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LEGAL FRAMEWORK FOR REAL ESTATE SECTOR IN INDIA

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Introduction

The global real estate industry is influenced by market emotions, which serve as indicators of investor expectations within the sector. The expansion of the real estate industry generates positive momentum in the market, hence catalyzing national economic growth. The heightened emphasis on infrastructure needs underscores the Indian government's strong commitment to providing a secure environment for investors in the real estate sector.

A multitude of laws regulates the real estate sector in India to ensure the robust protection of buyers' rights while safeguarding developers' interests and maintaining equitable competition in the market.[3] Consequently, the Indian real estate landscape has witnessed numerous legal reforms and a diverse array of regulations; however, concerns regarding professionalism within the industry persist, accompanied by an ongoing aspiration for the standardization of real estate transactions.

The Government of India has consistently faced the challenge of prioritizing the preservation of confidential company strategies vs fostering a transparent market. Ultimately, with the enactment of the Real Estate (Regulatory and Development) Act 2016 (hereafter referred to as RERA), the Government of India prioritized a transparent economic environment over private information. It is essential to examine the impact of the evolving legal framework, particularly with the announcement of the significant 'Pradhan Mantri Awas Yojana' (hence referred to as PMAY) aimed at achieving Housing for All.

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Legal Framework for Real Estate Sector in India

The Indian real estate sector has undergone numerous revolutionary initiatives during the past two decades, sustaining its significant contribution to the nation's economy. In the initial period of independence, the advancement of real estate in India was disjointed due to its chaotic and unstructured characteristics. Despite the legal framework governing real estate transactions originating in 1882, the sector has undergone numerous legal reforms to preserve its relevance in India, particularly in effectively addressing and accommodating dynamic factors such as demographics, credit availability, investor expectations, and rising purchasing power. The crucial importance of legal reforms in enhancing the real estate market necessitates a thorough examination of the legal framework regulating Indian real estate. Consequently, the legislative framework regulating the Indian real estate industry is often divided into two categories: Central Laws and State Laws, with a specific focus on Maharashtra State outlined below:

The Indian Contract Act 1872

The contract between parties is essential in real estate transactions. It is the primary document that delineates the rights and obligations of the gatherings. Consequently, the Act encompasses the fundamental aspects of contract creation, as well as the initiation and cessation of contractual obligations. It assesses the validity of the contract between two parties while elucidating the fundamental components of a valid contract, including capacity to contract, offer, acceptance, consideration, intention to contract, and legal enforceability.[4] Furthermore, it addresses the penalties associated with the non-fulfillment of contractual obligations or non-performance of contractual activities by the parties involved.[5]

The Indian Evidence Act 1872

In the context of real estate transactions or immovable property, the Indian Evidence Act of 1872 stipulates that the burden of proof regarding ownership disputes lies with the party asserting that the opposing party has misrepresented ownership, thereby influencing their decision to engage in the contractual transaction. Furthermore, it states that uncertified or inadequately certified documents are inadequate and invalid for use as collateral security.

The Transfer of Property Act 1882

[4] Section 10 of the Indian Contract Act of 1872.
[5] Sections 73, 74, and 75 of the Indian Contract Act of 1872.

The conveyance of property between two entities is governed by the Transfer of Property Act of 1882. Nevertheless, it excludes the transfer of property pursuant to legal operations such as intestate succession, forfeiture, testamentary proceedings, and insolvency, and is restricted to property transfers executed by mutual consent of the parties involved.[6] The Act additionally stipulates the conditions and limitations applicable to the parties during a real estate transaction, as well as the competency requirements and disqualifications of the parties.[7] It elucidates the various categories of properties, including their characteristics such as transferable and non-transferable, moveable and immovable, among others. It also offers many modes for property transfer, including Mortgage, Sale, Lease, Gift, Exchange, etc.[8]

The Registration Act 1908

The Transfer of Property Act 1882 requires the registration of written documents related to all property transfer deeds between parties; failure to do so renders the property conveyance to the buyer illegal. Moreover, in a court of law, an unregistered property transfer paperwork does not constitute valid evidence.[9] The Registration Act of 1908 delineates the procedures for registering transfer deeds between parties.[10] It outlines the methods of document registration to promote information symmetry concerning the rights and obligations associated with the underlying property. The registration of a document affirms its inviolability and legal legitimacy regarding the transfer, hence mitigating the potential for fraudulent operations. It additionally outlines the method for registering several categories of property-related papers. Ultimately, it proposed sanctions for violations of the established procedures that guarantee an efficient and effective administrative system, as well as a common protocol to eliminate ambiguity in real estate transactions.[11]

The Special Relief Act 1963

The Specific Relief Act delineates the rights and obligations of individuals engaged in real estate transactions, particularly with the initiation of legal action against the party to the registered transfer deed. The legislation addresses an individual's civil right when compelled to relinquish the relevant immovable property as per the registered transfer deed.[12] It

[6] Section 110 of the Indian Evidence Act of 1872.
[7] Sections 61, 63, 65, 67, and 68 of the Indian Evidence Act of 1872.
[8] Sections 58, 107, 118, and 122 of the Transfer of Property Act of 1882.
[9] Section 3 of the Transfer of Property Act, 1882.
[10] Section 17 of the Registration Act of 1908.
[11] Sections 81 and 82 of the Registration Act of 1908.
[12] Section 4 of the Specific Relief Act of 1963.

stipulates that an individual dispossessed of property outside the bounds of legal procedure is entitled to initiate a legal suit within six months from the date of dispossession.[13] Furthermore, it delineates the court's authority to issue injunctions and award damages in instances of non-compliance of the contractual obligations undertaken by the parties whereby the underlying asset is real estate.[14]

The Public Premises (Eviction of Unauthorised Occupants) Act 1971

The Public Premises (Eviction of Unauthorized Occupants) Act 1971 is legislation designed to safeguard government resources designated for the general public. The Act addresses the objectives concerning the eviction of illegal individuals in possession of public property or premises. It also addresses the eviction of an individual permitted to utilize the resources for a temporary occupation for a designated duration.[15] Likewise, it addresses unauthorized construction or unapproved structures on public land, granting the authority to dismantle such projects.[16] Ultimately, it empowers the estate office to seal unauthorized constructions on public premises.

The Competition Act 2002

The Competition Act 2002 addresses the promotion of equitable competition within the real estate sector and curtails the exploitation of dominant market positions by leading entities.[17] It does not establish a compensatory mechanism for stakeholders in the real estate industry; however, it offers a framework that scrutinizes the agreements among various participants based on their impact on the general public and the market overall. While it lacks provisions for particular performance or preventive measures, it establishes standards that prohibit market monopolies and implement an effective compensation process, so mitigating the abuse of dominant positions.[18]

The Land Acquisition Act 2013

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 addresses the acquisition of land or properties owned by private entities by the State or Central Government for the enhancement of public

[13] Section 6 of the Specific Relief Act of 1963.
[14] Sections 38, 39, and 40 of the Specific Relief Act of 1963.
[15] Section 3A of the Public Premises (Eviction of Unauthorised Occupants) Act of 1971.
[16] Section 5B of the Public Premises (Eviction of Unauthorised Occupants) Act of 1971.
[17] Section 4 of the Competition Act of 2002.
[18] Section 53N of the Competition Act of 2002.

utilities and infrastructural development.[19] It delineates the authority of the State and Central Government to acquire such land ensuring an effective remedial compensation and resettlement strategy. It similarly delineates the regional administrative authorities responsible for establishing the optimal scheme to meet the parties' demands.[20] Furthermore, it outlines the mechanism for rehabilitating the affected parties while ensuring a systematic and organized dispute resolution process, adhering to the principles of transparency and accountability.

The Insolvency and Bankruptcy Code 2016

The Insolvency and Bankruptcy Code 2016 (hereafter referred to as IBC) is a law reform designed to facilitate an efficient and effective process for resolving financial failures and liquidation for both individuals and corporations. The code aims to prioritize the revitalization of the enterprise in the broader public interest over liquidation. The recent revision to the statute expands the definition of financial debt to include the claims of allottees in real estate projects.[21] Consequently, this allows home buyers to be recognized as a crucial component in the resolution process, assuming the role of financial creditors. The home buyer, classified as a financial creditor, is empowered to commence bankruptcy procedures against their respective builder or developer.[22] This offers an extra avenue for home buyers to safeguard their interests in the real estate transaction. The IBC serves as a significant milestone for safeguarding house buyers due to its expedited settlement process.

The Goods and Service Tax Act 2017

The Integrated Goods and Services Tax 2017 (hereafter referred to as GST) is a tax reform that transformed the functioning of the Indian market. The Act is in its preliminary stage of implementation but has already demonstrated potential to become a significant milestone in a developing economy such as India. It streamlines the tax framework in India by consolidating all indirect taxes through the implementation of a one nation, one tax system.[23] The real estate sector is significantly enhanced by rising investments attributable to tax reductions, indicating a substantial shift from twelve percent in the previous methodology

[19] Section 2 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013.
[20] Section 23 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013.
[21] Section 5(8) of the Insolvency and Bankruptcy Code of 2016.
[22] Section 7 of the Insolvency and Bankruptcy Code of 2016.
[23] Section 5 of the Integrated Goods and Services Tax Act of 2017.

was reduced to five percent in the new GST framework.[24] Numerous industry leaders have expressed the view that the implementation of GST in the real estate sector will enhance the growth of the residential real estate market in the forthcoming years. Nevertheless, builders and developers may decide to utilize the previous tax scheme for ongoing or under-construction residential developments.

The Consumer Protection Act 2019

The Consumer Protection Act 2019 is a significant achievement in enhancing social welfare and participation for the advancement of the Indian economy. This consumer-centric legislation delineates consumer rights while highlighting the importance of consumer awareness and effective grievance redressal mechanisms. It ensures that consumers are informed about the quantity, price, quality, and other pertinent aspects of products or services.[25] Likewise, it establishes an expedited dispute resolution system alongside a compensation mechanism that aids in mitigating unfair commercial practices.

Housing construction or residential property is classified as a service under the Consumer Protection Act 2019.[26] However, the remedies available through established forums are restricted to monetary compensation, serving as a curative measure without any preventive provisions for the safeguarding of home buyers.

The Model Tenancy Act 2021

The Model Tenancy Act 2019 establishes a standardized legal framework to address issues pertaining to rental housing, aiming to alleviate challenges posed by current State legislation regarding tenancy and rental properties. It encompasses both commercial and residential properties, as well as rental properties.

The principal aim of the draft Model Tenancy Act is to alleviate the apprehensions of both landlords and tenants by delineating the rights and obligations of each party. Additionally, it seeks to benefit both tenants and landlords by providing an expedited dispute resolution mechanism through the establishment of a dedicated adjudicating authority endowed with the powers of a designated rent court. It aims to foster a harmonious

[24] GST Rates Booklet, http://gstcouncil.gov.in/sites/default/files/NOTIFICATION%20PDF/services-booklet-03July2017.pdf, (Accessed on March 20, 2025).
[25] Section 2(9)(ii) of the Consumer Protection Act of 2019.
[26] Section 2(42) of the Consumer Protection Act of 2019.

atmosphere within the rental real estate sector, thereby enhancing the sector's potential while safeguarding the interests of all parties involved.

Modern Legal Reform in Indian Real Estate Law

The growing population and varied yet constrained environment of a country such as India provide an urgent necessity for the equitable allocation of land resources, which has become one of the principal concerns in recent years. The desire for open government initiatives and policies is recognized as essential for the advancement of the Indian real estate market. The recent experience reveals numerous challenges, particularly in the residential real estate sector, attributed to escalating occurrences of deception, fraud, and buyer harassment. In real estate market. The real estate sector is encountering challenges in safeguarding buyers' rights, as instances of consumer rights violations in residential property transactions in India are escalating due to rising occurrences of delayed property possession and alterations in project development plans. The middle-class investors are significantly impacted by the challenges of real estate operations, although the rights of builders remain undefined in India.

The real estate sector is a major contributor to the economy; yet, it is noteworthy that it remained largely uncontrolled due to the lack of a specific regulatory body until recent times. The lack of regulatory or monitoring mechanisms led to a rising number of victims of real estate scams and questionable schemes. Despite the sector's predominant lack of regulation, customers within the real estate domain were safeguarded by the Consumer Protection Act of 1986 (now the Consumer Protection Act of 2019), which also provided the option to seek redress through civil courts. The incorporation of prospective buyer into the definition of real estate buyer has generated ambiguity in effectively resolving the dispute. Housing requirements have consistently been a primary priority for individuals in India; nevertheless, the associated legal difficulties render real estate transactions exceedingly cumbersome.[27]

The relationship between the aggrieved parties in the real estate transaction is regulated by the agreement they inked, which delineates the rights and obligations of both the builder and the home buyer. This situation presents an opportunity for builders to exploit consumers in the real estate market, as buyers often lack the necessary expertise and

[27] Sachin Mittal, The ABC of Real Estate in India, 1st Edition. 2018, pages 17-53.

experience to assess real estate transactions or evaluate a developer's ability to deliver possession of the project within the stipulated timeframe outlined in the agreement. The buyer's required payment for property booking was also unspecified, hence the advance payment was primarily regulated and dictated by the builders and developers. The arrangement between the builder and the buyer was disproportionately advantageous to the real estate developer, with deficiencies in oversight.

Real Estate (Regulation and Development) Act 2016

The Real Estate (Regulation and Development) Act 2016 (hereafter referred to as RERA) was adopted by the Indian government following an assessment of the challenges faced by the real estate sector in India. The Ministry of Housing and Urban Affairs (MOHUA) recommended it in 2009, which was subsequently accepted by the Ministry of Law and Justice (MLJ) and the Competition Commission of India (CCI) in 2011. In 2013, the Union Cabinet authorized and presented the Real Estate Bill 2013 in the Rajya Sabha. The bill underwent multiple rounds of consideration by both the Standing and Select Committees before being enacted by the Rajya Sabha and Lok Sabha as the Real Estate (Regulation and Development) Act 2016, which took effect on May 1, 2017.[28]

The RERA is the central government's initiative to enhance consumer protection in the Indian real estate industry, while fostering investment in the sector. It established a legislative framework delineating the rights and obligations of the parties involved in real estate transactions, especially to safeguard the interests of real estate consumers. It established a specialized regulatory framework comprising the Real Estate Regulatory Authority and the Real Estate Appellate Tribunal to facilitate efficient and prompt dispute settlement in real estate matters. It additionally delineates the penal responsibilities for any infringement of the compulsory stipulations of the Act imposed on developers and builders to guarantee rigorous obligations in cases of default.[29]

Consequently, the implementation of RERA is regarded as a savior by numerous experts and individuals inside the nation's real estate sector. This program aims to regulate the connection between builders and buyers to safeguard the interests of middle-class consumers who invest their hard-earned wages to fulfill the demands of the real estate market

[28] M.V. Durga Prasad, Law Pertaining to Real Estate Regulation in India, 2nd Edition edited. 2017, page 2.
[29] Sanjana Shrivastava, "Overview of the Real Estate (Regulation and Development) Bill, 2016," INTERNATIONAL JOURNAL OF LEGAL INSIGHT, Vol. Volume 1, Issue 2, 2017, pages 17-22.

in India. It similarly initiated a transition in the operation of the real estate market from builder-centric to buyer-centric by rectifying the regulatory deficiencies of the country's real estate sector, accompanied by a stringent legislative framework.

Objectives

The principal aim of RERA is to restore consumer trust and confidence in the Indian real estate market by enhancing the efficiency and openness of real estate transactions. It aims to augment the credibility and dependability of real estate developers, builders, promoters, brokers, and others to facilitate the seamless and beneficial progression of the nation's real estate sector. It aims to create a consumer-friendly environment in the real estate market by providing legal assistance that delineates the rights and obligations of the parties involved in real estate transactions, along with a dedicated dispute resolution mechanism to ensure effective consumer protection in the sector.

Applicability

The RERA is broadly applicable in the real estate industry, encompassing all newly built projects as well as existing and ongoing real estate projects that are under construction or in the development phase. Likewise, this pertains to all residential and commercial properties, encompassing land development to allocate ownership of portions of the built property in the manner of narratives. Moreover, it pertains to all parties engaged in the real estate transaction, including the buyer, builder, developer, promoter, and real estate agents or brokers. To advance the goals of the Act, it mandates all State Governments to either adopt RERA or formulate their own State Act that incorporates the principles of the federal legislation.[30]

Properties Covered

The properties encompassed by RERA include both residential and commercial properties, as well as developed land parcels, provided the area exceeds five hundred square meters or consists of more than eight units, whichever is greater.[31] It also include any properties whose construction begun prior to the passage of RERA but have not received a completion certificate. Each development step of the project is regarded as a distinct project, necessitating the application of the Act to each phase, which also requires separate

[30] Section 4 of the Real Estate (Regulation and Development) Act, 2016.
[31] Section 3(2)(a) of the Real Estate (Regulation and Development) Act of 2016.

registration under RERA. Moreover, all assets that are not intended for sale or re-allotment, and do not encompass activities such as marketing or advertising, fall outside the purview of the Act.[32]

Compulsory Registration

A significant transformative alteration in the legal framework is the implementation of mandatory registration for all real estate properties governed by RERA. Additionally, it establishes a system for the registration of all real estate agents involved in transactions within the Indian real estate market. The registration number serves as the identifier for the property and the real estate agents, so enabling the real estate regulatory authority to manage transactions effectively while ensuring openness and responsibility. The inclusion of the registration number for registered real estate agents and projects is obligatory prior to undertaking any activity associated with real estate transactions and projects.

Dedicated Account

The RERA established a legal need to open and maintain a designated account to retain a minimum of seventy percent of the sale earnings, including advance booking amounts, only for covering construction and land costs. Likewise, the cash must be retained and safeguarded in the account in accordance with the project's advancement. The available funds are restricted to the completion of the project's construction operations.[33]

Carpet Area

The primary contentious and essential element of a real estate transaction is the valuation of the property. The valuation of real estate is based on the property's overall area. Consequently, the carpet area is particularly significant in residential real estate transactions, a matter that was often overlooked before the implementation of RERA. The carpet area, as defined by RERA, encompasses the complete usable or floor area of a residential property, and the valuation of said property must be strictly based on this stated carpet area. Clarification regarding carpet area diminishes the likelihood of fraudulent occurrences among property purchasers.

[32] Section 3(2)(c) of the Real Estate (Regulation and Development) Act, 2016.
[33] Section 4(2)(D) of the Real Estate (Regulation and Development) Act, 2016.

Booking Amount

The implementation of RERA included numerous safeguards to guarantee robust consumer protection in real estate transactions. One preventive action is the imposition of restrictions on the monetary amount designated as the booking fee. A cap of ten percent is mandated for payments related to any advance, including booking amounts or application fees.[34] Consequently, this cap ensures consistency about the maximum percentage that builders may request for booking amounts.

Sanctioned Plan

The legal framework instituted by RERA addresses the stipulations and process for amending the approved development plan by the developer. It prohibits the builder from altering or modifying the approved development plan without acquiring the authorization and cooperation of all consumers of the diverse real estate properties associated with the project. The Act delineates the necessity to modify the approved development plan in accordance with the transfer of majority rights of the projects to a third party. It stipulates that the consent of at least two-thirds of the entire number of consumers or allottees of the project is requisite and obligatory to update or modify the existing sanctioned development plan, even if such actions are undertaken in pursuit of the project's reconstruction.[35]

Compensation on Default

The legal framework developed by RERA aims to create a consumer-friendly atmosphere inside India's real estate sector. A primary point of contention has consistently been the compensation or damages owed by the builder for failing to fulfill the terms of the agreement established by the parties. The RERA stipulates that if the builder or developer fails to fulfill the agreement to complete the project and transfer control of the property, they are liable to compensate consumers together with the designated interest. Consumers are afforded the opportunity to withdraw from the project and reclaim the money paid to the builder or developer, including any funds related to the intended real estate transaction.[36]

[34] Section 13 of the Real Estate (Regulation and Development) Act, 2016.
[35] Section 14 of the Real Estate (Regulation and Development) Act, 2016.
[36] Sections 18, 60, and 61 of the Real Estate (Regulation and Development) Act 2016.

Transparency

The real estate transactions in India include a substantial annual flow of capital. The transfer of such a substantial sum need a secure environment to protect the funds, particularly the hard-earned investments of the middle-class demographic. The implementation of RERA principally aims to establish a transparent framework to bolster consumer protection in the real estate industry. To protect consumer interests, the Act requires mandatory registration of real estate projects upon the acquisition of necessary permits and approvals. Developers and builders may engage in any real estate transaction pertaining to the project just after acquiring the registration certificate from RERA, hence diminishing the likelihood of fraudulent acts by these parties. Likewise, the developers or constructors are obligated to uphold information symmetry by presenting the periodic report on project progression, along with details regarding any modifications or amendments to the master plan, layout plan, etc. Additionally, the regulatory authority is authorized to oversee the transparency of the project's operations.[37]

Rights and Duties of Home Buyers

The Act explicitly delineates the rights and responsibilities of home buyers or allottees in real estate projects to guarantee equitable conditions for all participants in the transaction. The Act delineates the rights of home buyers, so altering the previously builder-dominated nature of the industry prior to RERA. It grants the home buyer the right to request and examine essential documents from the builders or developers, as well as information pertaining to the completion of the real estate project. Likewise, home buyers are allowed to request a refund or compensation, including interest, from the builder or developer in the event of a default in delivering possession of the property or completing the property within the agreed timeframe.

Standardised Agreement

The relationship between the parties in the real estate transaction is regulated by the agreement established by them. Consumers lack the technical expertise to comprehend the complexities of real estate transactions, rendering them susceptible to the questionable motives of builders or developers, as seen by the imbalanced agreements that favor the interests of the developer. Consequently, to guarantee effective consumer protection and

[37] Section 4 of the Real Estate (Regulation and Development) Act, 2016.

regulate the behavior of builders and developers, RERA provides a standardized model agreement that must be adopted by these entities.[38]

Regulatory Authority

The real estate industry is anticipated to undergo significant transformation due to the implementation of a specialized regulatory framework mandated by the Act, which requires State governments to establish their own real estate regulatory authorities. The creation of a real estate regulatory authority seeks to promote openness in the real estate market by enabling registration services for regional real estate projects and brokers are provided.[39] Additionally, it maintains a publicly available database including information on the periodic progress of real estate projects. It serves as a major platform for dispute settlement among parties involved in real estate transactions. It also satisfies the obligation for the effective execution of real estate legislation. The decisions of the real estate regulatory authority are binding on the parties; however, aggrieved parties have the opportunity to contest the authority's decision before the real estate appellate tribunal, which serves as an appellate forum for the parties.[40]

Advisory Council

The introduction of RERA demonstrates the legislative intent to ensure the efficient and effective implementation of the Act's provisions, which empower the central government to form an advisory council. The advisory council is tasked with ensuring the proper application of legal rules and the organized protection of consumers, contributing to the ongoing development of the real estate sector in India. It also serves as an advisory body to the central government, advising essential modifications and substantial actions to guarantee that the States appropriately implement legal provisions.[41]

Penal Provisions

The legal framework establishes a rigorous criminal regime for the real estate sector, holding promoters, builders, or developers of real estate projects accountable for significant penalties for any infringement or breach of the Act's provisions. The punitive measures encompass financial penalties and incarceration for the offending promoter, developer, or builder. The

[38] Section 13(2) of the Real Estate (Regulation and Development) Act, 2016.
[39] Section 20 of the Real Estate (Regulation and Development) Act, 2016.
[40] Section 43 of the Real Estate (Regulation and Development) Act, 2016.
[41] Section 41 of the Real Estate (Regulation and Development) Act, 2016.

penalty for breaching the registration requirement is up to ten (10) percent of the projected project cost. Likewise, the submission of any misleading information to the regulatory authority incurs a penalty of up to five (5) percent of the estimated project cost. Moreover, for any contravention of the principles and directives of the

Judicial Pronouncements for Shaping Indian Real Estate Market

The Indian real estate sector has shown remarkable expansion recently, with a significant influx of investment driven by heightened demand for residential properties, particularly from the middle-class demographic. While numerous legal and regulatory mechanisms exist to ensure transparency and efficiency in the real estate market, safeguarding the interests of various parties involved in transactions, the judiciary's role remains pivotal in interpreting legal provisions to facilitate their effective implementation. The following outlines key judicial pronouncements from various judicial and regulatory authorities that have considerably fostered the expansion of the real estate sector in India, particularly the residential segment.

The Supreme Court of India (hereinafter referred to as SC) has significantly influenced the development of the real estate sector in India by examining various aspects of real estate transactions and striving to eliminate ambiguity to ensure the effective enforcement of legal provisions.

In ***Lucknow Development Authority v. M.K. In Gupta,***[42] the Supreme Court examined the scope of the Consumer Protection Act of 1986 concerning housing and building operations, asserting that all builders, developers, and constructors fall within the Act's jurisdiction. The Supreme Court declared that “all builders, contractors, and relevant authorities in any State involved in housing construction activities are subject to the Consumer Protection Act, 1986 for any act or omission pertaining to housing activities.” The case observation indicates that the apex court acknowledges that the builder or developer develops the house for buyers with the expectation of financial profit. Consequently, It qualifies as a service and is therefore encompassed by the Consumer Protection Act of 1986.

[42]AIR 1994 Supreme Court 787.

In ***Ghaziabad Development Authority v. Balbir Singh***[43], the Supreme Court examined the builder's obligation to indemnify the customer for delayed possession and the extent of such compensation. The Supreme Court stated that the builder's liability for compensation cannot be determined by a specific interest rate and recommended that commissions and forums assess the damages, including both harm and loss, incurred by the buyer to ascertain the suitable compensation sum. It similarly instructed the commissions and forums to assess the inadequacy of service on the part of the builder and its impact on the public at large to ascertain the total damages. Concurrently, it recommended taking into account both the mental and physical distress experienced by the buyers due to the builder's conduct when calculating the total compensation amount.

At ***Nahalchand Laloochand Pvt. In Ltd. v. Panchali Co-operative Housing Society Ltd.,***[44] the Supreme Court examined the legality of selling parking spaces to individual homebuyers. The Supreme Court noted that the promoters exploited the deficiencies in the existing legal framework concerning housing societies, specifically the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act of 1963, to sell open and stilt parking spaces at inflated prices. The Supreme Court elucidated that promoters or builders are prohibited from selling parking spaces, as the Act's definition of a flat excludes garages. Consequently, it is the responsibility of the promoter or builder to furnish parking spaces without incorporating their cost into the flat's price. Parking spaces are deemed common facilities, for which all homebuyers must collectively bear the expense.

At ***Ferani Hotels Pvt. In Ltd. v. State Information Commissioner, Greater Mumbai***,[45] the Supreme Court detailed the obligations of builders and developers to guarantee information symmetry concerning the approved layout plans. The court underscored RERA's purpose of ensuring transparency in real estate transactions, necessitating that the builder furnish all relevant information pertaining to the sanctioned plan must be displayed at the project site or any other office utilized for the execution of real estate transactions relating to the project. The Supreme Court further stated that real estate transactions and their future expansion rely on the preservation of information symmetry. The

[43] 2004, 5 SCC 65.
[44] 2010, 9 SCC 536.
[45] INSC 853 (2018).

Court also urged the regulatory authority to prioritize the promotion of the transparency aspect of real estate transactions established under RERA.

At ***Neelkamal Realtors Suburban Pvt. In Ltd. v. Union of India***,[46] the Supreme Court determined that the rights and obligations of promoters and allottees are delineated under RERA to guarantee equitable conditions in the real estate market. RERA delineates the liabilities of both parties in a real estate transaction in the event of default. Consequently, it guarantees the fundamental principle embedded in RERA's aims, which is to foster an atmosphere of openness, accountability, and trustworthiness within the real estate market. The court underscores the necessity of interpreting RERA laws through a holistic lens rather than in isolation to achieve the legislative goal of standardization, professionalism, and transparency in the real estate market.

Kolkata West International City Pvt. Ltd. In Ltd. v. Devasis Rudra[47], the Supreme Court examined the legitimacy of the buyer's request for a refund due to the builder's failure to give possession, subsequent to receiving the initial compensation granted by consumer forums and commissions. The Supreme Court determined that buyers may anticipate waiting to obtain possession of the property; nevertheless, the transfer of ownership cannot be extended indefinitely. Consequently, it was noted that customers cannot be prohibited from seeking a refund, even after main compensation has been granted, so affirming the legitimacy of the refund claim.

In ***Pioneer Urban Land and Infrastructure Ltd. v. Union of India***,[48] the Supreme Court considered the incorporation of home buyers into the classification of financial creditors as specified by the Insolvency and Bankruptcy Code (IBC). The Supreme Court relied on the suggestions from the committee's report established to change insolvency laws in India, which designated the home buyer's investment as part of the capital for real estate project development. In a similar vein, the Supreme Court expressed that the home buyers serve as the principal financiers for the real estate project, with the funds provided by the purchasers being utilized by the builder to construct the residences for the home buyers. The Supreme Court noted that the remedies available to home buyers under the legislative frameworks of RERA, the Consumer Protection Act of 1986, and the IBC are concurrent and

[46] 2018 SCC Online Supreme Court 1608.
[47] 2019 SCC Online Supreme Court 438.
[48] 2019, 8 SCC 416.

additional. It also elucidated that home buyers are entitled to seek compensation or suitable remedies from any of these venues and recommended that RERA should be viewed as compatible with the terms of the IBC, while also emphasizing that the IBC takes precedence over both RERA and the Consumer Protection Act of 1986.

In ***Bikram Chatterji v. Union of India,***[49] the Supreme Court examined the misappropriation of funds by the builder, who redirected financial resources from the relevant projects to enhance the personal assets of the promoters. The Supreme Court, in its seminal ruling, acknowledged the victimization of innocent homebuyers and annulled the registration of many projects by the builder. Likewise, the National Building Construction Corporation (hence referred to as NBCC) was tasked with developing and finalizing the construction of the project. A receiver was also appointed to execute the selling agreement at no expense to the home buyers. Additionally, it instructed the administrative authorities to reclaim all outstanding payments from the builder by seizing personal property. Ultimately, it instructed the administrators to implement analogous measures against all defaulters to safeguard the rights and interests of buyers in the future.

At ***Keystone Realtors Pvt. In Ltd. v. Anil V.***[50]Tharthare, the Supreme Court addressed the necessity of environmental assessment concerning the effects of real estate development, affirming the National Green Tribunal's directives that require builders to submit a report on potential environmental impact to assess the implications for the surrounding area. Additionally, it underscored the necessity of ongoing assessment to identify suitable corrective actions, including compensatory remedies.

The agreements among the stakeholders in the real estate market have historically raised concerns due to the imbalanced contracts favouring the developers. The buyers had little to no opportunity to propose any alterations, modifications, or discussions regarding the terms of the agreement. In the matter of ***Belaire Owner's Association v. DLF Ltd. and HUDA***,[51] the CCI has thoroughly examined the inequitable agreement concerning the misuse of dominant position. The CCI has issued notable remarks regarding consumer rights, noting that the terms of the agreement, following the payment of a significant sum, become obligatory for the buyers, thereby precluding any opportunity to contest the developer's

[49] 2019 SCC Online Supreme Court 901.
[50] 2020 2 SCC 66.
[51] 2011 Comp LR 0239 (CCI).

actions, which heightens the likelihood of misconduct by builders. Moreover, it highlights the issues of the imbalance of negotiating power among the parties involved in real estate transactions, leading to an increase in violations of consumer rights in the real estate market. Ultimately, in penalizing DLF, the CCI determined that the imbalanced agreement favoring the builders enables the developer to exploit the agreement to their advantage, leaving investors and potential investors uninformed about project specifics, which is unjust on the developer's part.

Likewise, the alteration in the structural plan and design layout of the real estate property examined by ***CCI in Pankaj Agrawal v. DLF Gurgaon Home Developers Pvt. In Ltd***.,[52] the CCI has asserted that altering the construction plan without notifying buyers constitutes an infringement of home buyers' rights. Additionally, modifications to the number of floors in an apartment adversely impact buyer interests and are classified as unfair practices by developers. Moreover, it articulated that imposing extra charges under the guise of external development costs resulting from an increase in the number of floors, without the buyers' approval, constitutes unfairness and an abuse of dominance.

The issue of delayed possession by builders in India's real estate industry has long been a contentious one, as it impacts asset value and the property's profit-generating potential. Consequently, the National Consumer Dispute Redressal Commission (hereafter referred to as NCDRC) in the matter of ***Kamal Sood v. M/s. DLF Universal Ltd.***[53] determined that advertising a commitment to complete a project within a specified timeframe, yet failing to fulfill this promise due to delays in government approval for necessary documents, does not constitute a legitimate justification for the delay in possession delivery and is classified as unfair practices by the builder or developer. Moreover, it determined that the builder or developer is accountable for compensation obligations to meet the buyer's interests if the stipulated timeline for possession delivery is not adhered to by the developer or builder.

In ***Satish Kumar Pandey v. Unitech Ltd.***[54], the NCDRC condemns builders for imposing a substantial penalty of eighteen percent per annum on buyers for delayed installment payments, while simultaneously evading similar penalties or compensatory clauses for their

[52] 2015 Comp LR 728 (CCI).
[53] 2007 SCC OnLine NCDRC 28.
[54] 2015 SCC OnLine NCDRC 14.

own deficiencies, including delays in possession, structural defects, and construction quality issues. Moreover, it has been noted that the agreement stipulates a minimal penalty for builders, which in most instances is below three percent of the property's entire cost. Consequently, the NCDRC classified these actions of the builders as unfair practices and instructed them to cease such conduct.

In the matter of ***Yogesh Sharma v. M/s. The NCDRC***[55]has noted that it is the builder's obligation to complete the project within the stipulated timeframe, as the builder or developer voluntarily commits to the project despite being aware of various pending activities concerning the acquisition of approvals and permissions. Consequently, it instructed the builder to meet its obligation to indemnify the buyers for the delay in possession delivery.

In ***Manish Kumar Gupta v. Unitech Ltd***.,[56] the NCDRC denied the builders' request to excuse the delay in property possession due to a shortage of construction labor during the Commonwealth Games 2010, which utilized the majority of the labor force, thereby hindering construction sector experiencing a labor shortage. The NCDRC, in dismissing the petition, asserted that the builder's intent dictates the execution of their obligations as outlined in the agreement; in this instance, the agreement from 2006 did not result in property possession until 2010. The NCDRC noted that in admitting the builder's petition based on force majeure conditions, it is essential to assess the builders' intentions about the promised delivery timeline.

In ***Sanjay Kumar Vij v. Unitech Ltd***.,[57] the complainant remitted the whole amount to the builder for the anticipated property as per the agreement established between the parties. The builder guaranteed possession of the property by March 2009 but did not fulfill this commitment. The complainant requested the prompt return of property possession or a full reimbursement, including lawful interest; nevertheless, the respondent submitted a defense citing force majeure conditions without any corroborating factual proof. Consequently, the NCDRC has classified it as a complete defect on the builder's part, who benefits from the interest on the buyer's deposited funds while failing to give possession within the stipulated timeframe. The NCDRC has acknowledged the buyer's mental distress and mandated the builder to refund the full money together with interest, in addition to providing compensation.

[55] 2015 SCC OnLine NCDRC 3488.
[56] 2017 SCC OnLine NCDRC 1741.
[57] 2017 SCC OnLine NCDRC 1652.

In ***Bhattacharjee v. Delhi Development Authority***[58], the Delhi High Court examined the detriments faced by home buyers resulting from delays in property possession. The court asserted that the postponement in transferring possession of the property adversely impacts the investor's interests by inflating the opportunity cost associated with the property's potential use, the expenses incurred for property oversight, and the escalating administrative costs imposed by authorities in the form of taxes and fees. Likewise, it influences the anticipated return from the property, which might be realized post-transfer of ownership, contingent upon the property's proper care once occupied.

In ***Lavasa Corporation Ltd. v. Manju Narendra Joshi***[59], the High Court of Bombay addressed the issue of RERA's applicability to real estate. The court elucidates that, although RERA does not explicitly stipulate its applicability to lease agreements, an analysis of the lease agreement's nature reveals that it qualifies as a real estate transaction eligible for protection under RERA. It further emphasized the necessity of interpreting legal provisions by comprehending legislative intent, suggesting that interpretation should strive for coherence among legal provisions rather than being conducted in isolation.

The Indian real estate sector has significantly evolved over time, with residential properties proliferating, particularly in metropolitan areas. Judicial clarifications and elucidations regarding various ambiguities have been pivotal in shaping the growth of this sector. The judicial approach applied in the real estate sector is to provide an efficient and effective process that ensures a level playing field while providing enough protection for home buyers during real estate transactions.

Conclusion

Real estate law regulates the procedures and formalities for conducting real estate transactions. It oversees and supervises the operations of the real estate sector within the nation. It is impacting different stakeholders in real estate transactions, including home purchasers, renters, developers, landlords, and real estate agents, both directly and indirectly. In recent years, the real estate sector has seen substantial changes in legislative mechanisms, resulting in a movement from a builder-centric to a buyer-centric market in India. The

[58]1996 SCC OnLine Delhi 440 : 63 (1996) Delhi Law Times 467.
[59]2018 (08) SML BOM 82.

builder's dominance is regulated by resolving buyers' concerns stemming from imbalanced arrangements in real estate purchases.[60]

The implementation of RERA has emerged as a significant milestone in regulating the real estate market, as the creation of a dedicated regulatory authority and appeal tribunal has facilitated prompt dispute resolution. In a comparable manner, the Judiciaries have been instrumental in preserving the equilibrium among diverse legal provisions by eliminating difficulties and ambiguities in the law, thereby fostering a safer environment for parties engaged in real estate transactions and contributing to the growth and development of the Indian real estate sector. Nonetheless, there are some problems regarding overpricing and specific categories of malpractices that threaten the efficient application of real estate regulations in India, which will be addressed in the subsequent chapter.

[60]SumitBamhore, "Regulating the Real Estate Sector in India: A Paradigm Shift from Builder Dominance to Buyer-Centric Approaches," CONTEMPORARY LAW REVIEW, Vol. Volume 2, Issue 2, 2018, pages 361-370.