

RERA Act: An Overview

written by King Stubb & Kasiva | December 12, 2022



What is RERA? And what is the RERA ACT?

The Real Estate Regulatory Authority in India or RERA India was established under the Real Estate (Regulation and Development) Act of 2016. The legislation was enacted with the objective of regulation and promotion the real estate sector by bringing in transparency to resolve issues faced by home buyers across the country. The RERA Act brings in the following major changes to the real estate sector: -

1. The introduction of mandatory registration and a transparent and uniform process for the marketing of residential and commercial projects,
2. Clearly defining the rights and obligations of both the allottees as well as the builders and terms such as “carpet area” in order to avoid confusion,
3. Setting up of specialised quasi-judicial authorities for the speedy redressal of disputes, and
4. Protection of allottees from inordinate delays in construction and other unfair practices.

Registration of projects on RERA as of December 2022

The promoters are required to provide the following information while registering projects with the real estate regulatory authority in India (RERA India):

1. Details regarding the background of the promoter including enterprise/incorporation details such as annual financial statements, designated bank account etc.,
2. Details regarding the proposed project such as location details, the approved building plan/layout plan, commencement certificates/NOCs as applicable and prescribed,
3. Proforma of the allotment letter, agreement for sale, and the conveyance deed

- proposed to be signed with the allottees,
4. Details of contractors, engineers and architects involved,
 5. A declaration that he shall take all necessary permissions/approvals and furnish all documents as prescribed by the authority,
 6. A declaration regarding title, encumbrances and timelines in respect of the proposed development, and
 7. Payment of prescribed fees.

Safeguards introduced by the RERA Act, 2016

The real estate regulations safeguard the interests of the allottees by conferring on them the following rights:

1. Allottees are entitled to receive all information regarding the sanctioned plans with specifications, stage-wise completion timelines including the provision of utilities and services etc.
2. Allottees shall participate in the formation of the association/society of owners,
3. Allottees shall take physical possession of the apartment within two months of the grant of the occupancy certificate,
4. Allottees shall pay the prescribed interest in case of delay in payment of the amount due by him, and
5. Allottees shall participate in the execution and registration of conveyance deeds in their favour.

Further, the RERA Act imposes on the promoters the following obligations in the interest of protecting allottees:

1. Quarterly disclosures regarding the status of the project and the number of apartments (and garages) booked,
2. Quarterly disclosure of approvals both valid and pending,
3. Mandatory disclosure of approvals and timelines to the allottees on the public-access website,
4. Promoter shall not accept more than ten percent of the sale consideration as advance payment without first entering into an agreement for sale,
5. Promoter shall not make any additions/alterations to the sanctioned layout/building plans without taking prior approval of the allottees,
6. Promoter shall procure insurance relating to the title and construction of the project,
7. Continued liability regarding structural defects even after the conveyances in favour of allottees have been executed,
8. Responsibility for obtaining the occupancy certificate and clearing all previous dues regarding the property until possession has been handed over,
9. Provision of essential services on reasonable charges till the association of owners takes over the same,
10. Assist in the formation of the association or society of owners,
11. Compensate allottees who sustain any loss or damage by reason of any incorrect or false statement given in the advertisement, prospectus or model apartment etc.,
12. Promoter may cancel an allotment only in terms of the respective agreement for sale,
13. Promoters shall execute registered conveyance deeds and transfer the property free of encumbrances, and
14. If the promoter is unable to deliver possession of an apartment in accordance with the terms of the agreement for sale and the allottee wishes to withdraw from the project, the promoter shall be liable on demand to return all the

amounts received in respect of the concerned allottee along with prescribed interest and compensation.

Penalties:

The real estate regulations provide penalties for the contravention of its provisions. Some of the penalties provided by the RERA Act have been listed below:

1. Penalty for non-registration: Failure to register a real estate project under Section 3 invites a penalty of up to ten per cent of the estimated cost of the project. On failure to pay such penalties, they shall be punishable with imprisonment for a period of up to three years and/or a further penalty of up to ten percent of the estimated cost of the project.
2. Penalty for contravention of Section 4 (disclosures at the time of registration): If a promoter provides false information or otherwise contravenes the provisions of Section 4, they shall be liable to a penalty of up to five percent of the estimated cost of the project.
3. Penalty for contravention of other provisions: If a promoter contravenes any other sections of the RERA Act, they shall be liable to a penalty of up to five percent of the estimated cost of the project.

Conclusion

The RERA Act brings in a much-needed regulatory framework in order to protect the interests of the allottees. Developers can no longer exploit their dominant positions to impose unfair one-sided contracts on their customers. Allottees now have a system to verify the information provided to them by builders, as well as check their previous track records in order to make an informed choice. Continuous disclosure obligations and protection of allottees who wish to withdraw from delayed projects provide both the customers with a convenient exit option as well as an incentive for the builders to meet their own promises.

The penalties for contravention provide teeth to the legislation. Further, the real estate regulatory authority in India(RERA India) provides a specialised forum for the redressal of disputes avoids confusion as to the multiplicity of forums as well as provides for expert and speedy adjudication.

FAQs

Is GST Required for RERA Registration?

RERA does not require any GST number for properties which have been completed or where a completion or occupation certificate has already been obtained.

GST compliances are necessary only for the – completion of projects.

How is an area of property calculated under RERA?

The area of property under RERA is calculated using the method of Carpet area which lays down standard formulas for the calculation of area using uniform parameters.

Is RERA Registration compulsory?

Yes, RERA Registration by promoters is mandatory in nature.