

A year of trials and tribulations

As the first anniversary of RERA draws closer, so does the knowledge that the implementation across states is nowhere close to its goal

VENKET RAO

SO, Real Estate (Regulation & Development) Act, 2016 is here and now all grievance will be taken care of, the Regulator will tighten the builders and all that was wrong in real estate sector is going to be set right. One year ago, this was what was expected of RERA — a quick-fix solution for years of rot. One year on, in fact two years from RERA coming into effect, we are still waiting for that, transparent, credible and accountable real estate industry.

Implementation

RERA was proposed to be implemented in two stages, in the first stage, states were given one year to set up the administrative mechanism i.e. to set up the Regulator, have a operational website, notify rules, set up Appellate Tribunal etc., second stage was proposed to begin one year from stage one, whereby actual implementation i.e. registration of real estate projects by developers, complaint redressal etc was to commence.

RERA was notified for implementation with effect from May 1, 2016 and certain sections were notified which kicked off the first stage. States were slow to take off, there was reluctance bordered on resistance. Administrative mechanism, including an operational website and Rules were to be in place by April 30, 2017. However, in spite of repeated nudging and warnings by Union Government, only four states lead by Maharashtra and Union Territories had Regulator and Rules in place. In fact, only Maharashtra, Madhya Pradesh and Rajasthan had an operational website.

Taking a tough stand, Union Government went ahead and notified, operational sections of RERA with effect from May 1, 2017, kicking off second stage. It was welcomed with great enthusiasm by buyers at large. It was expected to change the dynamics of real estate industry. Even in states where RERA has been implemented, buyers have been alleging dilution of some critical provisions such as on defini-



SUMMARY

Most states and Union Territories (UTs) have followed a quasi-implementation route which does not amount to creation of an effective regulator that has started delivering on its intent. Maharashtra is the only exception where the regulator's proactive functioning has set new precedents every second day. Currently, more than 25,000 projects have been registered under RERA across India, out of which 62% are in Maharashtra alone. But in some states, extension of deadlines for project registration is still underway.

tion of ongoing projects, penalties etc.

Across states, there have been many petitions challenging various provisions of RERA, including constitutional validity of certain provisions. Union Government approached Apex Court for transferring of all the cases before various High Courts to the apex court. However, Supreme Court had directed Bombay High Court to settle various petitions in its jurisdiction, within a time period whereupon the same could suitably

be settled for the rest. Bombay High Court, in a big relief to homebuyers, upheld the constitutional validity of various provisions of RERA and other issues. This may pave way to other states to take a similar stand.

Long way to go

It definitely is not a hunky dory situation, but the way RERA is being pushed/followed there seems to be an intent. Implementation may not have been as swift as

DISADVANTAGES IF THE INTERIM REGULATORS CONTINUE

Focus of regulators, whether permanent or interim, is to maintain RERA compliance visibility. However, with interim regulators, creation of an information rich portal and supporting infrastructure still remains work in progress. Hence buyers are left with no other choice but to resort to third-party information for real estate due diligence.

The administrative nonchalance puts a big question mark on the efficacy with which consumer disputes are addressed, ruled and made available to public at large.

Several officers in interim regulators are heads of state level development departments, development authorities

and housing boards. This raises a very pertinent question - will there be no conflict of interest when these officers have to evaluate cases pertaining to projects where the said bodies are promoters/developers? In all likelihood, justice in real estate rulings would be biased.

SOURCE: KNIGHT FRANK RESEARCH

FACT SHEET

- Till now only 27 states (including Union Territories) have notified their rules.
- Only 16 states and union territories have functional portal for the registration of real estate projects and agents.
- So far only 8 states and Union Territories have a permanent Real Estate Regulator and the remaining 19 states only have Interim Real Estate Regulator.
- Kerala has appointed an Interim Regulator as late as March this year and West Bengal has drafted rules but still not notified. West Bengal rather implementing the central RERA, as some reports suggest, may have its own law i.e. West Bengal Housing Industry Regulation Act 2017 (questionable, but)
- Many north eastern states are yet to take any concrete step in this direction.
- Only 3 states and Union Territories have set up the regular Appellate Tribunal. 13 States and Union Territories only have their interim Appellate Tribunal.
- Since the implementation of RERA, 27,000 projects have been registered so far and application for agents are approximately 17,000.

"THERE HAVE BEEN A LOT OF DISCUSSIONS PERTAINING TO DIFFERENT PROVISIONS OF THE ACT SUCH AS THE DEFINITION OF ON-GOING PROJECTS, THE PUNISHMENTS FOR VIOLATIONS, SCOPE OF VIOLATIONS ETC. WHICH IS A HEALTHY EXERCISE. HOWEVER, IT IS EQUALLY IMPORTANT TO ASCERTAIN THE PERFORMANCE OF STATE GOVERNMENTS IN ESTABLISHING THE RERA MACHINERY. THE PROGRESS HAS BEEN ABYSMALLY SLOW. UNLESS AND UNTIL, RERA IS IMPLEMENTED IN THE TRUE LETTER AND SPIRIT OF THE ACT, THE SENTIMENT THAT DRIVES PURCHASE OF RESIDENTIAL PROPERTY IS UNLIKELY TO CHANGE. THE CONFIDENCE OF BUYERS ON DEVELOPMENT OF PROJECTS AND TIMELINES IS A CRITICAL YARDSTICK INFLUENCING BUYING BEHAVIOUR."

SAMANTAK DAS, CHIEF ECONOMIST & NATIONAL DIRECTOR - RESEARCH, KNIGHT FRANK INDIA

WITH THE INTRODUCTION OF RERA, THERE IS NOW MORE TRANSPARENCY IN THE SECTOR AND THE ACT HAS DEFINITELY TURNED OUT TO BE A BLESSING FOR BOTH THE HOMEBUYERS AND DEVELOPERS. WE WISH THAT THE PROCEDURES OF REGISTRATION AND APPROVAL WHICH TAKE A TIMEFRAME OF MINIMUM THREE MONTHS TO 18 MONTHS BE SHORTENED ELSE THIS RESULTS IN THE DELAY OF THE START OF THE CONSTRUCTION AND LEADING TO THE LONG GESTATION OF THE PROJECT DELIVERY.

AJUNIBAN SAHA, DIRECTOR (MARKETING, CONSTRUCTION & SUSTAINABILITY), SAHA GROUP

THE REGULATION LAST YEAR HAS STARTED THE PROCESS OF PURGING THE SECTOR OF PLAYERS WHO BROUGHT IT A BAD NAME. WHAT WE ARE ALSO WITNESSING IS A CONSOLIDATION OF BUSINESSES AT ALL LEVELS - WHICH IS GREAT FOR THE SECTOR. SOME TEETHING PROBLEMS PERSIST LIKE AN UNCLEAR INTERPRETATION OF VARIOUS CLAUSES BY VARIOUS STAKEHOLDERS, BUT THAT SHOULD BECOME CLEAR WITH TIME. HOWEVER, REAL ESTATE IS NOT ONLY PRIMARY SALE, ACTUALLY, 40% OF URBAN INDIA LIVES ON RENT AND THEY NEED PROTECTION AS WELL. WE HOPE RERA WILL EXPAND ITS AMBIT TO INCLUDE OTHER PARTS OF REAL ESTATE LIKE RENTALS.

PALLAV PANDEY- CO-FOUNDER AND CEO, FASTFOW

"IN THE PAST ONE YEAR, RERA HAS HELPED IN ELIMINATING THE PRE-LAUNCH PROJECTS COMPLETELY FROM THE MARKET WHICH LED TO A PRICE HYPE. BUT APPARENTLY THE ACT HAS NOT GENERATED ENOUGH IMPACT ON THE END-CONSUMERS' BUYING DECISION FOR THE NEAR COMPLETION PROJECTS DUE TO THE HIGHER TAX RATE OF 12 PER CENT AS PER GST IN COMPARISON TO 4.5 PER CENT SERVICE TAX.

GAUTAM THAPAR, CEO, THAPAR BUILDERS PVT LTD