

Comparative Study of Real Estate Acts and Analysis on Impact of Maharashtra

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Abstract—Government of India has enforce the Real Estate (Regulation and Development) Act 2016 and all the sections of the Act shall come into force with effect from May 1, 2017. Under the mahaRERA, Government of Maharashtra established Maharashtra Real Estate Regulatory Authority (MahaRERA), vide Notification No. 23 dated 8 March 2017, for regulation and promotion of real estate sector in the State of Maharashtra Under mahaRERA Act, appropriate government shall establish Real Estate Regulatory Authority for regulation and promotion of the real estate sector in the Maharashtra. The Authority shall strive to facilitate the growth and promotion of a better, healthy, transparent, efficient and competitive real estate sector while protecting the interest of buyers, promoters and real estate agents, Protecting the interest of buyers in real estate sector; Establishing adjudicating mechanism for speedy dispute solution and Establishing Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority. Before RERA, there was no clarity on carpet area, was sort of monopoly of developers regarding loading, rates, modes of payments. There were lots of Frauds, no clear picture of project, possession, sanctions. An attempt has been made to find out the immediate impact of this act on the developers, agents, and the customer. The scope of study is limited to Mumbai area region.

Keywords—Appellate Tribunal, RERA, Transparency, sanction, parliament

I. INTRODUCTION

Real estate sector in India is one of the fastest growing sectors contributing 10-11% to the National GDP. It involves residential housing, retail, hospitality and commercial sectors. According to technical group of housing, India has a shortage of 18.78 million urban houses (2018), thereby creating huge gap in demand -supply market. It is the second largest employment generating sector in India after Agriculture. Unprecedented growth in Real estate sector is mainly driven by strong growth in retail and service sector in the last decade. The RERA passed by the Parliament grants powers to the State Government to make rules for carrying out provisions of the Act. The State Government can make the rules under section 84 of the RERA regarding the information and the documents required from the promoters and fees to be paid for the registration and real estate agents. However, the main feature pertain to the power of making the rules regarding the rate of interest payable to the allotted when he intends to withdraw from the project or in case of false advertisement by the builder or failure of the promoter to give the possession of an apartment, plot or a building. The state governments are empowered to make the model agreements which are to be compulsorily incorporate in the agreement.

II. OBJECTIVE

- To evaluate the application of the ACT on different fields of construction.
- To find out problem arising due to act of MahaRERA act.
- To compare the pre (MOFA and MHA) and post RERA conditions.
- To suggest possible improvements in MahaRERA.

III. METHODOLOGY

Various Stages followed to make the study of MOFA, MHA and mahaRERA. The methodology of the study consists of following stages.

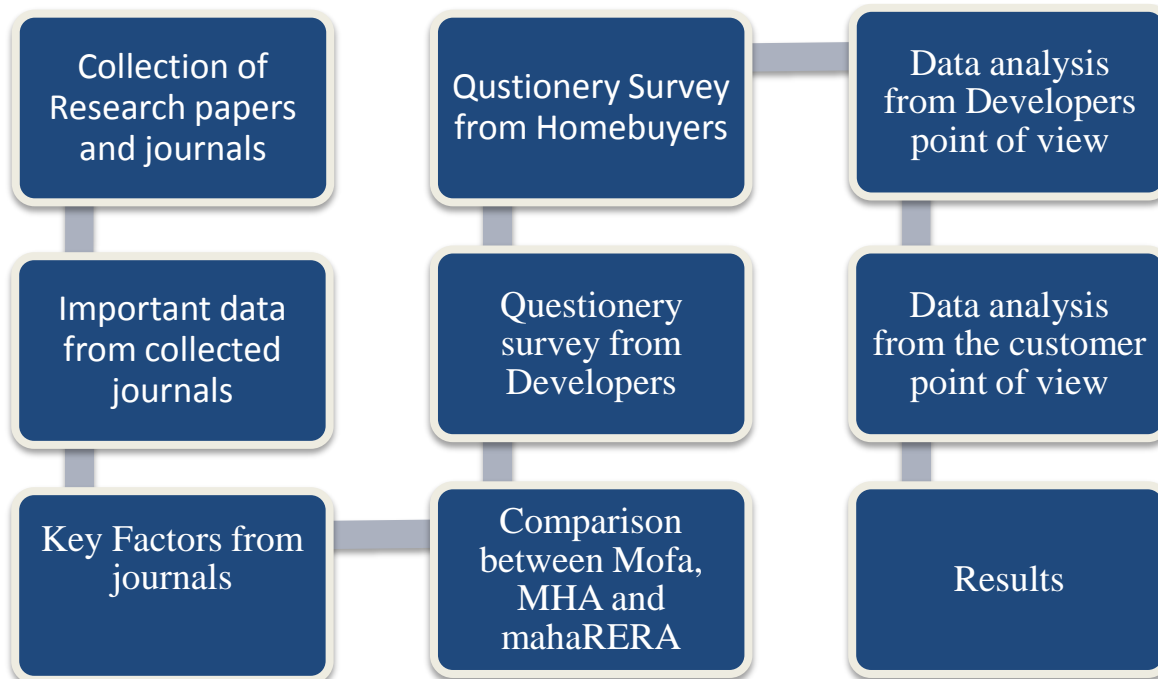


FIGURE 1:Flow chart of methodology

TABLE 1
COMPARISON OF REAL ESTATE ACT BASED ON FOLLOWING FACTORS:-

S.R. NO.	FACTORS	MOFA (1963)	MHA (2012)	mahaRERA (2016)
1	Sale of parking	Not permissible	Not permissible	Only car parking space/garages including mechanical car parks.
F	Carpet area	Balcony in included and net usable area was permissible.	Same as MOFA	Includes:-Area covered by the internal walls of the apt. Excluded area covered by the external wall, exclusive balconies, veranda, service shafts and terrace not included.
	Defects liability period	3 years	5 years	5 years
	Advance payments	Not to exceed 20%	Not to exceed 20%	Not to exceed 10%
	Proportionate charging of common area	Chargeable	Chargeable	Chargeable
	Refund of money if delay in possession then refund of money with interest to the buyers	Simple interest @ 9% p.a from the date sums are received.	Simple interest @ 15% p.a from the date sums are received + investment.	Simple interest 2% + M.C.L.R rate of the state bank of India from the date sums are received.
	All receipts	Mentions maintain a separate account.	Mentions maintain a separate account for each bldg.	70% to be maintain with designated account and to be withdrawn as per progress of construction.
	Share of outgoings	In proportion to floor area of flat.	In proportion to carpet area.	In proportion to carpet area.
	Conveyance	If no period mention, within 4 months of formation of society.	Within 4 months of formation of society in case of layouts, conveyance, i.e. minimum 60% of flats been sold.	If no period mentioned then for single bldg. within 3 months of issue of O.C of 51% of total number of allottees in bldg. per wing.
	Disclosure	To be available on site.	To be available on site.	To be available on site and website.

S.R. NO.	FACTORS	MOFA (1963)	MHA (2012)	mahaRERA (2016)
11	Title liability	Up to the conveyance is done.	Up to the conveyance is done.	Liability in perpetuity.
12	Unfinished project	No provision to take over.	Authority with approval of state government may allow development of project by any other person including first right to take over and complete the project	Authority with approval of state government may allow development of project by any other person including first right to take over and complete the project will rest with allottees who has purchase in the project.
13	Offences and penalties	Imprisonment and nominal fines were prescribed.	Imprisonment direction of authority not follow for both promoter and buyers	Heavy fine linked with up to 10% of estimated and imprisonment only if direction of authority not followed for both developer as well as allottees.
14	Insurance	Of building.	Of building and title.	Of building and title.
15	Formation of society	As soon as min no. of 60% require to take flats within 4 months of 60% occupation.	Within 4 months of date of 60% allottees book there apts.	Within 3 months of date of 51% of allottees that have booked their apts.
16	Consent to change sanctioned plans	Consent not required unless individual unit is affected.	Addition without consent after plans are disclosed.	Consent of 75% of allottees required for making any major modification in sanction plans or revised plans.
17	Development of project and amenities	Phase wise development not mentioned.	phase wise development required as per different date of possession.	Detailed phase wise development permitted along the different dates of possession for apartment and amenities.
18	Payment terms	Not practical therefore no developers follow.	Same as MOFA	Liberal and practical for promoters and allottees.

S.R. NO.	FACTORS	MOFA (1963)	MHA (2012)	mahaRERA (2016)
19	Registration of project	Not required.	Registration required.	Compulsory before any Advertisement or receipt and payment.
20	Specification of material	Genetic declaration would suffice.	To mention brand or price of product.	To mention brand or price of product.
21	Escalation	Increase in local taxes, water charges insurance and such other levies, if any imposed local authority.	Penalty determine by the housing regulatory act.	Escalation free except duty increase in account to development charges.
22	Interest	Developer discretion.	Developer discretion.	M.C.L.R. plus 2% of SBI bank rate.
23	Payment terms	Very significant not practical therefore no developers follow.	Practical and liberal for both.	Liberal and practical for promoters and allottees.
24	Project potential	Till conveyance society any FSI increase is up to the developers.	Any FSI increased as per provision of section 1.	Disclosure to be made about expectation of FSI proposed to be including future FSI 75% allottees opinion is required.
25	Termination	Developers cantitle the project notice on defaultpayment.	Promoter convey title within 4 months from date on cop. Society.	Developer was entitled to terminate after 3 installments not paid and notices refund must be made within 30 days.
26	Marketing agents	Not required to be registration.	Not required to be registration.	Registration is mandatory with authority.

IV. CONCLUSION

Maharera was come in 2017 in Maharashtra to protect the home buyers and boost the investment in real estate industry. Before RERA act MHA and MOFA acts were followed by government. These were not stringent in construction industry. During the implementation of the act ongoing project are suffered. Amendments are still going on. Currently the developers are suffering from financial issues by this act. But according to current scenario developers are scared to take new project. This situation affects development of state. But very positive impact is expected in future as act becomes more intact.

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