

Impact of RERA on Construction of Multi Storied Buildings

S. Radhakrishnan¹, Dr. K. G. Selvan²

¹PhD Research Scholar, PRIST University, Thanjavur, Tamil Nadu, India-613 403

²Professor, PRIST School of Business, PRIST University, Thanjavur, Tamil Nadu, India-613 403

Email address: ¹srk1960@yahoo.in, ²drcsrv@gmail.com

Abstract—Construction Industry is the second largest employment provider to people of all walks of life, next to Agriculture, in India. It is largely unorganised. Anyone, who knows about construction by virtue of being in the field for long years, could start building apartments. It is from a single floor house to multi floor apartments.

This was the case for so long in the country. Even milk vendors and tailors were busy constructing apartments, having a diploma holder on the letter head, for obvious reasons. As long as luck remained intact, they were in the business and were out once problems cropped up in their construction. It was very easy for them to quit the field as it was only a “part time business”. The sufferers were actually the people who purchased the flats from them.

Having already suffered on their construction, they would not be prepared to spend further on litigation or any sort of proceedings. This was the case by and large, all over.

Keywords— Architect Certificate on Structural Stability, Audited Balance Sheet, Bank’s confirmation on Exclusive Account for the Project, Carpet Area.

I. WHAT IS RERA?

The Real Estate (Regulation and Development) Act, 2016 came into force from 01/05/2016 and with full entirety from 01/05/2017.

The purpose of RERA is to ensure transparency in dealing by the builders. This crucial act has been promulgated basically to protect the interests of the buyers. They were, literally at the mercy of the builders, before. Many people withdrew from the project to save themselves from further bothers.

The builders were holding upper hand and the purchasers were only at their convenience, without much of legal recourse to them. The peculiarity was that to win over an erring builder, the purchaser had to pay more than what he already paid for the flat, for the legal expenses and other related things.

There was a distinct reduction in the square foot of the area of what was physically given and what was actually booked. The builders would smartly include the “outside areas” also in the area of the apartment of the purchaser. This would be followed as a rule, for all the purchasers of the project. The buyers were to pay for the common areas too, in their apartment price.

The builders literally plundered the innocent buyers.

All these have been put an end now, after implementation of RERA.

II. WHAT HAS NECESSITATED RERA?

It is to be noted that over a period of years, the land cost has been shooting up quite high, almost all over the country. Land is getting scarcer for construction purposes, particularly in the city and outskirts of same.

The sustained shift of population from rural areas to city for employment purposes resulted in whooping rental costs. People started calculating and comparing rental charges vis a vis EMI for owning an apartment and are satisfied that it would be better to pay EMI than rent.

The availability of institutional finance for longer period of repayment comes as an opportunity to seize, mainly for youngsters.

With many other reasons combined, people evince keen interest to possess apartments.

After the IT boom in the country, the construction industry is enjoying buoyancy and as a result, there are lot of projects with many of them stretching up to ten floors, all over the country.

In the anxiety for business diversification, even people with no background knowledge at all, also embarked upon construction activities. With tonnes of money and least of experience, they ventured into this business and constructed many buildings as well. Quality problems plagued in their buildings. Lot of litigations started coming up.

It is necessary to make a mention that even builders who were known for their reputation started embracing unscrupulous patterns in behaviour which have resulted in a number of court cases. By undertaking too many projects at a time, quality started sliding mainly due to lack of attention in the construction.

This apart, there was always a tussle between the builder and the buyer in terms of the actual area of construction. There was a distinct reduction in the physical availability of the area at the time of possession compared to the ones at booking. The builders would always make a stout argument that it is due to common area. This was a grumbling issue ever since flat construction took place in the country. While some of them climbed the steps of court for justice, most of them were only losers – the technicalities of the agreement were shielding the builders.

The Agreement put forth by the builders is always favouring the builders with lot of soft corner for them and punitive clauses inflicting on the purchasers. Legal remedies

were very few and that too costly. This was the situation throughout the country.

The purchasers were simmering with no recourse to them from any angle, but to surrender to the builders for smooth possession of the apartment – having paid so much money, they did not want to get into any entanglements.

There was growing representations from purchasers to protect themselves from builders and to have the flat they booked, as they were promised and without any deviation whatsoever. Some builders were also reckless in their dealings with customers.

All these necessitated in enacting a Law that should provide justice to purchasers and would also extract transparency and commitment from the builders. This law enforces upon all the builders, all over the country.

III. SALIENT FEATURES OF RERA

The Real Estate Regulation & Authority Act was enacted on 26/03/16 and published in the Government of India Gazette on 26/03/16. While some sections were notified with effect from 01/05/16, the act came in to being in entirety from 01/05/17.

The Act is promulgated purely to defend the legitimate rights of the buyers and also to enforce and ensure transparent dealings by the builders.

The purpose of the Act is to (a) protect the buyers' interest (b) quality of construction (c) adherence to rules and regulations by both the builders and also the customers

Both the builders and also the purchasers have legal recourse for any issue arising out of the construction project. Whoever is the defaulter, they will be punished. The sole aim of the act is to ensure genuineness of the dealings at both ends.

This act makes it mandatory that whatever be the nature of construction whether residential or commercial, if the land is over 500 square meters or eight apartments and more are constructed, such projects are to be necessarily registered under RERA.

Noncompliance is a punishable offence and would be sternly dealt with.

IV. HOW IS RERA BEING IMPLEMENTED?

Prior to implementation of RERA, the builders, even before completion of approval/legal formalities, would make mega advertisements in press with attractive offers and start collecting advance payments from customers. There were cases where advances had been collected from many customers, pending approval and after many months, due to rejection of approval for the project, the advance money was returned to customers.

There were plenty of cases in courts with a plea that the builders had cheated them and they blocked their hard earned money in a fictitious project. Builders were advised to return the money with interest to those who booked the flat, of course, with interest. After much of waiting, money was returned to people.

The point to be noted here is that it is not the question of returning the money with interest to those who booked the

apartment. The price of land is going up day by day and so is consequently the price of the apartments.

The customers had to now book the same sized apartment at a much higher price with some other builders. The worst hit was the people who booked in good faith

This kind of a situation would never crop up again, thanks to RERA.

The promoter or the builder will have to register the project with the Regulatory Authority. Only after RERA registration, can h

We approach the public with any sort of information. Without RERA approval, the builder is not supposed to issue even pamphlets to people about the proposed project.

If it is found that without RERA approval, any advertisement is made regarding the project in any media or even if any pamphlet is issued, it is considered to be an offence and appropriate action will be initiated.

The stringency of the procedure is to only ensure that the RERA approved projects are only notified to general public. In other words, no unapproved project should be passed on to public in any manner at all.

V. PROCEDURE FOR RERA REGISTRATION

The Builder should make a formal application form for registration of the project under RERA to enable him notify about the project to general public.

While submitting the application form, he has to furnish a host of essential information. Some of the important ones are furnished below.

- Details of approvals obtained from various competent authorities in connection with the project under reference.
- Brief details of the projects launched by the promoter/builder, in the last five years.

It is a fact that a qualified and experienced builder only can venture in to a multi storied building construction. This clause works out like a check on the new/unqualified builders.

It is to be noted further that if any information is found to be false, at a later date, the RERA registration would be nullified. Not only that, the builder would have to face severe penal action.

Any other ongoing projects of the builder would also come under the close scanner of the authorities, even though RERA approved.

All the actions taken on the builder would be prominently published in the website of the RERA.

In Tamil Nadu, the Tamil Nadu Real Estate Regulatory Authority, (TNRERA) Chennai is the Controlling Authority.

- Audited Balance Sheet of the preceding year.

Small builders who do the business with just sheer experience and not with any technical or procedural background would have to exit. It is quite true that if a construction firm is maintaining audited balance sheet, it is expected to be following the codes of business. They may be regarded with respect and faith.

Goes without saying that those who do not have this, cannot apply for RERA Registration.

- Structural Stability Certificate issued by the Architect.

Many multi storied buildings were challenged with structural issues. The collapse of some of the buildings testifies the structural deficiencies.

The imposition of Structural Stability Certificate by a qualified Architect is a welcoming proposition, from the point of view of the buyers.

- Builder/Promoter should open an account exclusively for the project to deposit 70% of the money collected from people, in a Nationalised Bank or Scheduled Bank. The Bank should confirm the Account Particulars to the RERA Authority. A confirmation to this effect that the builder has opened an account exclusively for the project under reference, from the bank, on their letter head, is to be attached with the application form.

The main reason for the projects to come to a sudden halt is funds problem. Earlier, the builders/promoters were simply rotating the money received from the prospective buyers through several other ongoing projects.

This, obviously, led to avoidable delays, in almost, all the projects. The builders could never control themselves on this score and it was something like a calculated risk they ventured. Consequently, problems cropped many sites leading to court cases.

The people who booked flats in the projects were irked at the delays and were just helpless. In fact, some builders wound up their business (of course, diverted their money and other things on different business to ensure that their suffering was very minimal). The worst hit were only the people.

Now, after RERA implementation, the purchasers have the right to withdraw, in the face of any delays, and the builder has to return their advance money with interest to them.

In case the purchasers are prepared to put up with the delays, for the period of delay, ie, from the originally agreed period to the physical delivery period, the buyers are to be paid compensation as per legal verdict.

For obtaining RERA approval, the builder has to necessarily deposit 70% of the money collected from the people in the exclusively opened account for this purpose.

- The Builders should stand for the quality of construction and if anything happens within five years, the same has to be attended to by free of cost, to the buyers.
- It is the duty of the Builder to continuously update the information in the RERA Website, about the ongoing project. This is to ensure that all activities are taking place in full transparency and no murky dealing at all.

The RERA rules clearly say that after registration of the project before the Authority, all the details shall be uploaded by the promoter within 7 days from the date of registration on the allotted webpage on the website of the Authority with further mandatory update once in every three months.

Not only the buyers, it is an open book to the general public about the project activities of a builder. This automatically imposes a genuine commitment on the part of the builder.

The promoter should also ensure that the sanctioned plans, layout plans and the RERA approval details are all prominently displayed at the project site.

For any untrue information uploaded in the website, the builder will be sternly dealt with as per law.

In fact, the RERA authorities will also expose the fraudulence of the builder in the website. If a builder finds a place in such a list, gone are his reputation and business. Of course, no builder would ever like to have such a situation.

- Sale should be purely on Carpet Area only. Prior to implementation of RERA, almost all the builders followed glib ads in the media which would widely publicise a large area for a given apartment and whereas at the time of physical possession, there would be a substantial reduction in the sq. ft which, normally, the builders would account for, in the 'common areas'.

Since this, 'common area' is a common one to all the purchasers, the builders were literally thriving on this (at the cost of the innocent buyers).

The RERA rules make it eminently clear that the sale should be purely on 'carpet area' basis only. The carpet area means what is available within the four walls, of the apartment.

The buyers heave a sigh of relief now. They now get what they actually paid for.

It is to be noted that nearly 35,000 projects (34,893) have been registered under RERA across the country, till December 2018, as per Ministry of Housing & Urban Affairs.

The website of Tamil Nadu Real Estate Regulatory Authority, Chennai (TNRERA) indicates that in the year 2019, ie, till 25th February 2019, a total of 48 Projects have been RERA approved. 31 Projects in January 2019 and 17 Projects in February, as on 25/02/19.

VI. HOW THE RERA WEBSITE INFORMS THE GENERAL PUBLIC?

The implementation of RERA is a very laudable measure on the part of the Government. All the buyers across the nation welcome the RERA.

While the builders initially clamoured that it would only benefit buyers and penalise the builders, they seem to have understood the reality of RERA in practice.

They have imposed upon themselves the compliance to procedures, transparency in action and being towards customer centric in their attitude. There is a major reason for this, perhaps. Any erring builder would be exposed to the general public on their malpractice or noncompliance.

With the network of communication all around, negative information moving faster than compliments, the builders are more careful in protecting their image and reputation. This has, naturally, conditioned their attitude and action.

The purpose of RERA is to protect the interests of the buyers.

The Website of RERA gives a plethora of details which are matter of interest and importance to general public. The very important ones can be expressed as under.

- The website provides the details of the projects completed by the builder. The Completion Certificate details are furnished in the website, for each and every builder. The customers can straightaway know the status more easily from the RERA site itself than from the builders.
- The website also gives the details of the projects undertaken by the builders but not RERA approved. This is a Caution Notice to general public not to take any risk of buying such flats.
- The website further provides details of Show Cause Notice issued to builders for noncompliance of RERA procedures.
- The greatest plus point of RERA is that any customer can lodge a complaint with RERA on the builder for delayed delivery or noncompliance to commitments. The Authorities will take appropriate action on the builder and ensure justice to the customers.

The same way, builders also can complain about the customers for not keeping up their commitment, for appropriate action from the authorities.

VII. HOW IS THE IMPACT ON BUILDERS AND CUSTOMERS?

The RERA has brought in very appreciable result. The builders, who initially resisted the RERA, have understood that it is only in the best interest of both the builder and also the purchaser that RERA has been brought in.

One important thing to be noted is that prior to implementation of RERA, there were so many builders in the field making tall claims about their quality and timely execution.

In fact, some builders made a good money in the name of 'prelaunch'.

Some builders adopted different price structure for the same sized apartment to different buyers. It was something like a multiple pricing system for the same phase – dubious business dealings.

All the suspicious dealings have been brought to an end now.

The pricing structure should be same to all the apartments and to all the buyers and there should be no discrimination in prices. In other words, uniformity in pricing should be ensured.

The builders, earlier, were resorting to manipulative agreement with the customers. This means that for the default on the part of the buyers, it would be a huge burden to them and for the same action, it will be mild to the builder.

Now, the builders have to follow the common pattern of agreement and for any default from any side, the action will be same and without any discrimination.

These strict rules and straightforward implementation have driven out many builders from the industry. These were essentially the people who would make glib advertisements

and tall claims about their supremacy, without much of actual base.

There were some builders who would embark on many phases at a time in many places and were deftly rotating the money from one phase to another without any tangible results of execution anywhere. This has led to project delays and innumerable disputes with customers and court cases. Such builders have vanished from the site now, thanks to RERA.

The builders who have chosen to amass money in construction have been driven out by the strict compliance of RERA rules.

The genuine builders have embraced the RERA regulations in both letter and spirit.

Now, the construction industry has only the builders who can really comply with RERA rules in their business.

These builders are reputed builders and are with excellent capital base. They are in a position to mobilise the capital themselves (rather than playing around with prelaunch offers, followed earlier).

Some eminent builders who are in the field for nearly half a century are already practising themselves what the RERA Rules prescribe now

It can be seen that the majority of the multi storied building constructions are being executed by only a group of dedicated and reputed builders. These people already enjoy excellent reputation in the field and are known for their quality and commitment.

This clearly vindicates that those who are sincere and honest can only remain in the field. This further proves that customers cannot be wooed with price concessions. In fact, customers are, more or less, not much bothered about price difference but are only looking for quality of construction and timely project execution. Quality supersedes all other points in construction. Of course, reputed builders ensure this.

VIII. CONCLUSION

The RERA has brought in very positive changes and the whole Real Estate Industry is now streamlined. Transparency is ensured. Both the Builders and also the Buyers stand to gain and there is nothing to lose to either.

Unscrupulous Builders have seen the exit. Those who could not manage capital themselves, even for the initial period, have chosen other business and gracefully left construction field.

The strong and reputed builders alone are in the industry now. They are honest and customer oriented. Customers too are happy as the entire transactions are coming under the scan of RERA. Uniformity is brought in in all the transactions. The customers are paying only for the Carpet Area and no hidden charges are there. The purpose of enforcing the law of RERA is achieved.

IX. RECOMMENDATIONS

Buyers should be wary before fixing on the apartments. Always check on the background of the builder. Big or small is immaterial. The builder should be trust worthy person. He must have executed similar apartments. This is only to satisfy



themselves that they have chosen the right builder who has good experience in construction of multi storied buildings.

Apart from taking the input information from the builder, it is worthwhile verifying the same in RERA Website.

Always insist on the copy of RERA approval, while booking the flats. Since RERA approval is given only after completion of all the required formalities by the builder, copy of RERA approval is a must to find a place along with other documents of the buyer.

Never make off the record compromise. In the event of any dispute, straightaway go to RERA Tribunal. It has twin benefits. First, it gets uploaded in their website and serves as a caution notice to others. Second, legal remedy is ensured.

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