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Game Changer Act: States Yet To Act

It is tough to determine if the RERA will really help homebuyers considering only a handful of states have adopted it

The federal structure of the Indian democracy, sometimes, tends to slow down the reform process. This is evident from the manner in which the 20-odd state governments have not reacted to the 1 May deadline for the implementation of the Real Estate (Regulation and Development) Act, 2016 or RERA. This piece of legislation is expected to regulate the largely unregulated real estate sector involving over 76,000 companies. RERA has been under works for almost a decade.

Passed by both houses of Parliament in 2016 as a model law (since land is a state subject), the state governments had over a year's time to adopt/pass state-specific RERA law and implement it. The deadline, 1 May, otherwise celebrated as Labour Day, was chosen as the D-day for implementing the RERA across all states. Sadly, only around half a dozen states have actually passed their own real estate law and notified the rules on 1 May. The rest are in the process of taking feedback/comments from stakeholders.

The status of the RERA is at different stages across different states. Neeraj Sharma, Director, Grant Thornton, says that while some like Maharashtra and Gujarat have notified their rules, others are still in the stage, where draft rules have been issued for comments. "We also have the case of Haryana, which issued its draft rules on the evening of 28 April. The states were supposed to follow the model national act while framing their respective rules. It has come to light, that states have tweaked the rules for certain clauses such as definition of ongoing projects for their respective states."

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Decoding The RERA

Why this noise around the RERA? Well, the law has been pegged as the solution for all ailments gripping the real estate sector. As per the government's own estimate, between 2011 and 2015, a total of 17,526 real estate projects, with an investment of around Rs 13.70 lakh crore, were launched. These projects are spread across 27 cities including 15 state capitals. On an average, around 10 lakh buyers invest every year with the dream of owning a house. Given this backdrop, the RERA is expected to streamline the otherwise fragmented and largely disorganised industry having thousands of big and small developers.

Under the RERA, developers have to get all the projects — ongoing that have not received completion certificate and new — registered with the regulatory authority of the state by 31 July. Real estate agents are also required to register themselves with their respective regulatory authorities before the same date. Builders are required to deposit 70 per cent of the funds collected from buyers in a separate bank account, in case of new projects, and 70 per cent of unused funds, in case of ongoing projects.

Despite, clarity on the rules that benefits the general public (read: buyer), out of 32 States and Union Territories (UTs), only around 13 have notified the RERA rules. Among the states, only six have notified the RERA — Gujarat, Uttar Pradesh, Maharashtra, Odisha, Bihar and Madhya Pradesh

The Act specifies that all existing projects must be registered with the state's regulatory authority by July and that no new project can be launched without this registration. But that is not the case. Certain states that have adopted and implemented the RERA, have diluted the model laws in favour of the developers. For example, Haryana has omitted the disclosures required to be made by builders on their sanctioned plan, layout and specifications and all subsequent changes to be made available to home buyers at the time of booking.

But Pankaj Bansal, Director, M3M India, a Gurugram-based developer says the Haryana government has done a lot towards making the RERA a success. "Till now, the sector was witnessing an influx of all kind of developers. As a result, the quality of construction was coming down and the sector, as a whole, was seen as non-transparent and tainted. Now, with this game-changing law in place, only the genuine developers focusing on time and quality of execution will stay while non-performers will perish," says Bansal. He further adds that the Haryana government took a far-reaching measure to protect interests of homebuyers by setting up the Allottees Grievances Redressal Forum. "To ensure ease of business, the Haryana government formulated a policy under which district level committees could clear small projects needing investment of Rs 10 crore," says Bansal.

However, rules have also been tweaked for Delhi, a real estate expert points out. "The model rules say builders need to provide details of all pending cases. But in Delhi, the rules notified specify that promoters need to provide details of only those court cases which have been disposed of during the last five years," says this consultant.

Industry experts also cite the example of Maharashtra, a BJP-ruled state where the law passed has included a provision, which allows builders to divest from a project after occupancy certificate has been issued. This is not part of the central model law. The allegation is that a builder can use this provision to pull out of his/her entire investment before completing works for common areas, facilities and amenities.

But that is not the case argues Vidip Jatia, Director, Belmac, a developer in Maharashtra. "The rumours of the RERA being diluted are being spread by those who want to delay its implementation. The RERA has been implemented from 1 May and all developers will have three months' time to register their projects."

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Developers Speak

Bengaluru-based Bijay Agarwal, MD, Salarpuria Sattva Group says Karnataka being a relatively open market, the implementation of the RERA is bound to usher in greater transparency. "We are hoping for the state government to notify the final norms of the RERA before the deadline as the Act applies to both residential and commercial sectors," Agarwal said a few days before the deadline. However, Karnataka is yet to notify the RERA.

Rahul Singla, Director of Gurugram-based Mapsko Group, says the RERA has both pros and cons. "On the positive side, the whole Act, once implemented totally, shall clear all unambiguous deals in the market and bring complete transparency in deals. This will be good for both the buyer and the developer. In hindsight, the expectations from the RERA are still a bit far-fetched, in my opinion. For developers, it is noose around their neck unless the real issues are properly addressed."

Another Gurugram-based developer, BDI Group, is happy with the RERA. BDI's MD Ssumit Berry says, "The RERA would be a game-changer for the real estate industry. Not only will it speed up delivery of real estate projects, it will also bring in more transparency and accountability into the sector. This will result in positive consumer sentiment and boost demand."

Impact on Home Prices

What will be the impact on average home prices in the post-RERA world of real estate? Sattva Group's Agarwal, says, "The Act will lead to transparency and the loopholes will be trapped. This will bring lucidity in the entire system. There will be no immediate changes in the overall cost, but down the line, we are expecting that it will shoot up," he says. Agrees Jatia of Belmac. "Once the RERA is implemented in full force, the cost of homes will increase as developers will face a major liquidity crunch." Mapsko Group's Singla too echoes similar sentiments. "Any business with higher risks incite higher costing. The prices are surely to go up once the RERA is enforced." However, Grant Thornton's Sharma says that developers are already struggling with significant levels of unsold inventory across key markets. "Can they afford a price rise at this stage?" Berry of BDI Group and Bansal of M3M Group believe that the RERA will stabilise home prices and lead to the addition of new homebuyers resulting in even greater demand for housing.