
MAHARERA

Newsletter 7

OCTOBER 2018



Foreword



Rajiv Parikh,

Sr. Vice President,

CREDAI MAHARASHTRA.

I would like to congratulate RERA working committee for starting RERA Monthly Newsletter to keep members updated with recent changes in the regulations as well as recent case laws.

RERA is considered to be a landmark reform for the real estate industry. The Act is expected to modify traditional practices and bring out a more professional approach amongst developers. With a focus on improving the transparency, governance and accountability in the sector, the law is expected to segregate the quality and time-focused developers from casual operators.

Maharashtra is at the forefront for effective implementation of the Act, and we congratulate Hon. Gautamji Chatterji, Chairman- MahaRERA for proper implementation in the state. Out of the 27000 odd projects registered across India MahaRERA has done registration of 17000 projects. Robust IT System, visionary leadership and efficient workforce have made MahaRERA a role model in terms of service standards for other Govt. departments/agencies.

The impact on the sector is slowly getting evident since the day of implementation. Apart from the benefits the buyers are set to gain there are other aspects that will impact the sector such as increase in customer confidence, construction focus, healthy competition and consolidation.

However there are certain persistent demands of developers which Govt. needs to address like clarification on defect liability, limiting title defect liability period, effectively covering govt. authorities under Act, rationalization of title insurance costs, extension of time period for genuine cases, open parking allotment. If these shortcomings are addressed then it would definitely help in effective implementation of the act which will definitely help in getting the much needed "Industry" status to the realty sector.

I thank all the team members for keeping us 'RERA updated' and wish them all the best for future bulletins.

CONVENOR'S MESSAGE



Mr. Akhil Agarwal, Convener, Rera Committee, CREDAI Maharashtra

Dear Friends

The festive season has set in and all of us developers and builders are geared up for a glorious month ahead of great sales and festivities. It seems on the MahaRERA front also nothing significant has cropped up. There have been lot of disposal of pending complaints from the authorities.

There has been a supreme court order directing sanction plans to be displayed at site and hence MahaRERA has issued a circular to that effect. The implementation of this circular and widespread awareness about sanction plans will help weed out the fly by night operators in the market and will bring significant change in perception of image of developers vis a vis illegal constructions.

Similarly we are all aware we need to upload form 5 to the RERA website in the others sections. This form 5 given by CA is essentially a certification that we have followed the statutory requirement of escrow accounts. Since the form also includes confidential financial information we have requested the MahaRERA authorities that it may not be in domain of third party who have nothing to do with the project. We are hopeful of a positive response on the above.

I would request each one of us to make use of this RERA newsletter and our Credai Maharashtra team if we have any issues regarding rera compliances. I am optimistic that we will each have a great month with super sales and better market sentiment.

RERA JUDGEMENTS

1. Complainant asking to register even the part of project thas has OC with RERA.

<https://drive.google.com/open?id=1TxM3g770PNsVAB79QTogAmp1FyTaWihf>

In the give case, the Allottee has booked an apartment and registered the agreement of sale with the developer on the 25th floor of the project. The developer has registered the project from floors 41 to 45. The allottee has requested MahaRERA to

1. To direct the developer to register the entire project.
2. To complete the construction of the entire tower and give possession with full OC
3. To pay interest for the delayed possession from the agreed possession date till actual possession date

The developer in their reply have stated that occupancy certificate for upto 40 floors has been received on 8/06/2017 and therefore the said completed phase has not been registered with MahaRERA. An identical issue was dealt by MahaRERA where it was held that as per section 3 of the RERA Act, 2016, the ongoing projects which have received completion certificate/part occupancy certificate do not require registration and where project is to be developed in phases, every such phase shall be considered a standalone real estate project.

The Authority has observed that the part occupation certificate for ground plus 40 upper floors has been obtained, there is no need to register the phase with MahaRERA. The flat of the allottee is not under the registered phase hence the Authority does not have jurisdiction over the same.

As per above facts, the complaint was dismissed.

KEY HIGHLIGHTS

- The ongoing projects which have received completion certificate/part occupancy certificate do not require registration and where project is to be developed in phases, every such phase shall be considered a standalone real estate project.

RERA JUDGEMENTS

2. Allottee's complain for delay in possession and asks for compensation even after using the apartment for 3 years.

https://drive.google.com/open?id=1T-RbBsJAwj17fNOLca3rhUAz2e8Qt_dn

In the given case, the allottee had purchased apartments in the said project and execute agreement for sale for the same. The possession of the units was delayed as stipulated by the said agreements and the specifications and amenities have not been fulfilled. The allottees have requested the authorities to direct the developer to pay compensation for delayed possession.

The Developer submitted that the possession for the said unit was handed over in November 2015 and the allottee has possession for fit outs from March 2015. The allottee agreed to the dates and asked for compensation from April 2014 (date as per agreement for sale) till March 2015.

The Authority observed that the allottee was given fit out possession in March 2015 and the allottee has been residing in the flat from November 2015. As the allottee was residing in the flat from November 2015, the claim of compensation for delayed possession ceases to exist on 1/05/2017 when the act came into force. It was stated that the complaint is not maintainable under Section 18 of the Act and hence it was dismissed.

KEY HIGHLIGHTS

- **The claim of compensation for delayed possession ceases to exist as it is from before when the act came into force.**

RERA JUDGEMENTS

3. Complaint against developer for delay in possession and changing layout of project without consent of buyer.

https://drive.google.com/open?id=1u_NaqciKQ5Ucdkpcn3XuPdKqTwAS_8Qc

The allottee/s have booked apartments in the said project in 2013-14. The possession is not handed over till date. The allottee/s have stated that the project plans have been changed without their consent. The allottee/s have requested the authority to direct the developer to pay interest on delay as per the provisions of the Act and requested for a early possession of the apartments.

The Developer contended that agreement to sale were executed before RERA came into force. The Developer further submitted that the project could not be completed due to reasons beyond their control. There were delays in receiving timely approvals for various authorities, environment clearance, pollution control board and national defence academy. The Developer denied the allegation that they have changed the project plans without the consent of the allottee/s.

The Authority has stated the observations of the Hon'ble High Court mentioning that the promoter/ developer is expected to have fair assessment for the time required for completing the project and are excepted to estimate the time for obtaining sanctions and approvals before launching the project. The respondents took substantial amount of time for applying for relevant sanctions and approvals after the notifications were issued hence the developer is at fault. The developer accepted that they have revised plans before RERA coming into force.

The Authority concluded that

1. As per Section 7 of Maharashtra Ownership Flats, 1967 and Section 14 of RERA, promoter/ developer shall adhere to the sanction plans and not make any alterations without previous consent of the allottees. Compensation of 50,000/- for changing the project plan and specifications without prior consent of the allottees
2. The developer shall pay 10.05% interest on the amount paid (except government taxes) by the allottees from 1st January, 2017 till possession of flats was handed over.

KEY HIGHLIGHTS

- **The promoter/developer shall adhere to the sanction plans and not make any alterations without previous consent of the allottees**

RERA JUDGEMENTS

4. Allottee's ask developer to update all certificates on RERA and to deliver possession on time.

<https://drive.google.com/open?id=1wf0EQ0sWS8H4x1ao3OQB5EbzaZkR7363>

The allottees have booked apartments on different dates such as December 2014, February 2015, April 2015 in the said project have executed agreement for sale which stated that possession shall be handed over within 5 years from date of registered agreement of sale.

1. The allottees have stated that amenities related to entire phase 1 consisting of 10 towers were to be constructed as common amenities but while registering the project the developer has registered individual buildings as separate project/phases.
2. The allottees stated that the developer orally agreed to hand over possession of apartments on or before December 2016. The allottees have not pressed on Section 18 of RERA as agreed dates according to agreement of sale have not lapsed.
3. Wrong dates of completion of project are mentioned and commencement certificate has not been uploaded on MahaRERA website and hence contravened section 4 of RERA.
4. More than 50% of the flats have been booked and society of allottees has not been formed and violated section 11(1)(e) of RERA

After hearing both parties and observing the documents submitted the Authority has concluded

1. The developer shall deliver the possession of flats on or before the dates agreed in the registered agreement to sale with all the amenities to be provided for the smooth functioning of the buildings. The developer has agreed for the same and stated that they will deliver the flats as per the agreed dates.
2. The developer is directed to upload the commencement certificate for the towers registered with MahaRERA
3. The developer shall form the society of allottees within 2 months from date of this order and the allottees shall co-operate for the same
4. Developer is directed to pay each complainant Rs. 20,000/1 towards cost of the complaint.

KEY HIGHLIGHTS

- **Secretary of MahaRERA to take steps for ensuring the enclosure of commencement certificate while registering projects.**

MAHARERA STATISTICS

REGISTRATION IN MAHARASHTRA

Applicant Type	Application received	Registration granted
Promoter	17855	17692
Agent	16397	16254
Total	34252	33946

COMPLAINT REGISTRATION AND REDRESSAL

Complaints Received	Documents yet to be received	Complaints in process of hearing	Orders passed
4129	382	1161	2400

MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL

Appeals Received	Documents yet to be received	Appeals in process of hearing	Orders passed
387	142	157	88

MahaRERA CONCILIATION FORUM

Conciliation request received	Promoter's consent received	First party payment done.	Hearing scheduling pending	Conciliation in process of hearing	Completed
438	227	202	27	58	117

COMPLIANCE SUPPORT

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

1. How to ask for Project Extension at MahaRERA

If the project is not completed - apply for extension for the project, and inform the customers etc.

Section 6 of the RERA says

“The registration granted under section 5 may be extended by the Authority for such time as it considers necessary, which shall, in aggregate, not exceed a period of one year.

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

2. Quarterly update

<https://drive.google.com/open?id=19VHERv3mnPBd8UdpP045epP9ZFe02Dzw>

Guidelines to update Project regularly

<https://drive.google.com/open?id=1MGMTcM004JVGCi8H6e3HpSu6Q1ZQsxGn>

3. How to upload MahaRERA form 4 :

If the project is completed - Upload the Occupancy certificate / similar document to this effect and apply for the closure of the project in form 4.

https://drive.google.com/open?id=1qGDisUzUenlmJoLQudxwiO1_PtT9tvxX

Guidelines to apply for extension of the Project registered under MahaRERA.

https://drive.google.com/open?id=1ycQ1tVwmG2v_dP0A2OypclpmebCK8MHP

4. Commencement Certificate Uploaded.

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

5. MahaRERA has introduced GIS location in registration form. Guidelines to update the same are in this video.

https://drive.google.com/open?id=129vhtFO_HgZm0HjHseVX-rvqNBYCeVm6

COMPLIANCE SUPPORT

6. Display of sanctioned plan, layout plan at Project Site.

MahaRERA has made it mandatory to make available to the allottee, the Sanctioned plan, Layout plan along with the specifications approved by the Competent Authority by displaying at the site or such other places

<https://drive.google.com/open?id=16fowoRu5oURUp1YO--PDv5MSxlnRgxH->

7. MahaRERA Regulations mention about Form 5

As per "MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY (GENERAL) REGULATIONS, 2017" dated 24th April 2017.

Additional Disclosures by Promoters on the Website and Project site :

In addition to all the details of the proposed Real Estate project, to be uploaded by the promoter on his webpage on the website of the Authority, as required under sub-section (1) of section 11 of the Act and clause (1) and (2) of Rule 3 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017, the promoter shall additionally upload the following details :-

(a) The annual report on statement of accounts, in Form 5 [issued in accordance with the third proviso to section 4 (2) (I) of the Act] duly certified and signed by the chartered accountant who is the statutory auditor of the promoter's enterprise.

Explanation 1 :

The chartered accountant certifying the progress of the registered real estate project for the purpose of withdrawal of amounts from the separate account should be a different entity than the chartered accountant who is the statutory auditor of the promoter's enterprise.

Explanation 2 :

If the Form 5 issued by the statutory auditor reveals that any certificate issued by the project architect, engineer or the chartered accountant has false or incorrect information and the amounts collected for a particular project have not been utilized for the project and the withdrawal has not been in compliance with the proportion to the percentage of completion of the project, the Authority, in addition to taking penal actions as contemplated in the Act and the Rules, shall also take up the matter with the concerned regulatory body of the said professionals of the architect, engineer or chartered accountant, for necessary penal action against them, including dis-memberment.

How to fill Form 5?

- 1) Find attached on the next page – The word document format of the Form 5.
- 2) The Statutory Auditor has to fill in the details highlighted in yellow.
- 3) The form is very simple and self-explanatory.

<https://drive.google.com/open?id=1iK7rGZ1xGPeHKocSCTDCxRDDNBGLnrc>

MAHARERA NEWS

1. Survey aims at maximum projects under RERA

http://timesofindia.indiatimes.com/articleshow/66034996.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Pune: Mumbai Grahak Panchayat (MGP) has urged consumers to register complaints about errant builders on its portal to ensure that no developers are left out from registration with MahaRERA. The survey also intends to track unregistered developers and share the information with the authority for further action.

2. Developer drags 59 homebuyers to MahaRERA

<https://www.dnaindia.com/mumbai/report-developer-drags-59-homebuyers-to-maharera-2670055>

In an interesting case, a builder dragged 59 of his homebuyers to the Maharashtra Real Estate Regulatory Authority (MahaRERA) and asked the authority to direct them to either execute the registered agreement for sale in respect to their bookings or to cancel the bookings. Usually, it's a home buyer who runs behind the developer for executing the agreement. In this case, it is just the opposite and the reason behind this is the fear of being penalized. As per RERA, a developer after accepting the booking amount of 10 per cent and more has to register an agreement or will be penalized by MahaRERA.

3. MahaRERA rejects plaint citing plot's agri status

<https://mumbaiirror.indiatimes.com/mumbai/other/maharera-rejects-plaint-citing-plots-agri-status/articleshow/65836370.cms>

Complainant says builder continues to advertise the projects in Valvan even though it is yet to be registered with real estate regulator

Maharashtra Real Estate Regulatory Authority (MahaRERA) has rejected a complaint filed by a home buyer against a bungalow project in Lonavla's Valvan area, which is yet to be registered with the real estate regulator, on the grounds that the builder is yet to convert the plot's classification into Non-Agricultural (NA) land.

4. Mumbai: New Cuffe Parade project comes under us, says MahaRERA

<https://indianexpress.com/article/cities/mumbai/mumbai-new-cuffe-parade-project-maharera-5367306/>

MAHARERA NEWS

5. MahaRERA asks L&T Realty subsidiary to compensate homebuyer

<https://indianexpress.com/article/cities/mumbai/maharera-asks-lt-realty-subsidiary-to-compensate-homebuyer-5353533/>

THE MAHARASHTRA Real Estate Regulatory Authority (RERA) has directed L&T Parel Project LLP – a subsidiary of L&T Realty – to compensate a woman who bought a flat in a south Mumbai project. The regulatory body has directed L&T Parel Project LLP to pay interest on the buyer's investment for five months.

The woman had booked a flat in the T-4 wing of Crescent Bay project in Parel and was expecting possession by September 30, 2017, with a grace period of six months. She claimed that the respondents, L&T Parel Project LLP and Omkar Realtors, failed to hand over possession of the flat on the agreed date.

6. MahaRERA orders Lavasa to refund buyer's money

<https://punemirror.indiatimes.com/pune/civic/maharera-orders-lavasa-to-refund-buyers-money/articleshow/65802035.cms>

Citizens, who had flats in Lavasa but never got possession, can now heave a sigh of relief as real estate regulatory authority MahaRERA has ruled that the developers need to pay back their money in full. The buyers had booked flats in the project between 2010 and 2014. They were assured flats in the next couple of years. Home buyers at the much-hyped Lavasa township have gone through a lot in the last few months.

7. MahaRERA authority can grant relief under MOFA provisions: MREAT

<https://mumbaimirror.indiatimes.com/mumbai/other/maharera-authority-can-grant-relief-under-mofa-provisions-mreat/articleshow/65936434.cms>

While rejecting the appeal of a developer against an order to refund a home buyer, the Maharashtra Real Estate Appellate Tribunal (MREAT) has ruled that provisions of other laws – such as Maharashtra Ownership of Flats Act (MOFA), which are consistent with the RERA – can be applied by the state RERA authority while granting relief.

8. Developer registers complaint against CIDCO with MahaRERA

<https://www.dnaindia.com/mumbai/report-developer-registers-complaint-against-cidco-with-maharera-2663684>

MAHARERA NEWS

9. Building incomplete till Occupation Certificate received, rules MahaRERA

<https://www.dnaindia.com/mumbai/report-building-incomplete-till-occupation-certificate-received-rules-maharera-2662073>

A building will be considered incomplete till the Occupation Certificate (OC) is received. And the homebuyer can approach the regulator seeking interest on delayed possession even if the complaint is made hardly a few days before the OC comes in.

10. Nearly 90% disputes settled by MahaRERA: Data

<https://www.dnaindia.com/mumbai/report-nearly-90-disputes-settled-by-maharera-data-2660963>

Hard to believe but developers and homebuyers have resolved nearly 90 per cent disputes that knocked the doors of conciliation forum of the Maharashtra Real Estate Regulatory Authority (MahaRERA).

According to data, the conciliation forum handled 135 valid cases, out of which 121 were settled successfully.

11. Mumbai: Five home buyers get full refund for delayed possession

<https://mumbaimirror.indiatimes.com/mumbai/civic/five-home-buyers-get-full-refund-for-delayed-possession/articleshow/66021207.cms>

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has given refund orders for five home buyers who booked flats in Acropolis in Virar, promoted by Bhoomi & Arcade Associates, for delayed possession.

Home buyers Alistair Gomes (flat no. 104), Sachin Kadam (501), Rahul Bhosale (flats 1,504, 1,505), Riyaz Jethan (flat no. 1,304) and Hitesh Shah (301) had filed complaints seeking refund of their investments in Acropolis Phase I and Phase II, a 19-tower project in Virar West on the ground that the developer had failed to deliver possession on promised dates in the agreement for sale

12. MahaRERA taking big steps for aggrieved home buyers: Hardeep Puri

<http://egov.eletsonline.com/2018/09/maharera-taking-big-steps-for-aggrieved-home-buyers-hardeep-puri/>

MAHARERA NEWS

13. Realtors can't use force majeure clause for lack of approvals, financial woes: Maharashtra RERA

www.economicstimes.indiatimes.com/articleshow/65747410.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

MUMBAI: Realty developers cannot use the force majeure clause for financial crisis and lack of approvals in any project, ruled the Maharashtra Real Estate Regulatory Authority in a recent order against Hindustan Construction Company's subsidiary Lavasa Corporation.

14. For redevelopment, housing society is also promoter: RERA

http://timesofindia.indiatimes.com/articleshow/65825564.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

In a relief for flat buyers in a Goregaon redevelopment project the Maharashtra Real Estate Regulatory Authority (Maha RERA) has held that the housing society is also a promoter.

15. SRA scheme home buyer gets Rs 65 lakh refund

<https://mumbaimirror.indiatimes.com/mumbai/other/sra-scheme-home-buyer-gets-rs-65-lakh-refund/articleshow/65942054.cms>

Maharashtra Real Estate Regulatory Authority(MahaRERA) has directed SSV Developers to refund Rs 65 lakh, with interest, to a home buyer, and ruled that the developer cannot cite his dispute with a real estate brokerage firm to deny his liability to refund.

According to his complaint, home buyer Sharif Mohammed Dalvi had booked two flats 1704 and 1705 in Lareina Residency project, the sale component of a Slum Rehabilitation Authority (SRA) scheme in Tagore Nagar in Vikhroli, in October and December 2017. He had done the booking through a real estate brokerage firm, Sai Estate Consultants Chembur Pvt Ltd

NATIONAL RERA NEWS

1. DELHI :Rera asks Noida home buyers to give financial plan to finish project

<https://economictimes.indiatimes.com/wealth/real-estate/rera-asks-noida-home-buyers-to-give-financial-plan-to-finish-project/articleshow/66255926.cms>

Once we get the plan, we will forward it to the financial consultants of Noida Authority, Currie & Browne, to weigh it. Once the agency gives a nod, we will allow the buyers to complete the project by themselves," Balwinder Singh, a UP-Rera member, said.

2. DELHI : Home sales up 6% in top 9 cities in July-September:

<https://economictimes.indiatimes.com/wealth/real-estate/housing-sales-rise-6-in-jul-sep-in-9-big-cities-propequity/articleshow/66163266.cms>

Nine cities tracked by real estate data, research and analytics firm PropEquity include Gurgaon, Noida, Mumbai, Kolkata, Pune, Hyderabad, Bengaluru, Thane and Chennai.

3. STATE OF UttarPradesh: RERA orders Nesh India to refund Rs 33 lakh to flat buyer

<https://www.moneycontrol.com/news/business/real-estate/up-rera-hopes-to-dispose-of-500-cases-by-end-of-october-3058331.html>

UP RERA bench has two benches – one each in Greater Noida and Lucknow. Nearly 40 days after it was set up, the UP RERA bench hopes to dispose of 500 cases pertaining to homebuyers' complaints against realty developers before the end of this month.

4. STATE OF KARNATAKA : RERA earns over Rs 8.8 crore in penalty from builders in Karnataka

<http://www.newindianexpress.com/states/karnataka/2018/oct/04/rera-earns-over-rs-88-crore-in-penalty-from-builders-in-karnataka-1880852.html>

BENGALURU: Its portal has also warned public against investing in 970 real estate projects across the state, up from the 780 projects against which it had cautioned in January.

CREDAI MAHARASHTRA RERA TEAM

MANAGING COMMITTEE

Mr. Shantilal Kataria (President, CREDAI Maharashtra)

Mr. Suhas Merchant (Chairman RERA LEGAL, CREDAI Maharashtra)

Mr. Shrikant Paranjpe (President, CREDAI Pune)

Mr. Satish Magar (President Elect, CREDAI NATIONAL)

Akhil Agarwal (Convenor, Rera Committee, CREDAI Maharashtra)

Ms. Darshana Parmar Jain (Chairman, Womens Wing, CREDAI National)

IP Inamdar (Convenor, Legal, CREDAI Maharashtra)

Majid Kachi (Convenor, Affordable housing, CREDAI Maharashtra)

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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