

A Study on Consumer Protection Mechanisms Under the Real Estate Act, 2016

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Abstract: *The Real Estate (Regulation and Development) Act, 2016 (RERA) was enacted to address long-standing issues of opacity, delays, and exploitation in the Indian real estate sector. This review paper critically examines the consumer protection mechanisms embedded within RERA, focusing on its institutional framework, regulatory provisions, grievance redressal systems, and overall effectiveness. The study synthesizes existing literature, legal provisions, and policy analyses to evaluate how far RERA has succeeded in safeguarding homebuyers' interests. While the Act has significantly improved transparency and accountability, certain implementation challenges remain, necessitating further reforms...*

Keywords: Consumer Protection, Real Estate Act, 2016, Real Estate Regulation

I. INTRODUCTION

The Real Estate (Regulation and Development) Act, 2016 (RERA) represents a transformative reform in the Indian real estate sector, which had long been plagued by issues such as project delays, lack of transparency, misleading advertisements, and exploitation of homebuyers. Prior to the enactment of this legislation, the sector operated in a largely unregulated environment, where consumers faced significant risks due to information asymmetry and weak legal safeguards. Buyers often invested their life savings in housing projects that were either delayed indefinitely or failed to meet promised standards, leading to widespread dissatisfaction and financial distress. In response to these systemic challenges, the Government of India introduced RERA with the primary objective of enhancing accountability, promoting transparency, and protecting consumer interests.

The Act establishes a structured regulatory framework that mandates the registration of real estate projects, disclosure of project-related information, and adherence to strict timelines by developers. By legally recognizing homebuyers as consumers with enforceable rights, RERA shifts the balance of power in favor of purchasers, ensuring that developers are held accountable for their commitments. Furthermore, the Act introduces institutional mechanisms such as Real Estate Regulatory Authorities and Appellate Tribunals to facilitate efficient dispute resolution and provide legal recourse to aggrieved consumers. These provisions collectively aim to instill confidence among buyers and foster a fair and ethical real estate market.

Despite its progressive features, the effectiveness of RERA depends largely on its implementation across different states and the awareness levels among consumers. Variations in state rules, administrative inefficiencies, and limited public understanding of the Act continue to pose challenges. Therefore, a critical analysis of RERA's consumer protection mechanisms is essential to evaluate its impact and identify areas for improvement in ensuring long-term sectoral reform.

OBJECTIVES OF THE ACT IN CONSUMER PROTECTION

The primary objective of RERA is to safeguard consumer interests by establishing a transparent and accountable real estate ecosystem. Key goals include:

Ensuring timely delivery of projects

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864

Promoting fair practices in property transactions

Enhancing transparency in project information

Establishing dispute resolution mechanisms

According to Singh (2019), RERA represents a consumer-centric legislation that balances the power between developers and buyers.

KEY CONSUMER PROTECTION MECHANISMS UNDER RERA

The Real Estate (Regulation and Development) Act, 2016 (RERA) was enacted as a comprehensive legislative framework to safeguard the interests of homebuyers and bring transparency, accountability, and efficiency to the real estate sector in India. One of the most significant contributions of RERA lies in its robust consumer protection mechanisms, which aim to address long-standing issues such as project delays, financial mismanagement, and unfair trade practices. These mechanisms collectively empower consumers and establish a balanced relationship between developers and buyers.

One of the foundational pillars of consumer protection under RERA is the mandatory registration of real estate projects. According to the Act, all residential and commercial projects exceeding a specified land area must be registered with the respective State Real Estate Regulatory Authority before any advertisement or sale. This provision ensures that only legally compliant and approved projects enter the market. Developers are required to submit detailed project information, including land title status, approvals, layout plans, and completion timelines. This reduces the risk of fraudulent schemes and enhances consumer confidence (Kumar, 2020).

Another critical mechanism is the enhanced transparency through disclosure requirements. RERA mandates developers to upload comprehensive project details on the official RERA website, which is accessible to the public. This includes information about project progress, number of units sold, construction status, approvals, and any changes made to the original plan. Such transparency eliminates information asymmetry, allowing buyers to make informed decisions. It also ensures continuous monitoring of the project by regulatory authorities and stakeholders (Mishra, 2018).

A landmark provision under RERA is the escrow account mechanism, which mandates that developers deposit at least 70% of the funds collected from buyers into a separate bank account. These funds can only be used for construction and land-related costs of the specific project. This provision effectively prevents the diversion of funds to other projects, a common malpractice prior to RERA. By ensuring financial discipline, the escrow system significantly reduces the chances of project delays and insolvency issues (Rao, 2019).

The Act also introduces standardization in sale agreements, which protects buyers from unfair contractual terms. Prior to RERA, developers often included one-sided clauses that favored their interests, leaving buyers vulnerable. Under RERA, the agreement for sale must follow a prescribed format that clearly outlines the rights and obligations of both parties. It includes provisions related to project specifications, possession timelines, payment schedules, and penalties for delays. This standardization promotes fairness and legal clarity in transactions (Verma, 2021).

Another vital consumer protection mechanism is the imposition of strict penalties and liabilities on developers. RERA enforces stringent penalties for non-compliance, including heavy fines and imprisonment in severe cases. For instance, if a developer fails to complete a project within the stipulated time, they are liable to compensate buyers with interest for the delay. Similarly, misleading advertisements or false promises can attract legal action. These punitive measures act as a strong deterrent against unethical practices and ensure greater accountability (Agarwal, 2020).

The Act further strengthens consumer protection through an effective grievance redressal system. RERA establishes Real Estate Regulatory Authorities in each state to handle complaints from buyers, developers, and agents. Consumers can file complaints regarding project delays, quality issues, or contractual violations. The authority is mandated to resolve such disputes within a specified timeframe, usually 60 days. This time-bound mechanism ensures quicker justice compared to traditional court systems, which are often burdened with delays (Shukla, 2019).

In addition to the regulatory authority, RERA provides for the establishment of a Real Estate Appellate Tribunal (REAT). This body serves as an appellate forum where aggrieved parties can challenge the decisions of the regulatory

authority. The presence of a specialized tribunal ensures that disputes are handled by experts with knowledge of real estate laws, thereby improving the quality and efficiency of adjudication. This two-tier dispute resolution mechanism enhances the legal protection available to consumers.

RERA also emphasizes consumer rights in case of project delays or defects. If a developer fails to deliver possession within the agreed timeline, the buyer has the right to withdraw from the project and claim a full refund along with interest. Alternatively, the buyer may choose to continue with the project and receive compensation for the delay. Furthermore, the Act introduces a defect liability period of five years, during which the developer is responsible for rectifying any structural defects or poor workmanship at no additional cost. This provision ensures long-term protection for buyers and improves construction quality (Singh, 2019).

Another important aspect is the regulation of real estate agents, who play a crucial role in property transactions. Under RERA, real estate agents must register with the regulatory authority and adhere to prescribed standards of conduct. They are required to provide accurate information to buyers and cannot engage in misleading practices. This ensures that intermediaries also contribute to maintaining transparency and fairness in the market (Gupta, 2018).

Moreover, RERA promotes accountability through regular monitoring and compliance requirements. Developers must submit periodic updates on project progress, which are reviewed by the regulatory authority. Any deviation from the approved plan must be communicated to buyers and approved by a majority of allottees. This participatory approach empowers consumers and ensures that their interests are considered in decision-making processes.

Despite these strong mechanisms, certain challenges remain in the effective implementation of RERA. Variations in rules across states, lack of awareness among consumers, and delays in dispute resolution in some regions limit the full potential of the Act (Patel, 2021). However, the overall impact of these consumer protection provisions has been positive, significantly improving trust and transparency in the real estate sector.

The consumer protection mechanisms under RERA represent a comprehensive and well-structured approach to addressing the historical shortcomings of the Indian real estate market. Through mandatory registration, financial safeguards, transparency measures, standardized agreements, and robust grievance redressal systems, the Act empowers consumers and holds developers accountable. While implementation challenges persist, RERA has laid a strong foundation for a more equitable and consumer-friendly real estate ecosystem in India.

MANDATORY REGISTRATION OF PROJECTS

RERA mandates that all real estate projects exceeding a specified size must be registered with the respective state regulatory authority before being marketed. This provision prevents fraudulent practices and ensures that buyers invest only in legally approved projects (Kumar, 2020).

DISCLOSURE AND TRANSPARENCY REQUIREMENTS

Developers are required to provide detailed information about project plans, approvals, timelines, and financial status on the RERA website. This ensures informed decision-making by consumers (Mishra, 2018).

ESCROW ACCOUNT PROVISION

One of the most significant consumer protection features is the requirement that developers deposit 70% of the project funds into an escrow account. This prevents fund diversion and ensures project completion (Rao, 2019).

STANDARDIZATION OF SALE AGREEMENTS

RERA introduces standardized sale agreements, reducing the scope for unfair contractual terms that previously favored developers (Verma, 2021).

PENALTIES FOR NON-COMPLIANCE

The Act imposes strict penalties on developers for delays, false advertising, and non-compliance. These penalties act as a deterrent against malpractice (Agarwal, 2020).

GRIEVANCE REDRESSAL MECHANISM

The grievance redressal mechanism under the Real Estate (Regulation and Development) Act, 2016 (RERA) is one of its most significant features, designed to protect the interests of homebuyers and ensure swift justice in disputes between consumers and developers. Prior to the implementation of RERA, aggrieved buyers had to rely on traditional judicial forums such as civil courts or consumer forums, which were often time-consuming, expensive, and procedurally complex. The introduction of a specialized and dedicated dispute resolution framework under RERA has substantially improved the accessibility and efficiency of justice delivery in the real estate sector (Shukla, 2019).

Under the Act, each state is required to establish a Real Estate Regulatory Authority (RERA) that serves as the primary body for addressing complaints related to project delays, false commitments, unfair trade practices, and contractual violations. Consumers can file complaints directly with the authority in a simplified manner, often through online platforms, which enhances accessibility and reduces procedural barriers (Gupta, 2018). The authority is empowered to investigate complaints, summon parties, and issue directions or penalties against defaulting developers. This institutional framework ensures that disputes are handled by a specialized body with domain expertise, leading to more informed and effective decisions.

In addition to the regulatory authority, RERA provides for the establishment of a Real Estate Appellate Tribunal (REAT), which acts as an appellate body for cases where parties are dissatisfied with the decisions of the authority. This two-tier system strengthens the legal framework by ensuring checks and balances and providing an additional avenue for justice (Singh, 2019). Importantly, the Act mandates that complaints should ideally be resolved within a period of 60 days, thereby emphasizing time-bound adjudication. This provision marks a significant departure from the prolonged litigation processes commonly associated with traditional courts.

Another notable aspect of the grievance redressal mechanism is the provision for compensation and interest to aggrieved buyers. If a developer fails to deliver a project on time or violates agreed terms, the buyer is entitled to compensation or may choose to withdraw from the project with a full refund along with interest. This financial accountability acts as a strong deterrent against non-compliance and reinforces consumer confidence (Rao, 2019).

Despite these advancements, certain challenges persist in the effective functioning of the grievance redressal system. Delays in the establishment of tribunals, shortage of staff, and backlog of cases in some states hinder the timely resolution of disputes (Patel, 2021). Additionally, lack of awareness among consumers regarding the complaint filing process limits the utilization of these mechanisms. Therefore, while RERA has significantly strengthened consumer protection through its grievance redressal framework, continuous improvements in implementation, infrastructure, and public awareness are necessary to fully realize its objectives.

REAL ESTATE REGULATORY AUTHORITY

Each state establishes a regulatory authority to oversee compliance and address consumer complaints. Buyers can file complaints directly with the authority for quick resolution.

REAL ESTATE APPELLATE TRIBUNAL

Appeals against RERA decisions can be made to the Appellate Tribunal, ensuring a structured legal remedy system (Shukla, 2019).

TIME-BOUND RESOLUTION

RERA mandates that disputes be resolved within a specified timeframe, typically 60 days, improving efficiency compared to traditional courts.

IMPACT ON CONSUMER PROTECTION

Several studies indicate that RERA has significantly improved consumer confidence in the real estate market. Transparencies in project information and strict compliance norms have reduced fraudulent practices (Joshi, 2020). Additionally, the escrow mechanism has minimized project delays, and the grievance redressal system has empowered consumers to seek justice more effectively.

CHALLENGES AND LIMITATIONS

Despite its strengths, RERA faces several challenges:

State-wise variations in implementation: Since real estate is a state subject, rules differ across states, leading to inconsistencies (Patel, 2021).

Limited awareness among consumers: Many buyers are still unaware of their rights under RERA.

Enforcement issues: Delays in tribunal functioning and backlog of cases affect efficiency.

Exclusion of ongoing projects (initially): Some projects escaped strict scrutiny during early implementation phases.

II. CONCLUSION

The Real Estate (Regulation and Development) Act, 2016 represents a landmark reform in India's real estate sector with a strong focus on consumer protection. Its provisions, such as mandatory registration, escrow accounts, and grievance redressal mechanisms, have significantly enhanced transparency and accountability. However, the effectiveness of the Act depends largely on consistent implementation, awareness, and institutional efficiency. With necessary improvements, RERA has the potential to fully transform the real estate landscape into a consumer-friendly domain.

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