indiatimes]
7. Realtor Fined ₹50L by RERA for Promoting New Mall Without Registration, Times of India (Mar. 8, 2024), <https://timesofindia.indiatimes.com/city/gurgaon/realtor-fined-50l-by-rera-for-promoting-new-mall-without-registration/articleshow/108068942.cms>.^[timesofindia.indiatimes]
8. Model Tenancy Act 2026: Latest Rent Rules and Tenant Rights, NoBroker (Jan. 7, 2026), <https://www.nobroker.in/blog/model-tenancy-act/>.^[nobroker]
9. Why RERA Hasn't Delivered for India's Urban Homebuyers?, KSPP (Aug. 2, 2025), <https://www.kspp.edu.in/blog/why-rera-hasnt-delivered-for-indias-urban-homebuyers>.^[kspp]