

GOLDMINE OF PROFESSIONAL OPPORTUNITIES UNDER RERA

By

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Introduction:

The real estate sector of India is perhaps one of the fastest growing sectors, creating several opportunities for every stakeholders and professionals. Additionally with the successful implementation of the Real Estate (Regulation and Development) Act, 2016 (herein after “RERA”) effective from 1st May 2017, the sector has shown a positive growth and significantly contributing to the Governments vision of making India a 10 trillion economy.

The efficiency of RERA revolves around the prominent role plays by each professionals whose service is utmost important. Among such professionals are

1. Architect
2. Engineer
3. Chartered Accountants
4. Real Estate Agent
5. Advocate
6. Consultant

Some professionals defines under act

Section 2 (h) "Architect" means a person registered as an architect under the provisions of the Architects Act, 1972

Section 2 (u) "Engineer" means a person who possesses a bachelor's degree or equivalent from an institution recognised by the All India Council of Technical Education or any University or any institution recognised under a law or is registered as an engineer under any law for the time being in force.

Section 56 (a) "Chartered Accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 or any other law for the time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act

Section 56 (b) "Company Secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 or any other law for the time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

Section 56 (c) "Cost Accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 or any other law for the time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

Section 56 (d) "Legal Practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice

A. Role of Architect:

An Architect is well-versed about buildings and their construction. He understands the utility of the property in a very proper way and that is always very important for the actual development of the property. An Architect knows the typology and has thorough knowledge about the use of the typology to be proposed and constructed.

With the quality of vision along with creativity and imagination, an Architect can always guide the client or developer in the right direction.

The promoter seeking registration of the ongoing project has to obtain an architect certificate, who after inspecting the site of the project certified certain particulars which are:

- Percentage of Completion of Construction Work
- While inspecting he has look into factors such as:
 - Excavation
 - number of Basement(s) and Plinth
 - number of Podiums
 - Stilt Floor
 - number of Slabs of Super Structure
 - Internal Walls, Internal Plaster, Floorings within Flats/Premises, Doors and Windows to each of the Flat/Premises.
 - Sanitary Fittings within the Flat/Premises, Electrical Fittings within the Flat/Premises. 8. Staircases, Lifts Wells and Lobbies at each Floor level connecting Staircases and Lifts,Overhead and Underground Water Tanks.
 - The external plumbing and external plaster, elevation, completion of terraces with waterproofing of the Building/Wing.
 - Installation of lifts, water pumps, Fire Fighting Fittings and Equipment as per CFO NOC, Electrical fittings to Common Areas, electro, mechanical equipment, Compliance to conditions of environment /CRZ NOC, Finishing to entrance lobby/s, plinth protection, paving of areas appurtenant to Building/Wing, Compound Wall and all other requirements as may be required to obtain Occupation / Completion Certificate
 - Internal and External Development Works in respect of the entire Registered Phase

The architect shall certify that the physical condition at the site is built as per the sanctioned plan which the promoter may use while seeking % of withdrawals from the bank requiring to meet the cost of construction. The project architect is also required to certify the certificate on completion of each of the Building/Wing.

B. Role of Engineer:

Engineer:

It is well known that among other issues structural deficiency founded in the construction was one of major concern of construction industry for the longest however, in order avoid the situation the RERA 2016 has by taking note of it introduced certain measures.

First being the engineer's certificate which is mandatory to be submitted by the promoter while seeking registration of the concerned real estate project. That has to be in Form 2 as has been prescribed under Regulation 3 of MahaRERA General Regulations, 2017. While certifying the same the engineer is required to provide certain particulars such as

- I. estimated cost of the completion to obtain Occupation Certificate/ Completion Certificate, of the Civil, MEP and Allied works, of the Building(s) of the project
- II. Cost incurred on the project so far
- III. Total Estimated cost of the Internal and External , Development Works including amenities and Facilities in the layout as on date of Registration
- IV. Cost Incurred on Additional /Extra Items as on registration date not included in the Estimated Cost

The other responsibility of engineer is to prove structural stability certificate. Although the act has not mandatorily asked for it to connect it while registering the project. However, states like Andhra Pradesh have specifically mentioned in their rules to connect it while registering the project.

Under Andhra Pradesh RERA (**Rule 3B (1) of APRERA Rules, 2017**) among other documents that are necessary to be submit by promoter in order to register his real estate project, a Structural Stability Certificate duly issued by Certified Structural Consultant/Engineer along with the details of parameters followed for verification of structural stability is also a requirement.

Format of Structural Stability Certificate

STRUCTURAL STABILITY CERTIFICATE

Name of the Promoter (individual /Firm):
.....

Project Name:
.....
.....

Location of the Project:..... Survey no:
no:..... Locality:.....
Village/City :.....
Mandal :.....District:
.....

Total No. of Floors.....
.....

(Eg. Roofed cellar+ Stilt+ Ground+ Upper Floors)

(Residential/Mixed
Development/Commercial).....Apartment

Belongs
to.....
.....

Sl.No	Items	Parameters/Standards/Relevant Codes
1	Concrete	
2	Steel	
3	Soil	
4	Foundations	
5	Others	

Soil Test Report

By.....
..... Pvt Ltd.

I/We declare thatthe structure
design provided are safe and stable to the best of my knowledge

Signature of Structural Engineer

Quality assurance:

An Engineer who supervises the work appointed by Promoter in order to ensure the quality of the materials being used on the project have to prepare Certificate for Quality Assurance A format for this purpose has been proposed and designated as Form-2A. All the real estate projects registered

after **01.12.2018 with MahaRERA** are required to submit quarterly information in Form 2A. The Form 2A shall be uploaded by the end of every financial quarter.

The consumers will also get benefited from these certifications as they will receive a “quality certificate” of the constructions made under these registered projects.

In nutshell the promoter has to request an engineer who will supervise the work and quality of construction material and will submit the quality certificate as under Form 2A and by this the entire process will become transparent and everyone will be assured of quality of the projects and the buyer can raise objections as and when required if the material differs.

Certificate required for withdrawal:

As section 4(2)(1)(D) requires promoters shall obtain from these 3 professional's that is Engineer, Architect and Chartered Accountant's certificates from time to time to withdraw the money from the scheduled Bank maintaining separate Account of project based on % of development of the project. The engineer has certify that the items shown in the cost of construction is matching to the physical condition at the site of the real estate project.

C. Role of chartered accountant

Like the above two professionals the chartered accountant is also required to give promoter certificate (Form 3 reg. 3 of MahaRERA General Regulations, 2017) which he will needing to fulfill the registration requirements. The said certificate is also necessary for seeking withdrawals from separate account maintained by builder in scheduled bank containing 70% amount realised from allottees towards real estate project.

The content of certificate will include below particulars:

A. Land cost

- b. Acquisition Cost of Land or Development Rights, lease Premium, lease rent, interest cost incurred or payable on Land Cost and legal cost.
- c. Amount of Premium payable to obtain development rights, FSI, additional FSI, fungible area, and any other incentive under DCR from Local Authority or State Government or any Statutory Authority.
- d. Acquisition cost of TDR (if any)
- e. Amounts payable to State Government or competent authority or any other statutory authority of the State or Central Government, towards stamp duty, transfer charges, registration fees etc ; and
- f. Land Premium payable as per annual statement of rates (ASR) for redevelopment of land owned by public authorities.
- g. Under Rehabilitation Scheme :
 - I. Estimated construction cost of rehab building including site development and infrastructure for the same as certified by Engineer.
 - II. Actual Cost of construction of rehab building incurred as per the books of accounts as verified by the CA.
 - III. Cost towards clearance of land of all or any encumbrances including cost of removal of legal/illegal occupants, cost for providing temporary transit accommodation or rent in lieu of Transit Accommodation, overhead cost,

IV. Cost of ASR linked premium, fees, charges and security deposits or maintenance deposit, or any amount whatsoever payable to any authorities towards and in project of rehabilitation

B. Development Cost/ Cost of Construction :

a.

(i) Estimated Cost of Construction as certified by Engineer.

(ii) Actual Cost of construction incurred as per the books of accounts as verified by the CA.

(iii) On-site expenditure for development of entire project excluding cost of construction as per (i) or (ii) above, i.e. salaries, consultants fees, site overheads, development works, cost of services (including water, electricity, sewerage, drainage, layout roads etc.), cost of machineries and equipment including its hire and maintenance costs, consumables etc. All costs directly incurred to complete the construction of the entire phase of the project registered.

b. Payment of Taxes, cess, fees, charges, premiums, interest etc. to any statutory Authority.

c. Principal sum and interest payable to financial institutions, scheduled banks, non-banking financial institution (NBFC) or money lenders on construction funding or money borrowed for construction

2. Total Estimated Cost of the Real Estate Project [1(i) + 1(ii)] of Estimated Column.
3. Total Cost Incurred of the Real Estate Project [1(i) + 1(ii)] of Incurred Column.
4. % completion of Construction Work % (as per Project Architect's Certificate)
5. Proportion of the Cost incurred on Land Cost and _____% Construction Cost to the Total Estimated Cost. (3/2 %)
6. Amount Which can be withdrawn from the Designated Account
7. Amount withdrawn till date of this certificate as per the Books of Accounts and Bank Statement.
8. Net Amount which can be withdrawn from the Designated Bank Account under this certificate.

Additionally the chartered accountant is given with the responsibility to audit the designated account in the schedule bank within six months at the end of every financial years. While doing so he has to submit a statutory audit report as prescribed under Regulation 4 of MahaRERA General Regulations, 2017 read with second provision of section 4 (2) (1) (D) of RERA. Wherein he is required to certify that the amount withdrawn has been utilized for project only for that project and the withdrawal from the designated bank account(s) of the said project has been in accordance with the proportion to the percentage of completion of the project.

D. Role of Real Estate Agents:

The Real Estate Agent is one of key player in the real estate industry, whose prime responsibility revolve around arranging real estate transactions, putting buyers and sellers together and acting as their representative in negotiations.

The RERA 2016 requires the registration of this professional before they could provided their services such as

- Facilitating the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it

Registration of Real Estate Agents:

The Real Estate Agents willing provide service under the act has to make online application to the concerned RERA under sub section (2) of section (9) based on which the authority may either grant registration or may reject the application if it doesn't comply with provision. The manner of application, grant of registration or rejection of application has to be studied with different rules and regulation provided by concerned authority in addition to the provision of section 9 and 10 of the act.

For instance chapter III of MahaRERA Registration rules provides provision of registration of real estate agents:

As per rule 11 the real estate agent has to make application in form 'G' prescribed under the rules, and has to accompanied below details:

(a) brief details of his enterprise including its name, registered address of place of business, type of enterprise (proprietorship firm, societies, partnership, company etc.); Registration numbers, PAN, Aadhar Card No, DIN, as the case may be, under which returns are required to be filed with statutory authority;

(b) particulars of registration obtained under other laws, and rules and regulations, as the case may be, along with the authenticated copy of partnership deeds, memorandum of association, articles of association, etc.;

(c) recent colour photographs of the real estate agent, if an individual and of all the partners, directors, trustees, etc. including persons in service or assigned work expected on a real estate agent, in case of other entities;

(d) income-tax returns for last three financial years preceding the application or in case the applicant was exempted from filing returns in any of the three year preceding the application, a declaration to such effect;

(e) authenticated copy of the proof of address of the principal place of business, number of branch offices if any along with contact details including Telephone Numbers, Fax Numbers and email address; and

(f) details (if any) of all real estate projects and their promoters on whose behalf he has acted as real estate agent in preceding five years;

(g) details of all civil or criminal cases pending against him if an individual or any of the partners, directors, trustees etc. in case of other entities;

(h) authenticated copies of all letter heads; rubber stamp images, acknowledgement receipts proposed to be used by the real estate agent;

(i) such other information and documents, as may be specified by regulations.

Fees of registration:

(i) A sum of rupees ten thousand, in case of applicant being an individual; and

(ii) rupees one lakh, in case of the applicant being other than an individual.

Upon making application the concerned applicant has to wait for 30 days after wards the concerned authority may grant registration certificate in form “H” and if it to be rejected it will be intimated in form “I”.

Renewal of registration:

A real estate agent to whom registration has been granted under section 9 may, make an application for renewal of his registration, at least sixty days prior to the expiry of the registration. The application shall be in Form 'J'. In case of renewal of registration, the authority shall inform the real estate agent about the same in Form 'K' and in case of rejection of the application for renewal of registration the authority, shall inform the real estate agent in Form 'I'.

Obligations of registered real estate agents. –

(1) Every registered real estate agent shall prominently display number of his Registration Certificate at the principal place of business and at its branch offices.

(2) Every registered real estate agent shall quote his number of their registration all the documents relating to advertisement, marketing, selling or purchase issued by the real estate agent along with the number of registration certificate of the real estate project.

Functions under section 10 :

- (a) not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority;
- (b) maintain and preserve such books of account, records and documents as may prescribed;
- (c) not involve himself in any unfair trade practices, namely:—
 - (i) the practice of making any statement, whether orally or in writing or by visible representation which—
 - (A) falsely represents that the services are of a particular standard or grade;

- (B) represents that the promoter or himself has approval or affiliation which such promoter or himself does not have;
- (C) makes a false or misleading representation concerning the services;
- (ii) permitting the publication of any advertisement whether in any newspaper or otherwise of services that are not intended to be offered.
- (d) facilitate the possession of all the information and documents, as the allottee, is entitled to, at the time of booking of any plot, apartment or building, as the case may be;

accountability of Real estate agent under the act:

- **Section 62.** If any real estate agent fails to comply with or contravenes the provisions of section 9 or section 10, he shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extend up to five per cent. of the cost of plot, apartment or buildings, as the case may be, of the real estate project, for which the sale or purchase has been facilitated as determined by the Authority.
- **Section 65.** If any real estate agent, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated and as determined by the Authority.
- **Section 66.** If any real estate agent, who fails to comply with, or contravenes any of the orders, decisions or directions of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend up to one year or with fine for every day during which such default continues, which may cumulatively extend up to ten per cent. of

the estimated cost of plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated, or with both.

E. Role of Advocate:

While the legally represent the client is by default will remain professional requirement from advocate, there are much more opportunities provided under RERA.

An advocate may advise their client on

- a. Advice on Joint venture development
- b. Advice on township development
- c. Real estate promotion and development
- d. Preparing lease and sale deed drafts
- e. Advice and legal documentation of property buying/selling/lease
- f. Tenant-landlord issues
- g. Land use regulations
- h. Finance and mortgage agreements
- i. Building, development and construction contracts
- j. House tax disputes
- k. Project and retail property transactions
- l. Land Use Regulations
- m. Mortgage and Finance Agreements
- n. Building, Development and Construction Contracts
- o. Other Tax disputes ([GST](#) and other)
- p. Projects and retail property transactions.

Paperwork vetting by the lawyer:

- a. Enlightens the buyer about the property history / third party interfering (if any)

- b. Acquires complete details of the original owner and previous owners
- c. Checks for the rights of easements involved and the minor's rights (if any)
- d. Checks for the Encumbrances (if any)
- e. Current property status / encroachments on the property
- f. Checks for the property revenue records such as Patta / Khata / Tax records
- g. Checks for property disputes / court involvements / pathways disputes / violations on the property

Opportunities to be appointed as Judicial Member of REAT:

an advocate for at least twenty years with experience in dealing with real estate matters is eligible to be appointed as the Judicial member of the Real Estate Appellate Tribunal

F. Consultancy opportunities:

Any person possession sound knowledge of real estate, regulatory procedures, finance, investments belonging to any profession ranging from finance, law, taxation, accountancy, advisory, buisness management may provide their professional excellency serivce in the form of RERA consultant. There are several factors involves that requires consultancy where such eligible may seek opportunities:

- a. Project fund planning before registration
 - Source of intial funding
 - Expected customer collections
 - Cost of land plus intial promotion

b. Review of advertising brochure

- False/non-realistic statement or data attracts rejection of application
- Interest plus penalty
- Bad track record for the future

c. Project registration with authority

- Complete online process
- Required document and information
- Seeking necessary approval from competent local authority in nature of commencement certificate, IOD, NOC from various departments etc.

List of documents	List of Authorities
1. ownership certificate/Extract 2. Non-agriculture permission	a. The Revenue Department https://rfd.maharashtra.gov.in/en
3. Building layout approval document (the person may seek information regarding the site inspection from the Building Proposal Office of Municipal Corporation) 4. structural engineer approved structural plans submitted by the promoter 5. Occupancy certificate/ Building Completion Certificate	b. The Development Authority/ or the local Municipal Authority (in case of Mumbai district this may be obtained from Bombay Municipal Corporation https://portal.mcgm.gov.in/irj/portal/anonymous)
c. intimation of disapproval" (building permit)- the IOD requires NOCs from various government authorities and	e. The Building Proposal Office https://autodcr.mcgm.gov.in/bpamsclient2/Login.aspx

<p>the Final clearance to build (Commencement Certificate) will only be given once the company obtains all NOCs and meet all IOD conditions.</p> <p>d. Commencement certificate</p>	
<p>6. NOC from Tree Authority</p>	<p>f. Tree Authority Committee/ Water and Drain Department/ Sewage Department/ Electrical Department/ Traffic and Co-ordination department/ Chief Fire Officer under Municipal Corporation https://portal.mcgm.gov.in/irj/portal/anonymous</p>
<p>7. The Environmental clearance</p>	<p>g. The Ministry of Environment, Forest and Climate Change / the State Environment Impact Assessment Authority (SEIAA)/ State level expert Appraisal Committee http://environmentclearance.nic.in/</p>
<p>8. The Ancient Monument Approval</p>	<p>h. The Archeological survey of India http://asiegov.gov.in/</p>

9. The Establishment consent	i. The Pollution control board https://mpcb.gov.in/node
10.NOC by Airport Authority of India	j. The Civil Aviation Department https://www.civilaviation.gov.in/
11.Borewell registration certificate	k. The Central Ground Water Authority http://cgwa-noc.gov.in/LandingPage/index.htm
12.NOC if project near the costal area	l. The Coastal Zone Management Authority https://mczma.gov.in/
13.The Lift Escalator Installation Approval	14.The Public Work Department https://pwd.maharashtra.gov.in/

d. Project fund moniteering

- Trace the project funds
- How much is cost incurred?
- How to take effect of cancellation and refund?
- Hwo much fund will be required to complete the project?
- Single or project wise multiple accoutns?
- Books of accounts to be desinged in way that will answer all this questions

e. Deposit of 70% funds

- Amounts realised from the allottees towards real estate projects that is deposited in separate account maintained under schedule bank
- Withdrawal reason should be pertaining to land cost and construction cost only
- In proportion of % completion of project

f. Certificate for withdrawals of funds

- Certificates to be collected from professionals such as project architect, engineer, chartered accountant in practice.
- In proportion to % completion before the withdrawal is made
- Advise on such certificates such as
 - Maximum amount that can be withdrawn
 - Method of determining the % of withdrawal for completion of project till date

g. Audit

- Statutory requirement of audit certificate from chartered accountant within 6 months from close of financial year
- CA to give certificate over
 - Amount collected for the project have been utilised for the same project
 - Withdrawal has been in compliance with the proportion to the % of completion of the project

h. Routine compliance work

- Updating the authority time to time as per the act and rules, regulations made thereunder by the concerned authority
- Response to any clarification ask from authority
- Supervising the book of accounts
- Overall monitoring the activities and ensuring same within the framework of procedure

- i. Appearance before authority/tribunal
 - Guiding or assisting in case litigation involves
 - Legally represent client in the capacity of CA/CA, CMA or Advocate

G. Professionals eligible for legal representation:

The act under section 56 allows the aggrieved person to be represented by any of the below mentioned professionals:

- q. Chartered accountant
- r. Company secretary
- s. Cost accountant
- t. Legal practitioner / advocate

The Real Estate Regulatory Authority that is established under section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 which is effective since 1st May 2017 is a fascinating field for this non-advocate professional in addition to lawyers to impart their expertise in order to assist Promoters as well as the Real Estate Agents and allottees. The act also provides for the establishment of the Real Estate Appellate Tribunal under section 43. The state government by invoking section 20 (1) and 43 established State Real Estate Regulatory Authorities and consequently the State Real Estate Appellate Tribunal respectively.

Following are the opportunities provided under the Act to Chartered Accountants, Cost and Management Accountants, Advocates and Company Secretaries:

- A. To present the case before the Appellate Tribunal or the Regulatory Authority or the adjudicating officer;
- B. Drafting of Reply to show cause notice; appeal etc.;
- C. Assisting client in respect of filing of application for registration under the Act;

- D. Preparing up-to-date list regarding number and types of apartments or plots, garages booked;
- E. Assisting client in taking approvals which are pending subsequent to commencement certificate;
- F. Assisting client in obtaining completion certificate or the occupancy certificate;
- G. Assisting client in obtaining the lease certificate and any other certificates as and when required;
- H. Assisting client in preparing various documents, agreement and deed from time to time;
- I. Help in maintaining web page and providing information as are required to be mentioned on that web page;
- J. Providing consultancy/opinion with respect to various transaction under RERA and other laws;
- K. Provide assistance with regard to any other information and documents as may be demanded by the Authority;
Valuation of projects under RERA.

Duties of professionals legally representing their client:

The professionals engaged as legal representatives by the parties to the complaint should make aware of all their rights and duties throughout the proceedings. To expedite the proceedings, an urgent precipe may be moved, also producing all the relevant documentation may avoid the unnecessary postponing of the hearing for reason want of production of same.

The representative should responsibly serve necessary documents upon the other and take acknowledgment without fail so the practice of seeking

additional time for serving the necessary copies be prevented, which can certainly fasten the hearing process.

The legal representative along with the complainant should take an active role in convincing the presiding members of facts and claim completely, certain landmark judgments may be taken as support to strengthen the relief ask for.

This appointed legal representative is permitted to appear before all of the below-listed forums as consented by the concerned party:

- a. before the Adjudicating Authorities under RERA in the process of complaint
- b. before the Real Estate Appellate Tribunal
- c. before the Conciliation and Dispute Resolution Forum
- d. before any other competent authority for any other purpose under the Real Estate (Regulation and Development) Act, 2016.

When representative the party in court or any quasi judicial forum every person whether or not from a legal professional background must pledge to their client the following:

- a. that he shall protect client's confidentiality
- b. that he will conduct proper study of law and provide expert advice
- c. protecting the best interest of their client and not conduct or do any act that will certainly jeopardize his client interest
- d. follow the procedural rules, maintain discipline and adhere to the law, ethics etc.
- e. to approach appropriate method that will help in deciding their client matter on merits

Since the process of seeking relief may involve a lot of stages and approaching different forums, it is advisable to keep the constant representatives like the person who has witnessed the matter from the very start is well familiar with the in and

out of the matter, therefore it certainly helps in better representation before further forums.

The representative should always seek the best interest of the party they are appearing for. Since the act permits several non-legal professionals to appear in proceedings, such a legal representative can inculcate the art of advocacy. There is always a chance of improvisation. The legal representative must be polite, non-insultive and most importantly they should be prepared with facts, active in filing replies, submission, should possess the knowledge of relevant decisions favoring their clients' case, and lastly, they should focus on how the proceeding be concluded without seeking less adjournment at the same time they should be attentive that the opponent or their representative may not seek unnecessary adjournments.

The complainant has a right to ask for interim relief pending the final adjudication of the matter for instance if the complaint involves the compensation for delay in delivery of possession on part of the promoter, then the allottee may seek an interim relief of immediate possession of concerning apartments. The power of issuing interim orders is given under section 36 of the act.

Further, the rules enacted by the respective state RERA contained the whole procedure of deciding the complaint by the authority. For instance MahaRERA under rule 6 of the Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2017 provides a detailed procedure and manner to be effectuated when deciding a complaint by authority.

A detailed description of such a procedure is provided below:

- a. RERA upon receipt of complaint application issues notices to the concerned opposite party (respondent) along with the detailed

particulars of the alleged contravention and documents. Such notice has contained the details of the time and date of hearing fixed by the authority.

- b. On the day of hearing the authority introduced the respondent with the alleged contravention made under the act, rules, and regulations made thereunder.

Certain possibilities may occur

1. Either the respondent pleads guilty – in such case the authority passed the necessary order after recording the plea and imposed relevant penalty
 2. Or the respondent does not plead guilty- in such case the authority demand explanation from the respondent and hearing may be continued for the purpose of adjudication
- c. Upon the justification by the respondent the authority is of the view that no inquiry into the facts required it altogether to dismiss the complaint
 - d. However if in view of authority inquiry is to be made, the next hearing is to arrange wherein demand of production of documents and necessary evidence be made
 - e. After a thorough analysis of facts, submissions, rejoinders, supporting evidence, the authority come to conclusion and either find the respondent guilty or not guilty under the alleged contravention, and pass the final order accordingly
 - f. The authority even have the power to make ex parte order in the event when respondent is absent in the proceedings
 - g. The same procedure is to follow by the Adjudicating officer in deciding the application for claim of compensation
 - h. Since the act under section 29 casts an obligation on part of the authority to dispose of the question come up before it in an

expeditious manner that is within sixty days of the complaint, it certainly motivates for the fast track redressal of dispute.

Dress and Discipline

The RERA of every state have provided the Rules and Regulations provision of which more or less is same. From the procedural conduct point of view let's take a look at the Maharashtra Real Estate Appellate Tribunal Regulations, 2019

The Maharashtra Real Estate Appellate Tribunal by invoking power under section 53(2) of the Real Estate (Regulations and Development) Act, 2016 have made this regulation with the intent to regulate its own practice and procedure.

Under chapter IV of the Regulation, the Regulation 5 requires the legal representative if they have been prescribed a dress for appearing in their professional capacity before any Court, Tribunal or Appellate Tribunal or other such authority, may at their option, wear the same dress.

PROCESS OF APPEAL:

The Real Estate Appellate Tribunal established Chapter VII of RERA particularly section 43(1) are conferred with power decide an appeal against the order passed by RERA or an Adjudicating Authority. Sub section 5 of section 43 mandate that such appeal must be made within 60 days from the receipt of impugned order, however in the event when the appeal is moved by the promoter, it is an obligation upon him to deposit at least 30% of the penalty including compensation that were imposed upon him. The process of filling an appeal is almost same to the filling of original complaint, since by that time the concerned is well knowledged with the practical conduct of the forum, he may make best possible use of it. The aggrieved party must enclosed the impugned order which is to be challenged in the appeal with a precise point contesting the order/decision of the authority and stating why it is not justified.

However if the person is not satisfied with the order of appellate tribunal he may proceed with another appeal in next higher authority which is the High Court under section 58 of RERA. Such appeal has to be made within 60 days.

Chapter VI of the Regulation provides for the presentation of proceedings

Regulation 9: Presentation of Proceedings

- i. All appeals to be instituted with the Tribunal shall be presented online in 'Form C' as prescribed.
- ii. Every appeal shall be accompanied by an appeal fee of Rs. 5000/- (Rupees Five Thousand) payable only online.
- iii. The hard copy of such appeals along with attachments shall be presented to the Office of the Registrar to the authorised person within seven (7) days from the date of online filing. On failure to submit hard copies within time, such appeals shall be notified by the Registry for dismissal for want of hard copies.
- iv. All other proceedings with attachments, if any, shall be instituted in the Office of the Registrar till the online system is in place.
- v. All proceedings to be presented to the Tribunal shall be in English and in case it is in some other language, it shall be accompanied by a true translation of the same in English and shall be legible, type-written or printed in double spacing with proper margin, duly paginated, indexed and stitched together in paper book form and shall be presented in triplicate.
- vi. The authorised official, on receipt of proceedings as per (ii), (iii) and (iv) above, shall affix the date and seal of the Tribunal on all pages under his initials and thereafter shall on the same day send to the Registrar.
- vii. Court fee stamps affixed on Vakalatnama, Letter of Authorisation and the documents shall be checked and entered after due cancellation in the Court Fee Register to be maintained as per the procedure.

- viii. In case of delay, if the last day of filing appeal falls on a holiday, that day and succeeding holidays shall be excluded for the purpose of reckoning the period of limitation. Appeal should be presented on the next working day succeeding the holidays from the last date of limitation.
- ix. On examination of appeals, if the Registrar finds the same in order he shall seek appropriate orders for allotment of appeal.

Regulation 10. Documents to accompany Memorandum of Appeal

- i. Memorandum of Appeal with attachments with adequate number of copies to be served on respondents;
- ii. If appeal is presented through an Advocate, necessary Vakalatnama duly attested with necessary court fee stamp and Advocate Welfare Fund Stamp if applicable. Vakalatnama shall contain the address of the advocate with Enrollment Number, email ID, Mobile Number etc. for proper communication;
- iii. In the event a proceeding is filed by an authorised representative, chartered accountant, cost accountant or company secretary as provided in Section 56 of the Act, Power of Attorney or authority letter in original;
- iv. Certified copy of impugned order;
- v. All the documents shall be produced along with the list of documents (Form B);
- v. An application for condonation of delay when appeal is presented after expiry of period of limitation;
- vi. Other documents, if any in accordance with the law and rules framed thereunder.

Furhter chapter IX of the Regulation providing for the mandate of Hearing appeal before the tribunal required that the the document which are not previously relied in complaint before the RERA shall not be produced at the time of filling the appeal unless an application for filling additional document or

evidence, the same has to be considered by the appellate tribunal which also required to give proper opportunity to the other side. The act mandate a time limit of 60 days upon the tribunal to dispose the appeal [section 44(5)]

Since all the appeal u/s 44 of the act to be filed before the Maharashtra Real Estate Appellate tribunal, to be in form C contained under the Regulation.

PROCEDURE OF CONCILIATION IN RERA MATTERS

The RERA is one such legislation which along with providing the transparency in the real estate transaction have sufficiently given boost the amicable solution of dispute. The State Real Estate Regulatory Authority under section 32 of the act have entrusted with a duty to facilitate measures to promote the conciliation of disputes between promoters and the allottees. It is in exercise of such power contained under section 32 (g) the State RERA have provided a conciliation forums however only Disputes between promoters and allottees which are under purview of Real Estate (Development and Regulation) Act 2016, Rules and Regulations made thereunder shall be admissible by the Forum.

Nonetheless this have opened yet another opportunity door for the professionals eligible to legally represent their client can appear before such conciliation forum.

Few websites:

1. The Revenue Department <https://rfd.maharashtra.gov.in/en>
2. The Development Authority/ or the local Municipal Authority (in case of Mumbai district this may be obtained from Bombay Municipal Corporation <https://portal.mcgm.gov.in/irj/portal/anonymous>)
3. The Building Proposal Office <https://autodcr.mcgm.gov.in/bpamsclient2/Login.aspx>
4. Tree Authority Committee/ Water and Drain Department/ Sewage Department/ Electrical Department/ Traffic and Co-ordination department/ Chief Fire Officer under Municipal Corporation <https://portal.mcgm.gov.in/irj/portal/anonymous>

5. The Ministry of Environment, Forest and Climate Change / the State Environment Impact Assessment Authority (SEIAA)/ State level expert Appraisal Committee<http://environmentclearance.nic.in/>
6. The Archeological survey of India<http://asiegov.gov.in/>
7. The Pollution control board <https://mpcb.gov.in/node>
8. The Civil Aviation Department<https://www.civilaviation.gov.in/>
9. The Central Ground Water Authority<http://cgwa-noc.gov.in/LandingPage/index.htm>
10. The Coastal Zone Management Authority<https://mczma.gov.in/>
11. The Public Work Department<https://pwd.maharashtra.gov.in/>
12. <https://rera.ap.gov.in/RERA/Views/Home.aspx>
13. <https://rera.ap.gov.in/>
14. <http://123.63.38.197/>
15. <https://rera.cgstate.gov.in/>
16. <https://rera.goa.gov.in/reraApp/home>
17. <https://gujrera.gujarat.gov.in/>
18. www.harayanarera.gov.in
19. www.harayanarera.gov.in
20. <http://www.hprera.in/WebSite/Home>
21. <https://jharera.jharkhand.gov.in/>
22. <https://rera.karnataka.gov.in/home?language=en>
23. <https://rera.kerala.gov.in/>
24. <http://www.reat.mp.gov.in/contact-us>
25. <https://maharera.mahaonline.gov.in/>
26. <http://udpamizoram.nic.in/RERA.html>
27. <https://rera.odisha.gov.in/>
28. <https://www.rera.punjab.gov.in/index.html>
29. <https://rera.rajasthan.gov.in/>
30. <https://rera.rajasthan.gov.in/Tribunal>
31. <https://www.rera.tn.gov.in/>

32. <http://rera.telangana.gov.in/>
33. <https://rera.tripura.gov.in/>
34. <http://www.uhuda.org.in/>
35. <https://www.up-rera.in/index.aspx>
36. <http://rera.chbonline.in/>
37. <https://rera.delhi.gov.in/>
38. <http://prera.py.gov.in/>

EASE OF DOING INITIATIVES OF MAHARASHTRA

1. All land titles or deed records have been digitized at the Sub-Registrar's Office (SRO) <http://igrmaharashtra.gov.in/>
 - A. **iSarita 2.0 IGR Application**
https://appligr.maharashtra.gov.in/NGDRS_MH/Citizenentry/generalinfoentry/70672950673628
 - B. **Property valuation** (general information about all the space rates)
<http://igrmaharashtra.gov.in/eASR/frmMap.aspx>
 - C. **Land records maharashtra** <https://mahabhumi.gov.in/mahabhumulink>
 - D. **Download facility for digital 7/12; 8A and property card** etc
<https://digitalsatbara.mahabhumi.gov.in/DSLRLR>; digitized document downloaded at 15 rs.
 - E. **PR Card application status**
https://digitalsatbara.mahabhumi.gov.in/pc_status Application incoming number is to put
 - F. **Integrated property registration portal**
<https://registeringproperty.mahabhumi.gov.in/>
 - G. **E mojani** check mojani application status
<https://emojni.mahabhumi.gov.in/emojni/mojani/pgLogin.aspx>
 - H. **Public data entry for property registration and mutation (update) land records** <https://pdeigr.maharashtra.gov.in/frmLogin> facilities such as 1.

Marriage registration 2. E registration 3. E filing 4 7/12 mutations 5 e property card

I. Village digital notice boards

<https://digitalsatbara.mahabhumi.gov.in/aaplichawdi>

J. mutation dashboard

K. bhu nakasha <https://bhunaksha.nic.in/bhunaksha/index.jsp> available for 12 states

I. andhra pradesh

II. chattisgarh

III. kerala

IV. orissa

V. assam

VI. himachal pradesh

VII. lakshdweep

VIII. bihar

IX. jharkhand

X. rajasthan

XI. maharashtra

<https://mahabhunakasha.mahabhumi.gov.in/bhunaksha/27/index.jsp>

XII. uttarpradesh

2. To check the **encumbrances** <http://igrmaharashtra.gov.in/>

3. Service delivery standards have been introduced to provide maps within a specific time frame through an online portal <https://aaplesarkar.maharashtra.gov.in/en/>

4. **Disputes related to land** have been mandated to be adjudicated within 1 year as per amendment of Maharashtra Act No XI of 2016 <http://eqjcourts.gov.in/startup/default.php>

5. The **grievances related to land** can be reported through "Aaple Sarkar" portal <https://aaplesarkar.maharashtra.gov.in/en/>

6. Land dispute information has been made available online through e-DISNIC software https://services.ecourts.gov.in/ecourtindia_v6/
7. Registration Act has been amended with insertion of Section 89 A, according to which, every court shall send copies of order affecting any immovable property and every recovery officer shall send copies of order or interim order attaching or releasing any immovable property to the concerned Sub-Registrar <https://bombayhighcourt.nic.in/libweb/acts/Stateact/2012acts/2012.10.pdf>
8. Title search can be conducted online without requirement of any physical visit (for _____ Paid _____ search) <https://esearchigr.maharashtra.gov.in/portal/esearchlogin.aspx>
- L. **Central Registry of Securitisation Asset Reconstruction and Security Interest (CERSAI) section 8 company located in new delhi <https://cersai.org.in/CERSAI/home.prg> created to check frauds in lending against equitable mortgages, in which people would take multiple loans on the same asset from different banks. Searches such as**
 - a. asset based search
 - b. debtor based search
 - c. AOR based search available with payment of 10 rs.
9. **Tax dues on property** can be checked online on MCGM's website <https://ptaxportal.mcg.m.gov.in/CitizenPortal/#/login>
10. **eStepIn for online registration slot booking at SROs** launched <http://igrmaharashtra.gov.in/>
11. **eRegistration system launched for online registration of leave and license rent agreements** <http://igrmaharashtra.gov.in/>
12. **eSecure Bank Treasury Receipt (eSBTR) for payment of Stamp Duty**) <http://igrmaharashtra.gov.in/> Dept of registration and stamps duty online payment <https://gras.mahakosh.gov.in/echallan/igr/>
13. **eASR for online statement of rates** launched in Aug 2014 <http://igrmaharashtra.gov.in/>
14. **E records** <https://aapleabhilekh.mahabhumi.gov.in//erecords/> -

M. Below records availbale

- I. Old mutation (Tahsil Office)
- II. Satbara (tahsil office)
- III. 8A (tahsil office)
- IV. K.D.E. Patrak (Tahsil Office)
- V. Ka. Da. E. Patrak-Hakk Nondni Register (Tahsil office)
- VI. Inam patrak (Tahsil office)
- VII. Bot khat (Tahsil Office)
- VIII. Sud register (Tahsil Office)
- IX. Khasra patrak (Tahsil Office)
- X. Khasra phalni patrak (Tahsil Office)
- XI. Jod takta A (Tahsil Office)
- XII. Kul register(Tahsil Office)
- XIII. Old phalni (Tahsil Office)
- XIV. Pere patrak (Tahsil Office)
- XV. Record of rights panji (1954-55) (Tahsil Office)
- XVI. Bandobasti misal (Tahsil Office)
- XVII. Wajab-ul arj (Tahsil Office)
- XVIII. Nista patrak (Tahsil Office)
- XIX. Hakk nondinin register (Tahsil Office)
- XX. Tippan (deputy SLR officer)
- XXI. Gunakar book (Deputy SLR officer)
- XXII. Akarphod patrak (Deputy SLR officer)
- XXIII. JKP (Deputy SLR Officer)
- XXIV. Akkarband (Vadivibhajan) (deputy SLR officer)
- XXV. Akkarband (Gut Consolidiation) (Deputy SLR Officer)
- XXVI. Akkarband (Acer Guntha) Deputy Slr Officer
- XXVII. Yogna Patrak – consolidation scheme- durusti scheme- shudhi patrak (Deputy SLR officer)
- XXVIII. Consolidation jawab (Deputy SLR Officer)
- XXIX. Fiel book original (Deputy SLR Officer)
- XXX. Vaslevar book (Deputy SLR Officer)

- XXXI. Table pavti (Deputy SLR Officer)
- XXXII. Consolidation scheme 9(1) and 9(2) maps (Deputy SLR Officer)
- XXXIII. Kacch sud (Deputy SLR Officer)
- XXXIV. Shetwar patrak (Deputy SLR Officer)
- XXXV. Revision book (Deputy SLR Officer)
- XXXVI. Fodi tippan book (Deputy SLR Officer)
- XXXVII. Pot hissa tippan book (Deputy SLR Officer)
- XXXVIII. Wajib – ul arj (Deputy SLR Officer)
- XXXIX. Resurvey akarband (Deputy SLR Officer)
- XL. Resurvey gunakar book (Deputy SLR Officer)
- XLI. Pot hissa patrak (Deputy SLR Officer)
- XLII. Bandobast misal (Deputy SLR Officer)
- XLIII. Bandobast akarband (Deputy SLR Officer)
- XLIV. Nistar patrak (Deputy SLR Officer)
- XLV. CSO Enquiry register (Deputy SLR Officer)
- XLVI. CSO Property Card (Deputy SLR Officer)
- XLVII. CSO Property register (Deputy SLR Officer)
- XLVIII. CSO field book (Deputy SLR Officer)
- XLIX. CSO city survey (Deputy SLR Officer)
- L. CSO town planning scheme (Deputy SLR Officer)
- LI. Enquiry Register (city survey office)
- LII. Property card (city survey office)
- LIII. Property register (city survey office)
- LIV. Field book (city survey office)
- LV. Vaslevar book (city survey office)
- LVI. Town planning scheme (city survey office)

- **currently available for below districts:**

- a. akola
- b. amravati
- c. dhule
- d. gondiya

- e. Mumbai suburban
- f. Nandurbar
- g. Nashik
- h. Palghar
- i. Thane
- j. Washim

Hoping you find this article informative and useful, to find out more of such information stay tuned to my next article.

Thank you!