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# MAHARERA

Newsletter 3

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JUNE 2018



## Foreword by President Elect, Credai national



Mr. Satish Magar, President Elect, CREDAI National

Maha RERA has completed one year and Maharashtra is leading from the front in terms of number of registrations, regular updation and statutory compliances. Over 16,000 projects have been registered in Maharashtra alone. This has been possible only due to the hard work of MahaRERA Chairperson and his team and has also given the Real Estate industry much required corporate vision. Marking the first year anniversary, the authorities have shown willingness to adopt new technologies. They have planned GIS mapping of registered projects which will enhance transparency and thus benefit homebuyers.

I congratulate the entire CREDAI Maharashtra RERA Team for spearheading such a valuable knowledge sharing initiative for the members of CREDAI Maharashtra. This third edition of the e-bulletin will give developer members insight into important judgments by MahaRERA and compliances required to be completed.

## IMPORTANT JUDGEMENTS

### 1. Whether arbitration agreement will oust jurisdiction of MahaRERA?

<https://drive.google.com/open?id=1wFF0xsIKV6bEZsZdiE62CSt6dYSL9uDq>

- a. The authority held that the arbitration agreement will not overrule the jurisdiction of MahaRERA
- b. The authority directed respondents to pay interest at the rate of 10.05% on amount paid by complainant for every month of delay till handing over of possession as well as pre-emi of loan taken by the complainant.

### 2. Delay due to reasons beyond control of developer.

<https://drive.google.com/open?id=1GOf3Z5fc8oKvwQnRq1I03S1GUi9Ovs92>

- a. The authority has held that at present since the project work cannot be carried out due to the stop work notice issued by the BMC, pendency of the receipt of the environmental clearance and the status-quo Order issued by the Honorable Bombay High Court. Consequently, the time period which can be attributed to the Respondent for delay in handing over possession can neither be ascertained nor the date of handing over possession can be determined, at this stage.
- b. The authority requested the Developer to make serious efforts to expedite the process of obtaining required sanctions/approvals and disposed off the matter.

### 3. Indulgence in unfair practice by developer in case of dual allotment of single flat.

[https://drive.google.com/open?id=1PDiALShDfSYeD0zWzWqAGZfE\\_R2UETCI](https://drive.google.com/open?id=1PDiALShDfSYeD0zWzWqAGZfE_R2UETCI)

- a. The authority has found the Developer guilty u/s 7 of the RERA Act and has held that the promoter has indulged in unfair practices and/or fraudulent acts by allotting the same flat in favour of 2 allottees.
- b. The authority has directed the Developer to pay interest to the complainant at 10.05% from date of receipt of the amount till date of refund and additional penalty towards violation of Section 7.

### 4. RERA order related to GST credit required.

<https://drive.google.com/open?id=1N6HqFWVXasJ6VgBb3hgZcgfMYWNBccdf>

- a. The authority has directed the developer to pass on applicable GST credit to the flat owner.

### 5. Whether lessees are entitled to get compensation for delay in handover of possession by developer.

<https://drive.google.com/open?id=1hRq4QHBoa9QjIDuvKoxankvrQOA79aU4>

- a. Hon'ble Appellate Tribunal has held that the long term lease takes the colour of sale and hence MahaRERA has jurisdiction to entertain such complaints. Judicial discipline and propriety makes the judgement of the Appellate Tribunal binding on the Authority and therefore, its view will have to be followed. Therefore, the authority has found the complaint to be maintainable and sent it to the adjudicating officer of the relevant jurisdiction.

## IMPORTANT JUDGEMENTS

### **6. Whether the developer is entitled to refund booking amount in case of unilateral cancellation by complainant in absence of agreement to sale**

[https://drive.google.com/open?id=1YQf\\_pLsFiUWOGuGPayoHG2AOEZIZ6ALo](https://drive.google.com/open?id=1YQf_pLsFiUWOGuGPayoHG2AOEZIZ6ALo)

- a.The Authority inspected the Developers online registration and found all permissions, draft agreement in place. Thus they held that the developer is not in violation of section 7,12, and 13 of RERA Act.
- b.Also, as the amount paid was less than 10%, developer was not required to execute agreement to sale
- c.As a result, the complainant's plea for refund of booking amount with interest was dismissed.

### **7. Whether a home buyer who has not executed agreement to sale is treated as an investor.**

<https://drive.google.com/open?id=1q--pJYob2v3BJU33x-IkcxHHTCcWHwo>

- a.The Authority has inspected the allotment letter and terms of allotment and held that the complainant shall not be treated as an investor.
- b.The authority has directed the developer to refund the amount to the allottee with interest at 10.05%

## MAHARERA STATISTICS

### Registration in Maharashtra

Applicant Type	Applications Received	Registration Granted
Promoter	16851	16751
Agent	14951	14906
Total	31802	31657

### Complaint Registration and Redressal

Complaints Received	Documents yet to be received	Complaints in Process of Hearing	Orders Passed
2916	189	922	1659

### Maharashtra Real Estate Appellate Tribunal

Complaints Received	Documents yet to be received	Complaints in Process of Hearing	Orders Passed
223	52	97	74

### MahaRERA Conciliation Forum

Conciliation Request Received	Promoter's Consent Received	First Party Payment Done	Hearing Scheduling Pending	Conciliation in Process of Hearing	Completed
180	93	83	18	12	53

Source: <https://maharera.mahaonline.gov.in/searchlist/PublicViewDashboard>

## COMPLIANCE LINKS

Credai Maharashtra RERA Team has created videos on how to complete the following compliances on the MahaRERA website.

1. MahaRera Project Extension

<https://drive.google.com/open?id=1kY2-hwwRuDepICjmkoOPKVe7LhBp5ga9>

2. Maharera Form 4 Upload

[https://drive.google.com/open?id=1qGDisUzUenImJoLQudxwiO1\\_PtT9tvxX](https://drive.google.com/open?id=1qGDisUzUenImJoLQudxwiO1_PtT9tvxX)

3. Maharera CC Upload

<https://drive.google.com/open?id=1Z345VCmhDxToAD9GenOaMXS0QW1Z1C-w>

## NEWS

### 1. Pune Maha-Rera court resolves 40 cases in less than three months

<https://www.hindustantimes.com/pune-news/pune-maha-rera-court-resolves-40-cases-in-less-than-three-months/story-44Us1Ce2iEXJqSstejllRL.html>

In a major relief to the flat buyers across the city, the Maharashtra real estate regulatory authority (Maha-Rera) court in Pune, since its inception around two and half months ago, has resolved 40 cases. The rulings in all these cases are in favour of the consumers

### 2. Building Is Already Occupied And Therefore Is Not Required To Be Registered With Maha RERA

<https://accommodationtimes.com/building-is-already-occupied-and-therefore-is-not-required-to-be-registered-with-maha-rera/>

The complainant alleged that the Respondent has not registered her building Kamala Vihar CHS situated at Kandivali (West) with Maha RERA, in spite of the building not having received occupancy certificate. The respondent's representative argued that the said building is not part of the project that is registered with Maha RERA. He added that the said building is already occupied and therefore is not required to be registered with Maha RERA.

### 3. RERA directs developer to prepone date of possession by 3 years

<http://www.freepressjournal.in/mumbai/mumbai-rera-directs-developer-to-prepone-date-of-possession-by-3-years/1289392>

In a huge relief to an allottee of a commercial unit, the Real Estate Regulation Authority (RERA) directed the developer to prepone the date of possession of the unit by three years from 2022 to 2019. The RERA bench acted on a complaint filed by an allottee for delayed possession even after 90 percent of the work had already been completed.

### 4. MahaRERA tribunal exposes developer's 'cooked up' story

<http://www.asianage.com/metros/mumbai/040618/maharera-tribunal-exposes-developers-cooked-up-story.html>

The newly incorporated Maharashtra Real Estate Regulatory Authority (MahaRERA) tribunal has exposed a developer who allegedly cooked up a story to avoid action from the regulatory authority. The developer had claimed that he had handed over the possession of a flat in 2017, prior to the notification of RERA act and got the complaint dismissed during the RERA hearings. However, when the homebuyer, Bhavana Duvey, appealed to the tribunal, it was revealed that the developer had given a letter that allowed Ms Duvey to perform fit-outs in the apartment and not to occupy it.

### 5. RERA violation: 40 fresh notices issued to builders

<https://timesofindia.indiatimes.com/city/patna/rera-violation-40-fresh-notices-issued-to-builders/articleshow/64068760.cms>

The Real Estate Regulatory Authority (RERA), Bihar, on Monday issued notices to at least 40 ongoing real estate projects for advertising without registering under the Real Estate (Regulation and Development) Act (RERA), 2016. The deadline for the registration in state was April 30.



## NEWS

### 6. RHB yet to register many projects with RERA in Rajasthan

<https://timesofindia.indiatimes.com/city/jaipur/rhb-yet-to-register-many-projects-with-rera-in-raj/articleshow/64070582.cms>

Even one year after the implementation of Real Estate Regulatory Authority (RERA) in the state, the Rajasthan Housing Board (RHB) which is infamous for poor quality flats remains out of its radar.

### 7. Maharashtra RERA calls for action against 293 projects lacking requisite nods

<https://economictimes.indiatimes.com/industry/services/property/-/cstruction/maharashtra-rera-calls-for-action-against-293-projects-lacking-requisite-nods/articleshow/64037848.cms>

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has asked various planning authorities in the state to act against 293 real-estate projects that are being developed without requisite permissions, said a top official of the authority. Interestingly, the regulator has gathered information about these projects through emails sent by various people on a specific email id floated to find out about projects that need registration but have not been registered.

### 8. RERA now mandates quarterly updates on real estate projects

<http://www.newindianexpress.com/states/karnataka/2018/may/06/rera-now-mandates-quarterly-updates-on-real-estate-projects-1810842.html>

BENGALURU: The state's Real Estate Regulatory Authority (RERA) has made it mandatory for all real estate developers to update it on a quarterly basis about the ongoing progress of their projects as well as the expenditure incurred for every specific feature. It has also introduced certificates for approved builders on May 3 and made it public on its portal.

### 9. 300 promoters fail to update project status

<https://timesofindia.indiatimes.com/city/indore/rera-april-9/articleshow/63687667.cms>

INDORE: MP Real Estate Regulatory Authority has sent notices to over 300 promoters/builders for failing to update the status of their respective projects on RERA website. 30 per cent of these promoters are from Indore.

### 10. 74% homebuyers unaware of how to check RERA status of project: Magicbricks poll

<https://timesofindia.indiatimes.com/business/india-business/74-homebuyers-unaware-of-how-to-check-rera-status-of-project-magicbricks-poll/articleshow/63972203.cms>

A poll conducted by Magicbricks, India's No.1 property site, shows that 74 per cent of respondents do not know that it is mandatory to check if the project is registered with state Real Estate Regulatory Authority (RERA) and how to go about checking it on the RERA website. Even a year after its implementation, the RERA (Regulation and Development) Act, 2016, seems to be far from creating the connect as 74% of home buyers still don't know how to check if their projects are registered under this Act, revealed a Magicbricks Consumer Choice Poll.



## NEWS

### 11. Only 5 states have functional Rera

<http://www.mydigitalfc.com/plan-and-policy/only-5-states-have-functional-rera>

One year after the government launched Rera, only five states have a fully operational Real Estate Regulation Act (Rera). A study also finds that 74 per cent of the buyers do not know that details of real estate projects can be checked on the site. As per the details available with real estate portal Proptiger, only Punjab, Rajasthan, Gujarat, Maharashtra, Madhya Pradesh had a fully functional Real Estate Regulation Act (Rera) as on January 2018

### 12. One Year of RERA in Charts: Here's Where Maharashtra Stands

<https://www.thequint.com/news/business/maharashtra-rera-performance>

Maharashtra was the first state to implement the Real Estate Regulation Act a year ago. It now has about 16,000 projects registered under the new law that protects home buyers against mis-selling and delays.

These comprise about 80 percent of the real estate projects in the state, said Pankaj Kapoor, managing director of real estate research company Liases Foras. So the data is largely representative of the residential property market in Maharashtra, a state that contributes the most to the nation's economy.

# CREDAI MAHARASHTRA RERA TEAM

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Disclaimer : This Newsletter is made for Internal circulation for CREDAI Maharashtra members only.

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