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# MAHARERA

Newsletter

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APRIL 2018



## FOREWORD

### Mr. Shantilal Kataria, President, CREDAI Maharashtra



I am extremely pleased and would like to congratulate the entire team for the publication of first E- bulletin on RERA to update the members on the important judgements passed by the MahaRERA, and the compliance required under the RERA .

CREDAI-Maharashtra has published RERA Manual and FAQs on the RERA Act and Rules, 5000 copies of which have been distributed to all its members across the State. Federation has also conducted various workshops/seminars in different cities of the Federation, to educate the members about the Registration process of ongoing projects under the RERA Act and Rules.

MahaRERA authority has also appreciated the hard work by the Federation towards registration of large number of projects by its members across the Maharashtra State, which is around 15000 as against the national figure of 27000.

My best wishes to the Team headed by Mr. Akhil Agarwal for publishing the first monthly e bulletin, which will go long way in updating the knowledge of the members as RERA is game changer for the Real Estate Sector.

### Mr. Suhas Merchant, Chairman Rera Legal, CREDAI Maharashtra



I am happy that CREDAI-Maharashtra RERA committee is publishing first bulletin to educate its members about various aspects of Real Estate Regulation Act.

The MahaRERA rules notified last year that are very important regulation affecting entire real estate industry across India. RERA has the potential of transforming the real estate sector by bringing in much-needed transparency and consistency, apart from boosting the customer confidence and attracting investments for the sector. It is now seen as one of the most significant reforms in the real estate sector.

The MahaRERA Authority in Maharashtra, took extra trouble in educating all concerned about the Act & the way it will be implemented. Result of this is Maharashtra is leading India in maximum registration of projects.

CREDAI-Maharashtra also educated members at various forums, training programs and communications about RERA. This bulletin is one such effort by CREDAI-Maharashtra committee to educate members on various aspects of RERA.

I am sure this bulleting will help members update their knowledge about The MahaRERA rules. I congratulate RERA-Maharashtra committee for publishing such bulletin which would be invaluable to Developer members.

# IMPORTANT JUDGEMENTS

## 1. Cancellation

a. Under section 18 of rera act if the developer has not given possession on the committed date the buyer is entitled to cancel the apartment anytime after the date of completion has lapsed, the developer shall have to refund the entire money along with interest presently at 10.05% per annum up till the date the money is repaid.

b. Rera authority also clarified that till the date of completion as mentioned in the agreement or on rera website, is not expired the complaint is to be treated as premature and cannot be entertained.

## 2. No Forum Swapping

If complaint is filed in different forum, Rera will not entertain that complaint. The MahaRera authorities have passed judgements that they shall not entertain any complaint if complainant has filled a similar case at any another authority like consumer court, civil court, etc earlier. They have come down heavily on the complainant saying that rera does not encourage or allow forum swapping.

## 3. Registered agreement must to file complaint-

The rera authority has passed orders to the effect that section 18 of act, relating to delay of project shall come into force only when there is a registered agreement between the complainant and the developer, in the absence of an agreement the complaint may not be entertained.

## 4. Terms of Cancellation

The Maharera authorities in various judgements, have clarified that the developer is entitled to deduct some amount received towards booking if the allottee cancels the booking for his own reasons. They have further said that the amount deducted shall be as per the terms of the booking form or allotment letter agreed by the developer and the buyer.

## 5. Redevelopment societies to be treated as co-promoters

Rera authorities in various judgements have said that landlords, jv partners, societies for which redevelopment has taken up are to be treated as co promoters and rera shall not entertain any complaints or disputes between them.

## 6. Interest on Delay of Possession

In the recent judgement, the tribunal has set aside the order passed by the MahaRera authority to allow delay of 6 months for possession for implementation of GST and demonetization. The promoter stated that the delay caused by demonetization and time required to implement GST structure can be referred under ' reasons beyond the control ' as stated in the agreement. Promoter's contention was rejected by the tribunal and he was asked to pay interest on delay at 10% p.a. to the allottees.

# IMPORTANCE OF COMPLIANCE

## 1. CC not uploaded

The MahaRera authority has come to a notice that there are substantial number of projects who have not uploaded their Commencement certificates on the RERA websites, in case the sanctioning authority does not issue a CC, then NA order with the similar effect to be uploaded. CC is one of the prime documents of the project and it is important to upload CC.

## 2. Project Expired

The MahaRera authority has also enlisted a considerable number of projects across Maharashtra, when the expiry date was December 31, 2017 and the promoters have not taken any action. The actions expected to be taken are:

a. 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/drive/folders/1KN2z3y3WfpzcbxzSHg0A6pXvjcZbAku8?usp=sharing>

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

Project Extension Process

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.

## Extension may be under 2 circumstances

- By authority order / municipal authority stay / court stay / NGT stay

1. Login using your user ID & password
2. Go to Project Details
3. Go to Application for Change
4. Go to Project Information
5. Enter revised proposed date of completion
6. Select from the drop down “Changes by Authority orders”
7. Upload supporting document issued by authority
8. Click on request for generation of revised registration certificate
9. Upload the same supporting document as above
10. Click on declaration tab and submit
11. Pay Rs.5000 + service charges.

# IMPORTANCE OF COMPLIANCE

- **Due to promoters inability to complete**

1. Login using your user ID & password
2. Click on Project Extension
3. Enter Proposed extended date of completion
4. Mention your reasons for such extension application
5. Fill up "Form E" as per the RERA Rules
6. As per Rule 7(3) The intimation thereof shall also be given to the respective competent authority.
7. Form E & the Copy of such application made to local authority has to be uploaded.
8. Click on Save
9. Pay the same amount of fee as paid at the time of registration of project.

### **3. Quarterly update not made**

The MahaRera authority has come to an observation that there are many projects / promotor's have not logged in to inform the Maharera authority about the development of their project, this indicates that there are no developments at the site which is not the fact in many cases, hence the MahaRera authority has urged the promoters to keep informed the authority on quarterly basis regarding the following information.

- a. Every promoter is required to make following quarterly updates
- b. Sold/ Unsold inventory - number of apartments sold / unsold as per the inventory in books
- c. Car parking - number of car parking's sold / allotted.
- d. percentage of work completed with respect to individual wing / building and common areas and facilities

### **4. Penalty levied but not paid**

The authority has levied penalties on the defaults or non compliances but the developer has failed to respond to such penalties or notices in time. This may result in levy of interest etc.

### **5. 51% booking done but society registration not done**

According to rera authority, the promoter is required to initiate the procedure of formation of a association / society as and when 51% booking is done. And upload and inform MahaRera authority to this effect on timely basis.

### **6. Advertisement violations**

The RERA Act, 2016, states that 'The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto'.

# RECONCILIATION FORUM

## to benefit buyers

The MahaRERA Authority has taken an initiative based on the provisions of RERA Act whereby one member from a group of developers and one member from the Mumbai Grahak Panchayat will sit together and try to resolve cases on the basis of previous judgements.

The buyer can exercise his option to approach the forum. The orders of the forum are not binding on either parties but both the developer and complainant stand to benefit as the forum gives some leeway to settle out cases and open a dialogue between the parties before a case is filed.

The Pune bench comprises of Mr. Anil Pharande, Mr. I. P. Inamdar, Mr. Manish Jain, Mr. Amar Manjrekar, Mr. Rohit Gera. and Credai Maharashtra members of RERA core committee Mr. Shrikant Paranjpe & Mr. Suhas Merchant.

They have managed provide an amicable solution to 9 cases out of 10 heard by them.

MAHARERA conciliation forum settles six disputes

<https://timesofindia.indiatimes.com/india/maharera-forum-settles-six-disputes/article-show/63276675.cms>

For the first time, a conciliation panel under the real estate authority MahaRera resolved six disputes between flat buyers and builders before formal complaints were lodged with the authority.

Maharashtra is the first state to establish this forum arbitrate complaints. The warring parties are given a chance to settle the dispute instead of fighting with lawyers before the housing authority.



# NEWS

## 1. RERA push for stalled projects

<https://timesofindia.indiatimes.com/city/bhopal/rera-push-for-stalled-projects/article-show/63638241.cms>

In a fresh move to give respite to investors, if a promoter leaves a project incomplete and escapes after collecting the money, the Real Estate Regulatory Authority (RERA) would facilitate completion of such projects by constituting a committee of buyers in the same project and getting the work completed through the buyers.

## 2. Builders also entitled to interest for late payment

<https://timesofindia.indiatimes.com/city/mumbai/builders-also-entitled-to-interest-for-late-payment-maharera/articleshow/63456776.cms>

MahaRera has held that builders are also entitled to interest for delayed payment in proceedings filed by buyers seeking interest for delay in possession. Maharashtra Real Estate Regulatory Authority (Rera) held both liable to pay interest for delay in possession and payment, even though the buyer had filed the case.

## 3. Possession of flats for fit-out sans completion certificate illegal

<https://timesofindia.indiatimes.com/city/pune/possession-of-flat-for-fit-out-sans-completion-docu-illegal/articleshow/63456802.cms>

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has in a significant order held that possession of flat given for fit out (i.e. to make interior spaces suitable for occupation) without a completion certificate cannot be treated as a legal possession.

## 4. MahaRERA acts on 50% complaints registered with it

<https://timesofindia.indiatimes.com/city/pune/maharera-acts-on-50-of-complaints-registered-with-it/articleshow/63224215.cms>

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has heard 900 of the 1,800 complaints registered with it and levied Rs50,000-10,00,000 lakh on developers for rule violations between August last year and this February.

A recent assessment of the cases uploaded on the MahaRERA website stated this. "We have a 50% record in hearing the cases. With the conciliation bench to be operational from March 10, the number of cases coming to us will reduce," said a MahaRERA official.

# NEWS

## 5. No RERA in sight in Telangana even 6 months after rules notified

<https://timesofindia.indiatimes.com/city/hyderabad/no-rera-in-sight-even-six-months-after-rules-notified/articleshow/63252794.cms>

Prospective home buyers have charged the Telangana government with delaying the formation of the Real Estate Regulatory Authority (RERA) under pressure from the real estate lobby. Though the RERA rules were notified six months ago, the state government has not constituted a full-fledged regulatory authority and not created a website for receiving online complaints.

## 6. Karnataka Real Estate Authority to rope in private entity to identify unregistered projects

<https://timesofindia.indiatimes.com/city/bengaluru/rera-to-rope-in-pvt-entity-to-identify-unregistered-real-estate-projects/articleshow/63323248.cms>

In a bid to crack down on builders who are not complying with new real estate norms, the Karnataka Real Estate Regulatory Authority (RERA) is planning to employ a private entity to find unregistered housing projects.

RERA has called for tenders to appoint a consultancy to identify ongoing and new real estate projects which haven't registered with the authority. RERA, which said it's a pilot project, had received three applications as of Wednesday, the last day to submit bids.



# 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)

Akhil Agarwal (Convenor, CREDAI Maharashtra)

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

## CREDAI MAHARASHTRA RERA COMMITTEE

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Disclaimer : This newsletter is made for internal circulation for CREDAI Maharashtra members only.

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