

WIRC OF ICAI

WELCOME TO

***Overview of Real Estate (Regulation And
Development) Act, 2016 & Rules 2016***

On 17th Nov, 2017

-By CA. RAMESH PRABHU

-CHAIRMAN – MAHARASHTRA SOCIETIES WELFARE ASSOCIATION

--President: Affordable Housing Welfare Organization of India

WHY THIS ACT IS REQUIRED..??

- Highly unregulated sectors in spite of many laws.
- Lack of transparency in projects
- No proper information about the builder
- Lack of Easy and Quick Redressal
- Possession not given in time.
- Do not provide OC and Completion Certificate
- Demand Additional amount in cash
- Do not Form the Societies or give conveyance.
- Do not provide with all the agreed amenities.
- NO accounts are provided for maintenance
- Parking and open spaces are sold
- Fraud, cheating by unscrupulous builders
- Approved Plans, title deed not proved.
- Flat areas are sold at Super Built up etc.

REAL ESTATE (R & D) ACT CAME INTO FORCE IN MAY -2016

Real Estate Bill is an Act Now, May Protect Home Buyers

Act mandates registration of projects, including those that have not got completion or occupancy certificates

RaviTeja.Sharma@timesgroup.com

New Delhi: The Real Estate (Regulation and Development) Bill, 2016, became an act on May 1, kick-starting the process of making rules as well as putting in place institutional infrastructure to protect the interests of home buyers in India.

While acknowledging that the act is a positive development, property experts said the new rules should address problems faced by builders in getting sanctions and approvals in a timely manner. "Government authorities should also be made accountable for time-bound approvals through the rules that will be made," said Anshuman Magazine, managing director of property advisory firm CBRE South Asia. He said that if this happens, it will be one of the major steps towards the recovery of the Indian real estate market and will improve the confidence of both consumers and institutional investors – domestic or foreign. "Of course, it should not become another hurdle for development, which will then raise property prices in the long term," said Magazine. The Ministry of Housing & Urban Poverty Alleviation notified 69 of the act's 92 sections that come into force from May 1. Rules for implementing the provisions of the act have to be formulated by the central and state governments within six months – by October 31 – the maximum period stipulated in Section 64 of the act.

Confidence Boost

Current state: 69 of the Act's 92 sections notified in the offing:

Rules have to be formulated by the central and state governments by October 31

Housing ministry will make the rules for Union Territories

Ministry of Urban Development will make rules for Delhi

Real Estate Regulatory Authorities and Appellate Tribunals will be set up



Experts say

New rules should address problems faced by builders in getting sanctions & approvals in a timely manner

Registration will require builders to set aside 70% of the funds collected and pay interest in case of delays

The housing ministry will make the rules for Union Territories while the Ministry of Urban Development will do so for Delhi.

The key to providing succour to home buyers will be the setting up of Real Estate Regulatory Authorities, which will require all projects to be registered, and the formation of Appellate Tribunals to adjudicate disputes. According to Section 20 of the act, state governments have to establish the regulatory authorities within one year of the law coming into force. These authorities will decide on the complaints of buyers

and developers in 60 days.

The act seeks to protect the rights of home buyers, mandates registration of projects, including those that have not got completion or occupancy certificates. Registration will require builders to set aside 70% of the funds collected from buyers and pay interest in case of delays. Any officer, preferably the secretary of the department dealing with housing, can be appointed as the interim regulatory authority. Once the regulators are set up, they will get three months to formulate regulations concerning their functioning. Real Estate

Appellate Tribunals need to be formed within a year – by April 30, 2017. These fast-track tribunals will decide on disputes over orders of the regulators within 60 days.

A committee chaired by the secretary of the housing ministry has started work on formulation of model rules so that states and UTs can frame their rules quickly, besides ensuring uniformity across the country. The ministry will

APPOINTMENT

Any officer, preferably the secretary of the department dealing with housing, can be appointed as the interim regulatory authority

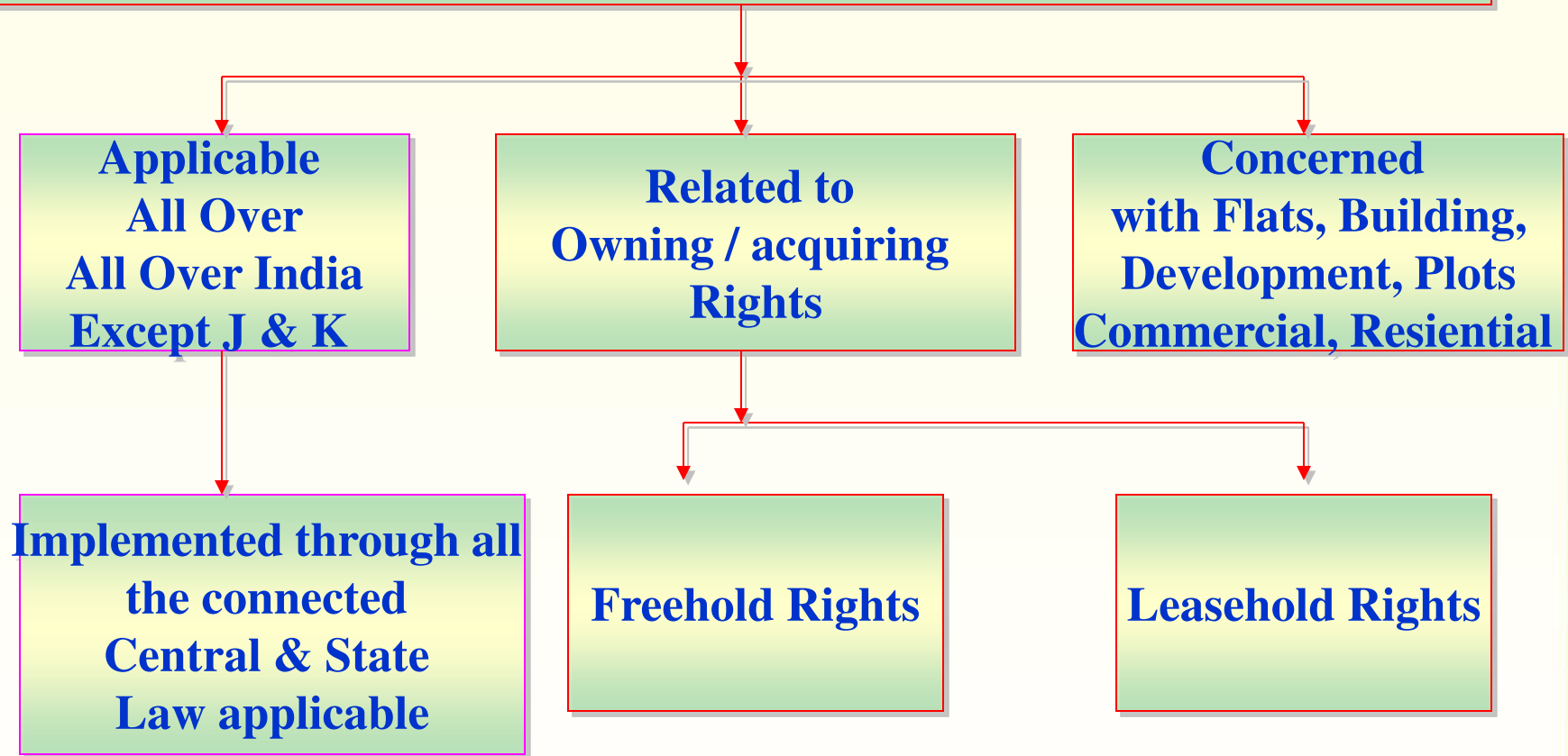
also will come out with model regulations for the regulatory authorities. The remaining sections of the act that have to be notified relate to aspects such as the functions and duties of promoters, rights and duties of allottees, prior registration of real estate projects with the regulatory authorities, recovery of interest on penalties, enforcement of orders, offences, penalties and adjudication. Considering that there are 12 months left for the regulatory authorities to be set up by the states, builders are expected to speed up work to avoid the stringent provisions of the new real estate regulatory act.

Intro: The Real Estate (Regulation and Development) Act, 2016

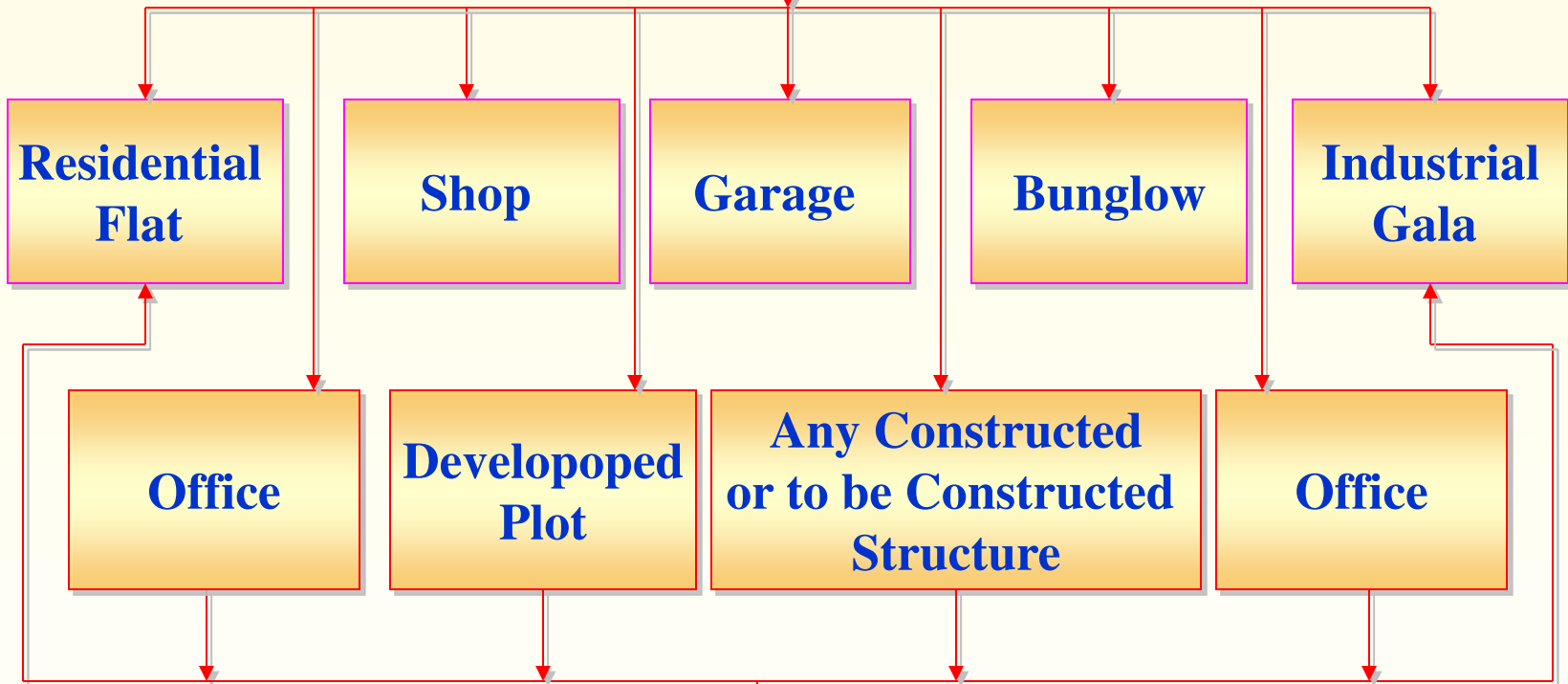
- RERDA-2016 is an Act of the Parliament of India Applicable to whole of India except Jammu and Kashmir
- The bill was passed by the Rajya Sabha on 10th March, 2016, by the Lok Sabha on 15-03-2016 & Notified on 26-03-2016
- Came into force :1 May 2016 with 69 of 92 sections notified.
- The Central and state Govt to notify the Rules in six months and Establish the Real Estate Authority & Appellate Tribunal in 1 yr.
- Regulator: RERA- To register RE projects, RE Agents, Monitor, supervise, redress disputes, Control & protect all stakeholders.
- The law is not Retrospective but applicable to all on going projects and new projects- Commercial, residential, plotting etc..

MOTHER OF REAL ESTATE DEVELOPMENT LAW -

Real Estate (Regulation & Development) Act, 2016

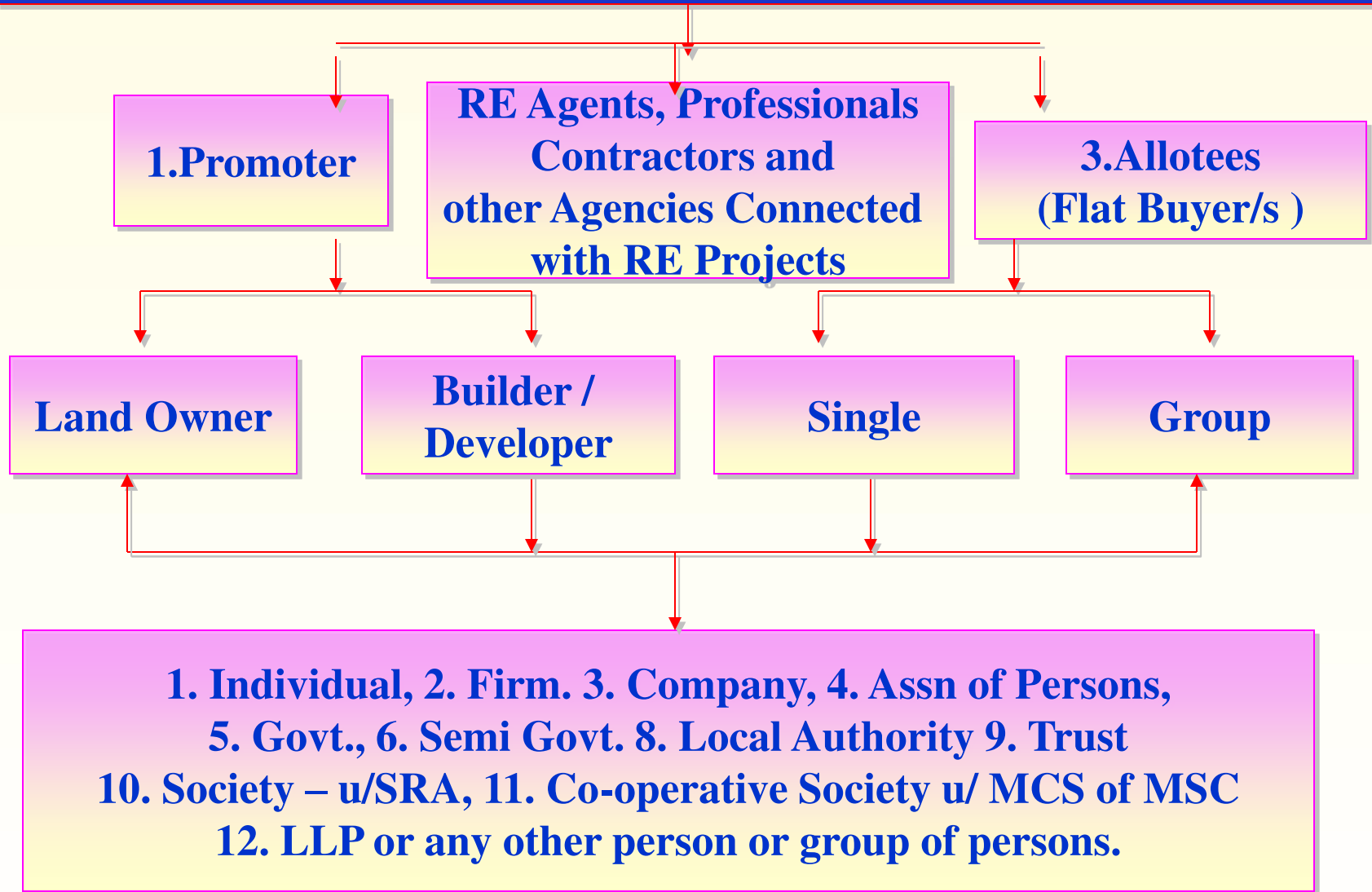


APARTMENTS = INDEPENDENT UNIT/PLOT



**Provided or agreed to be provided by the Promoter
To the Purchaser for a Consideration**

PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE under RERA





सत्यमेव जयते

भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 17]

नई दिल्ली, शनिवार, मार्च 26, 2016/ चैत्र 6, 1938 (शक)

No. 17]

NEW DELHI, SATURDAY, MARCH 26, 2016/ CHAITRA 6, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

WORKING OF MOFA 1963

**DUTY OF BUILDER TO DISCLOSE
VARIOUS DOCUMENT,
PLANS ETC.**



Court Orders
or Punishment

State Government
Direction or Action



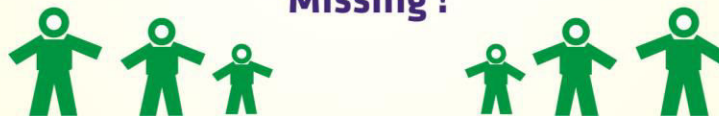
सत्यमेव जयते

1

**Enforcement & Delivery Mechanisms
are Missing !**

2

**Compliance is
Missing !**



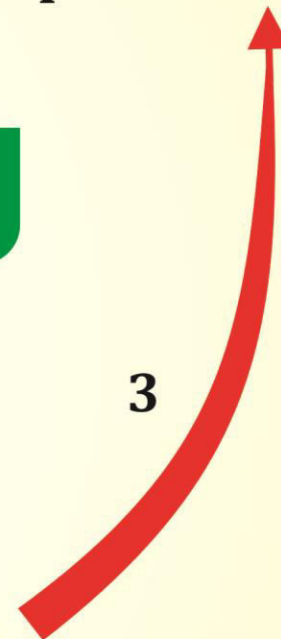
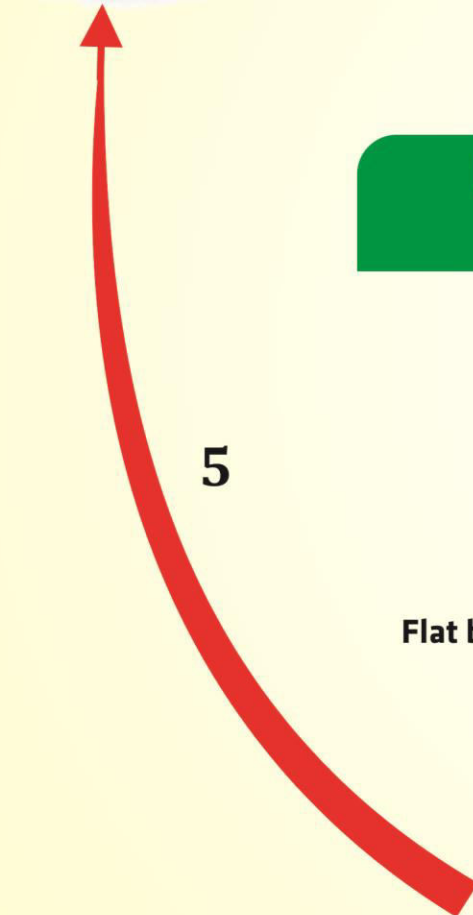
Flat buyer, RTI activist & common man may file RTI applications
& write complaints to **GOVERNMENT**,
and struggles to get orders passed against builder.

and / or

**Engages LAWYER and fights in
COURT for several years**

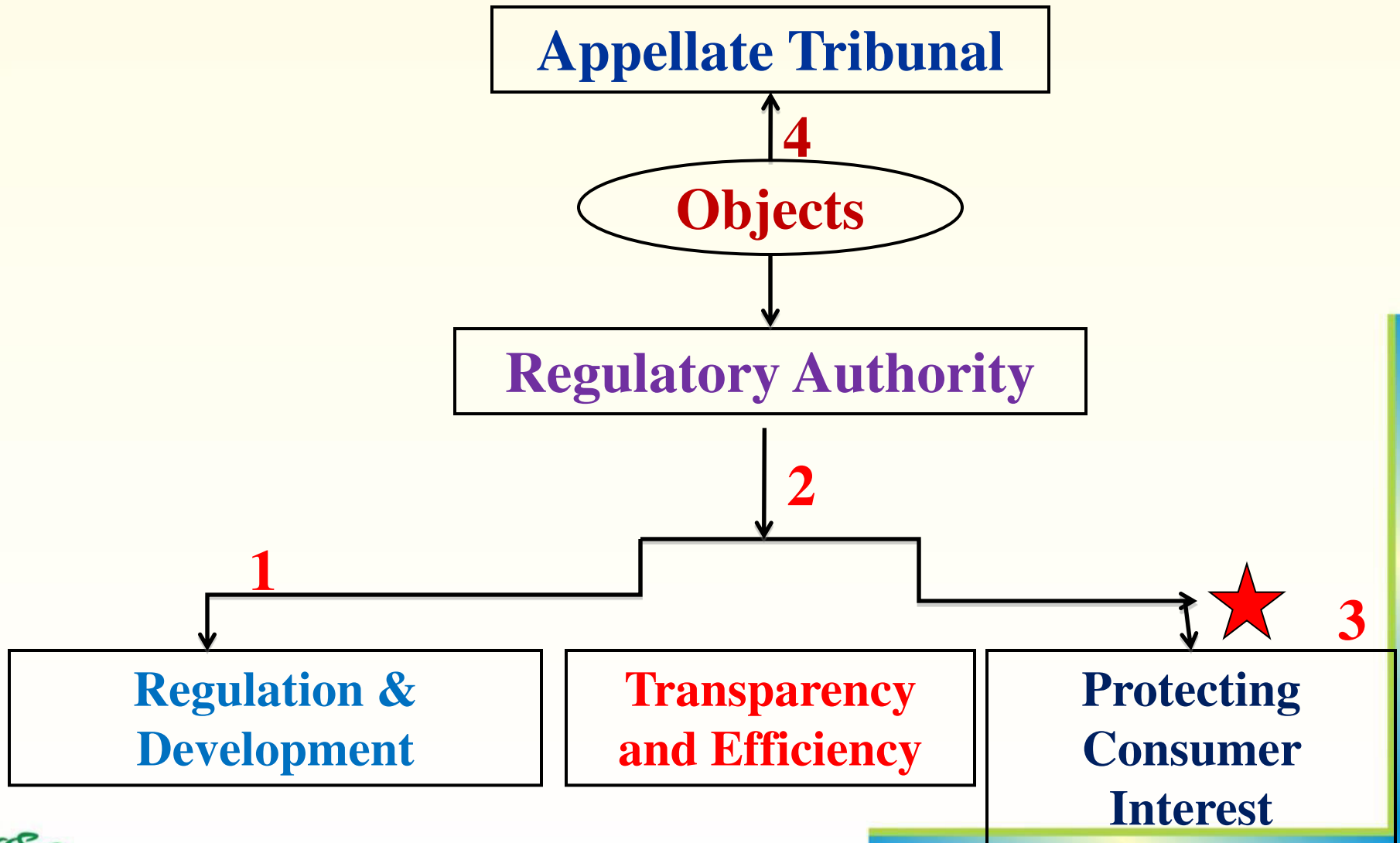
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3



THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT , 2016

Objects of the Real Estate(R &D) Act, 2016



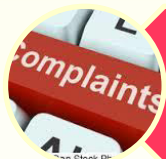
Salient Features of the Act



Real Estate Project Registration



Real Estate Agent Registration



Filing of Complaints

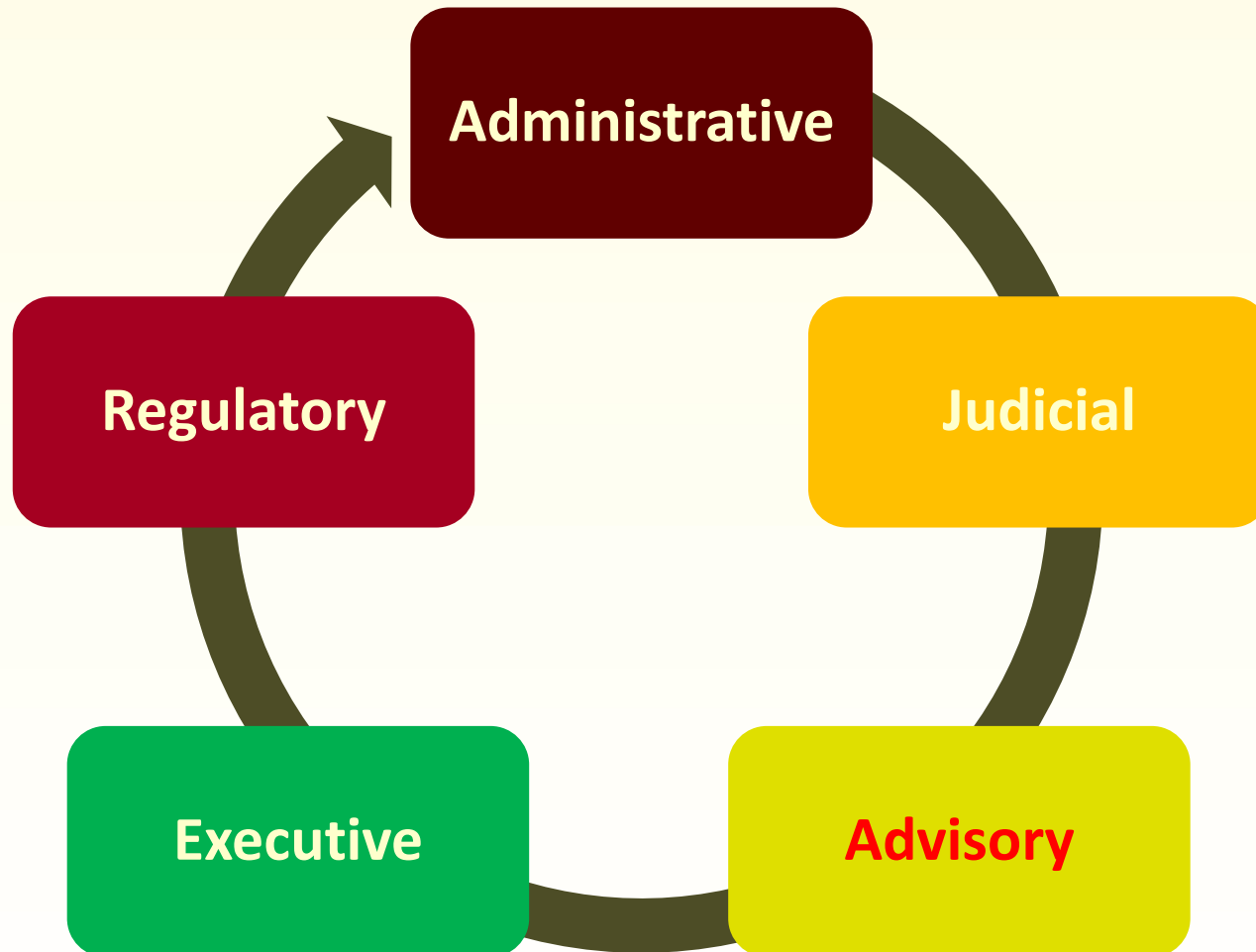


Financial Discipline



Transparent & Consumer-oriented

Functions of RERA



Responsibilities of Promoter



REGISTRATION

Registration of project with RERA



Declaration by promoter



70% amount to be deposited in bank A/C



No ads without registration



Obligations of promoter for veracity of ads

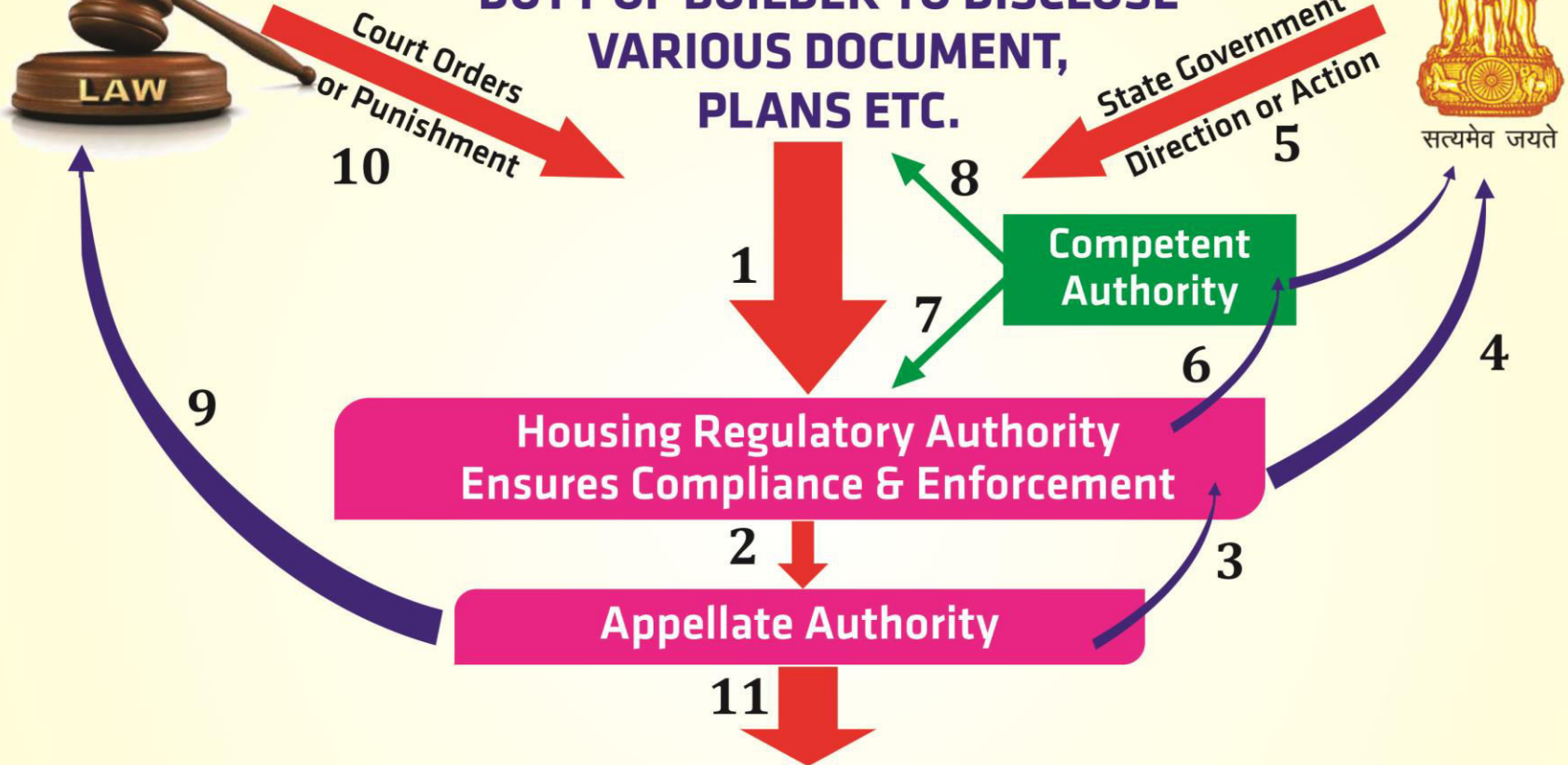
Sec. 2 (zk) defines promoter. In layman's language it means Builder

WORKING OF RERA 2016

DUTY OF BUILDER TO DISCLOSE VARIOUS DOCUMENT, PLANS ETC.



सत्यमेव जयते



**Compliance & Service delivery as per Agreement
Rules & Laws is Improved**



Flat buyer, RTI activist & common man may file RTI applications & write complaints to

REGULATORY AUTHORITY & APPELLATE AUTHORITY,

to get orders passed against builder.

THE SALIENT FEATURES OF THE RERDA-2016

- **To Establish a Regulator** : by Appropriate Govt:
 - For each State by respective State Govt
 - For Union Territories by Central Govt
- **Accreditation** : By Mandatory registration of :
 - Real Estate Projects by Promoters &
 - Real Estate Agents
- **Mandatory public disclosure norms** :
 - Details of developer,
 - Details of the project,
 - land status ,
 - statutory approvals and
 - contractual obligations;

THE SALIENT FEATURES OF THE RERDA-2016

- **Obligations of promoters :**

- Register the project with the authority before sale.
- Adhere to approved plans & project specifications,
- Publish complete details of projects on website.
- deposit 70% of funds in a separate bank account, to be used for that real estate project only after certifying by CA, Engr and Arch.
- to refund moneys in cases of default;
- Update website with quarterly information on sale and progress
- Get the accounts Audited by CA within 6 months.
- Register the Agreement on receipt of 10% of amount
- Submit all the inform about project from time to time to RERA.

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

(e) enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable:

Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;

(

OBLIGATION OF THE PROMOTER WITH ALOTTEES

Contractual Obligations

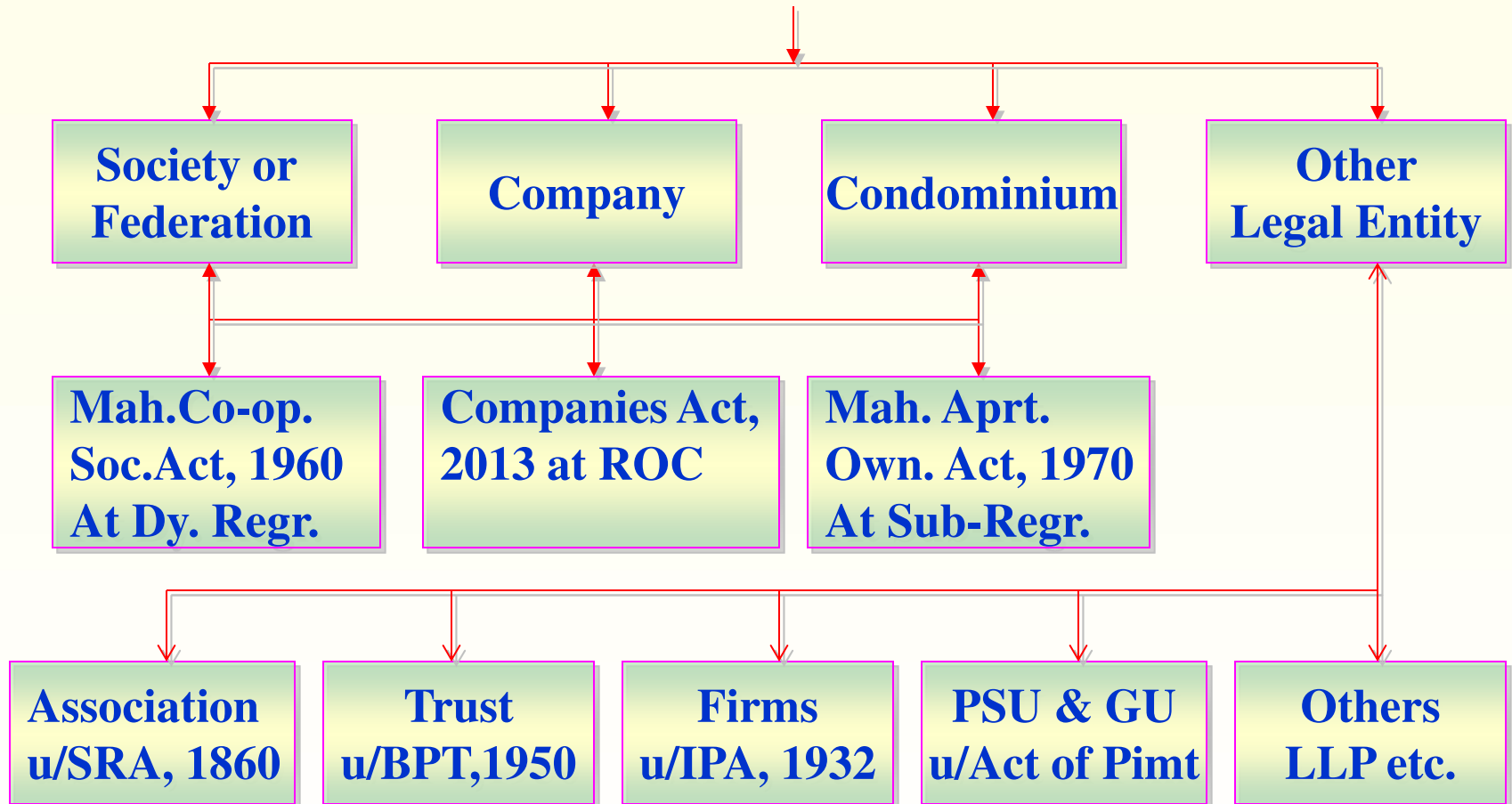
1. Enter into Agreement
2. Registration of Agreement
3. Receive the Flat Consideration
4. Hand over the Possession of flat as agreed

Statutory Obligations

1. Register Agent on Receipt of Advance
2. Complete the Building in all respect
3. Provide O.C., B.CC.
4. Provide Common Facilities
5. Water Connection
6. Electric connection
7. Disclose the information
8. Provide all Documents
9. Registration of Society / Legal Body
10. Providing Conveyance

FORMATION OF LEGAL ENTITY .

TO MANAGE COMMON SERVICES, AREA & FACILITIES
AS PER LOCAL LAW OR WITHIN 3 MONTHS OF OC



SEC. 17 TRANSFER OF TITLE

(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

SEC. 17 TRANSFER OF TITLE

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to hand over the necessary documents and plans, including common areas, to the association of the allottees or the competent

SEC. 17 TRANSFER OF TITLE

authority, as the case may be, as per the local laws:

Provided that, **in the absence of any local law**, the promoter shall handover the necessary documents and plans, including common areas, **the association of the allottees** or the competent authority, as the case may be, **within thirty days after obtaining the occupancy certificate.**

Obligation of allottee :

- to make necessary payments and
- payment of interest in case of any delay;

TO CONVEY LAND AND BUILDING TO THE LEGAL ENTITY WITHIN 3 MONTHS of OC & DELIVER RELEVANT DOCUMENTS.

Conveyance can be done as per MOFA Rules

On Single Plot or Sub-divided Plot

On layout Plot with Common Areas, Rds, Gym, Garden etc. Sub-divison Not Possible or Township or cluster /Complex devlpmt.

On Single Plot & Singe Entity Convy Land & Bldg all Comm Facilities on the plot to Sole Entity

To All Entities Jointly with 100% rights of resp. Bldg & % Plot & Com. Facilities & Apex Body for to Mge Services as per Plan Passed at the time of sanction of Layout

To each Entities On appln with 100% rights of resp. Bldg & % Plot & Com. Facilities

To Fedn or Apex Body, if desired by all entities On the Layout Plot

THE SALIENT FEATURES OF THE RERDA-2016

- **The Authority to act as the nodal agency :**
 - To co-ordinate efforts in development of the sector
 - To render advice to the appropriate Government to ensure the growth and promotion of a transparent, efficient and competitive real estate sector;
 - To establish dispute resolution mechanisms for settling disputes between promoters and allottees/ buyers;
- **Powers to make Act, Rules, Regulations ,Direction etc:**
 - Central Act uniform across India except J & K;
 - States to have powers to make rules
 - Regulatory Authority to make regulations;
 - Central Government to issue directions to States.

THE SALIENT FEATURES OF THE RERDA-2016

- **Dispute resolution mechanisms:**
 - Adjudicating officer to assess damages
 - Regulatory Authority to settle any Disputes
 - Real Estate Appellate Tribunal to hear appeals
 - Jurisdiction of Civil Courts barred
 - Consumer Courts to continue.
- **Penal provisions :**
 - To ensure compliance of Provisions of Act
 - To Comply with orders of the Adjudicating officer, Authority and Tribunal

CONSTITUTIONAL FRAMEWORK

- Part XI of the [Indian constitution](#) defines the power distribution between the federal government (the Centre) and the [States](#) in [India](#).
- This part is divided between legislative and administrative powers. The legislative section is divided into three lists: Union list, States list and Concurrent list

Constitutional Framework-Sch VII-(Article 246)



Union List-I-100

- arms and ammunition, atomic energy,
- foreign affairs,
- war and peace,
- citizenship,
- extradition,
- Railways, shipping and

State List-II-66

- administration of justice,
- prisons,
- local government,
- public health and sanitation,
- agriculture, animal husbandry

Concurrent List-III-47

- (6.) Transfer of property other than agricultural land,
- (7) Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land

The constant blurring of Legislation Making jurisdiction between the Centre & the States has necessitated multiple Constitutional challenges

Constitutional Framework-Sch VII-(Article 246)



Union List-I-100

- banking, insurance,
- control of industries, regulation and development of mines, mineral and oil resources, elections, audit of Government

State List-II-66

administration of justice, prisons, local government, public health and sanitation, agriculture, animal husbandry, water supplies and irrigation, land

Concurrent List-III-47

- Adulteration of foodstuffs,
- (46) Jurisdiction and powers of all courts, except the [Supreme Court](#), with respect to any of the matters in this List.

The constant blurring of Legislation Making jurisdiction between the Centre & the States has necessitated multiple Constitutional challenges

THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT , 2016

**REAL ESTATE Regulatory Authority :
Not a separate Approval Authority**

2

3

**Promoters:
To get approval from
Competent Authority:
Planning and local
Authority like PMC,
MCGM etc.**

**Screening Authority
between Promoter &
Purchasers
Collect all the
Information
,Approval, Documents
& persons involved in
the execution of RE
Project & Grant
Registration &
Redress Disputes**

**Flat Purchasers
and Consumer to
transact with
Promoters.**

U/S. 3 COMPULSORY REGISTRATION OF REAL ESTATE PROJECT



U/S. 4 DISCLOSURE OF INFORMATION BY THE PROMOTER

By Registration of the Project for development of immovable property in specified form by paying prescribed fees and by submitting information.



U/S. 7 RECOVACTION OF REGISTRATION OF REAL ESTATE PROJECT

**On complaint
by
any Stakeholders**

**Suo moto based
on any information,
Audit Report etc**

U/s8 :Consequence of Revocation or Lapse

**Debar
the
promoters
From
Execution &
Accessing
Website**

**Complete the
Project
by the
association
of allottees or
in any other
manner.**

**Declare as
Defaulter
And
Display
Photographs
In All States
Website.**

**Freeze the
Dedicated
account and
Transfer the
balance
To complete the
project**

Chapter I : Preliminary : Sec 1 and 2

**Chapter II: Registration Of Real Estate Project And
Registration Of Real Estate Agents – Sec 3 to 10**

Chapter III : Functions And Duties Of Promoter – Sec 11 to 18

Chapter IV : Rights And Duties Of Allottees - Sec 19

Chapter V: The Real Estate Regulatory Authority- Sec 20-40

Chapter VI : Central Advisory Council - Sec 41 and 42

Chapter VII : The Real Estate Appellate Tribunal : Sec 43 to 58

Chapter VIII : Offences, Penalties And Adjudication: 59 to 72

Chapter IX : Finance, Accounts, Audits And Reports: 73 to 78

Chapter X : Miscellaneous : Sec 79 to 92

AS PER SECTION 84 RERDA –RULES BY MAH. GOVT.

1. 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, 2016
2. The Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of complaints and Appeal, etc.) Rules, 2016
3. The Maharashtra Real Estate Regulatory Authority, Officers and Employees (Appointment and Service Conditions) Rules, 2016

AS PER SECTION 84 RERDA –RULES BY MAH. GOVT.

4. The Maharashtra Real Estate Appellate Tribunal, Officers and Employees (Appointment and Service Conditions) Rules, 2016
5. Rules regarding budget and keeping of records is in the process of being vetted by Comptroller and Auditor General office and Finance Department of Government of Maharashtra

Obligations of promoters :

- - Sec-3 : Register the project with the authority before offer to sell.
- Sec- 4 : Upload 5 yrs track record and project details on website.
- Sec 4 : deposit 70% of buyers in a separate scheduled bank account, to be used for land cost and construction after certified by Architect , Engineer and Chartered Accountants. & Audit .
- Sec 11 Disclose all the details of the project to customer
- 11 Form the society on booking majority flats
- Sec 12 Liable for damages for any misinformation in Advt.
- Sec 13 Register the agreement before receiving more than 10%
- Sec 14- Adhere to approved plans & project specifications
Promoter is liable for 5 years defect liability
- Sec 15 : NOC from 2/3rd and Authority to create third party interest
- Sec 16 : Take insurance of Title and building.
- Sec 17: Transfer the title within 3 months of OC
- Sec 18 : Refund , compensation and interest on default.

Rights & Duties of Allottees

Rights

- Obtain information related to project like site & layout plans & specifications
- Know stage-wise time schedule of completion of project, claim possession of property as per declaration of promoter Sec. 4 {2 (i)(c)}
- Claim refund of amount paid by promoter on A/C of default of promoter

Duties

- To pay proportionate share of expenses
- To pay interest on delayed payments
- Obligation & liabilities to be reduced on basis of mutual agreement between promoter & allottee



le Chief Minister



CA. Ramesh Prabhu, Chairman - MSWA
Felicitating Her Excellency **Smt. Pratibha Patil**, Ex. President
of India, to Express the gratitude for giving assent to
Deemed Conveyance provisions made in MOFA, 1963







**SHRI. ASHOK CHAWAN
HON'BLE C M OF MAHARASHTRA
WAS FELICITATED FOR SIGNING THE DEEMED
CONVEYANCE BILL**



**Shri. Sanjay Nirupam, M.P,
Shri. Ashok Chawan
Hon'ble Chief Minister of Maharashtra &
C A. Ramesh Prabhu, Chairman (MSWA)**



**C.A. Ramesh Prabhu Welcomes
Shri. Ashok Chawan
Hon'ble Chief Minister of Maharashtra**





DEEMED CONVEYANCE AT 100 New DDR Office in North Mumbai Grand Felicitation of Hon. Chief Minister

Special Guests
SHRI MANIKRAO THAKRE PRESIDENT, MPCC
SHRI HARSHVARDHAN PATIL MINISTER OF CO-OPERATION, GOVT OF MAHARASHTRA
SHRI KRIPASHANKAR PRESIDENT, MRCC

On Thursday 26th May, 2011





HON'BLE SHRI. PRITHVIRAJ CHAVAN, CM, Govt. of Maharashtra, Releasing a Book on Conveyance & Deemed Conveyance in Marathi, Authord By CA. RAMESH S. PRABHU,Chairman, MSWA on the Occasion of Housing Melava on June13, 2012 at Shanmukhanand Hall in Matunga



Presenting a Deemed Conveyance Book to
Hon'ble Shri. GAUTAM CHATTERJEE, IAS, Principle Secretary,
Hsg. Dept., Govt. of Mah. & **Hon'ble Shri. Sitaram Kunte, IAS**,
Municipal Commissioner of Greater Mumbai.

By Author CA. Ramesh S. Prabhu



CA. Ramesh Prabhu, Chairman, MSWA
felicitating **Hon'ble Shri. Swadhin Kshtriya, IAS**,
Revenue Secretary, **Hon'ble Shri. Balasaheb Thorat**,
Revenue Minister

SEC. 2 DEFINITIONS

(zn) "real estate project" means :

- the development of a building or a building consisting of apartments, or
- converting an existing building or a part thereof into apartments, or
- the development of land into plots or apartment, as the case may be,
- for the purpose of selling all or some of the said apartments or plots or building, as the case may be,
- and includes the common areas, the development works, all improvements and structures thereon,
- And all easement, rights and appurtenance belonging thereto;

SEC. 2 DEFINITIONS

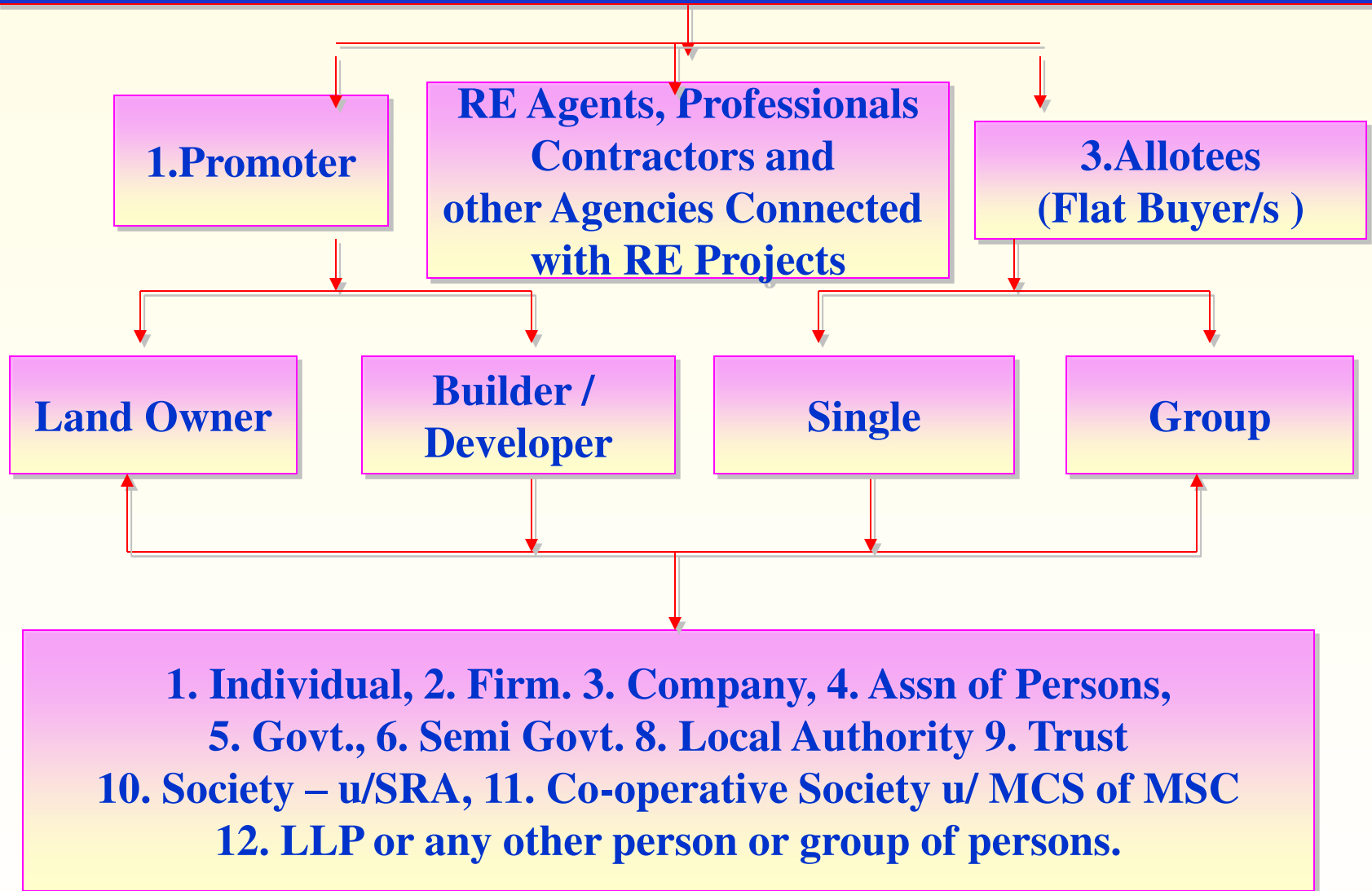
2(d) "allottee" in relation to a real estate project, means :

- the person to whom a plot, apartment or **buildings**, as the case may be,
- has been allotted,
- sold (whether as freehold or leasehold) or
- otherwise transferred by the promoter, and
- includes the person who subsequently acquires the said allotment through sale, transfer or otherwise
- but **does not include a person to whom such plot, apartment or buildings, as the case may be, is given on rent;**

SEC. 2 DEFINITIONS

- (zg) **"Person" includes,—**
- (i) an individual;
 - (ii) a Hindu undivided family;
 - (iii) a company;
 - (iv) a firm under the Indian Partnership Act, 1932 or the LLP Act, 2008, as the case may be;
 - (v) a competent authority;
 - (vi) an association of persons or a body of individuals whether incorporated or not;
 - (vii) a co-operative society registered under any law relating to co-operative societies;
 - (viii) any such other entity as the appropriate Government may, by notification, specify in this behalf;

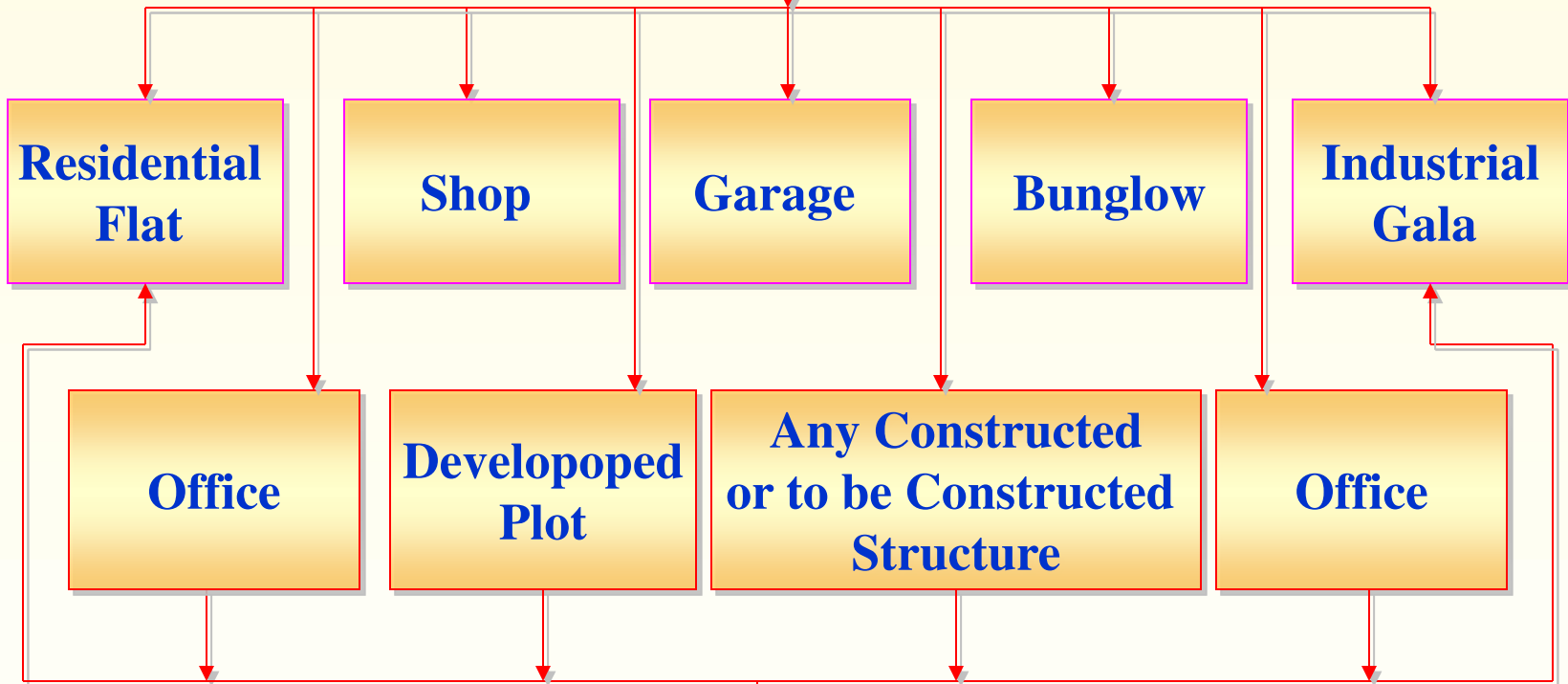
PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE under RERA



SEC. 2 DEFINITIONS

(e) **"apartment"** whether called block, chamber, dwelling unit, flat, office, show room, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop showroom or godown or for carrying on any business, occupation, profession or trade or for any other type of use ancillary to the purpose specified;

APARTMENTS = INDEPENDENT UNIT/PLOT



**Provided or agreed to be provided by the Promoter
To the Purchaser for a Consideration**

- (j) **"building"** includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;
- (s) **"development"** with its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re-development;;

SEC. 2 DEFINITIONS

(zk) "promoter" means,—

- (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or
- (ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

SEC. 2 DEFINITIONS

(iii) any development authority or any other public body in respect of allottees of—

(a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or

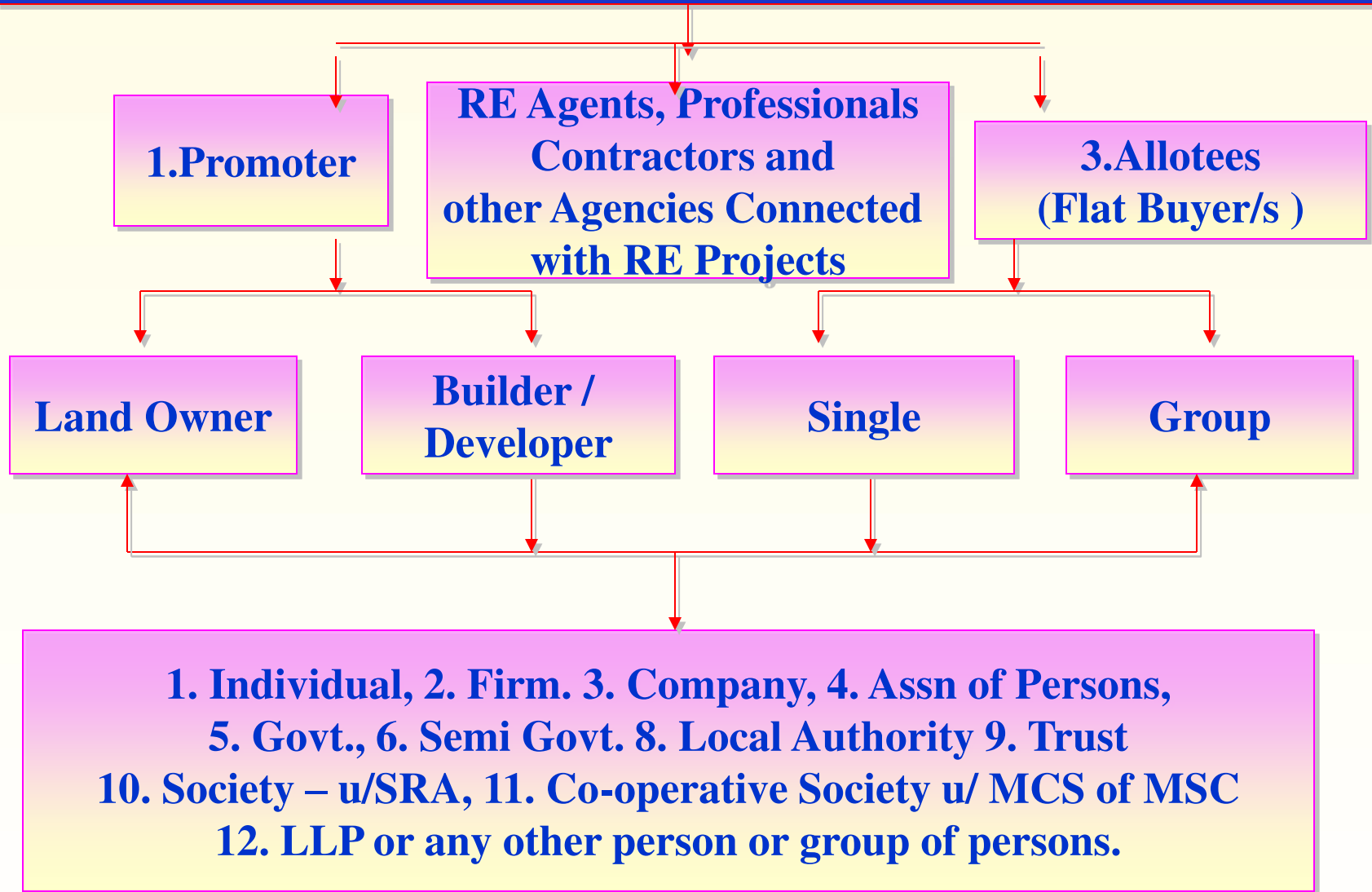
(b) plots **owned by such authority or body or placed at their disposal by the Government;** for the purpose of selling all or some of the apartments or plots, or

(iv) an apex State level co-operative housing finance society and a **primary co-operative housing society** which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

- (v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or
- (vi) such other person who constructs any building or apartment for sale to the general public.

Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, **both of them shall be deemed to be the promoters** and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;

PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE under RERA



2(b) "advertisement" means :

- any document described or issued as advertisement through
- **any medium** and includes any notice, circular or
- other documents or publicity in any form,
- informing persons about a real estate project, or
- offering for sale of a **plot, building or apartment** or
- inviting persons to purchase
- in any manner such plot, building or apartment or
- to make advances or deposits for such purposes;

(z1) "prospectus" means any document described or issued as a prospectus or any notice, circular, or other document offering for sale or any real estate project or inviting any person to make advances or deposits for such purposes;

SEC. 2 DEFINITIONS

2(c) "agreement for sale" means :

an agreement entered into between the promoter and the allottee;

Mah Rules 10(1) For the purpose of sub-section (2) of section 13, the agreements for sale shall be in conformity with the provisions, rules and regulations made thereunder and shall be in accordance with the model form of agreement at Annexure 'A'.

Nothing in this sub-rule shall be deemed to prevent the promoter to modify the model form of Agreement for Sale at Annexure 'A' provided that such agreement is in conformity with the provisions of sub-section (2) of section 13 of the Act and the rules and regulations made thereunder.

As per MAH.RULE 10(2) AGREEMENT FOR SALE

- Any application letter,
- allotment letter or
- any other document signed by the allottee,
- in respect of the apartment, plot or building,
- prior to the execution and registration of the agreement for sale
- for such apartment, plot or building, as the case may be,
- shall not be construed to limit the rights and interests of the allottee
- under the agreement for sale under the Act
- or the rules or the regulations made thereunder.

SEC. 2 DEFINITIONS

(k) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment;

Explanation.— For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

(p) "competent authority" means the local authority or any authority created or established under any law for the time being in force by the appropriate Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(zc) "local authority" means the Municipal Corporation or Municipality or Panchayats or any other Local Body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;

(zq) **"sanctioned plan"** means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the competent authority prior to start of a real estate project;

(m) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;

SEC. 2 DEFINITIONS

(q) "completion certificate" means the completion certificate, or such other certificate, by whatever name called, **issued by the competent authority** certifying that the real estate project has been development according to the sanctioned plan, layout plan and specifications, as approved by the competent authority **under the local laws;**

(zf) "occupancy certificate" means the occupancy certificate, or such other certificate by whatever name called **issued by the competent authority** **permitting occupation of any building**, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;

(n) "common areas" mean—

- (i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase the entire land for that phase;
- (ii) the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;
- (iii) the common basements, terraces, parks, play areas, open parking areas and common storage spaces;
- (iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;

SEC. 2 DEFINITIONS

- (v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;
- (vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;
- (vii) all community and commercial facilities as provided in the real estate project;
- (viii) all other portion of the project necessary or convenient for its maintenance, safety, etc. and in common use;
- (ix) infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

- (v) "**estimated cost of real estate project**" means the total cost involved in developing the real estate project and includes the land cost, taxes, cess development and other charges;
- (y) "**garage**" means a place within a project having a roof and walls on three sides for parking any vehicle, but does not include an unenclosed or uncovered parking space such as open parking areas;
- (z) "**immovable property**" includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, standing crops or grass;

SEC. 2 DEFINITIONS

(zh) "planning area" means a planning area or a development area or a local planning area or a regional development plan area, by whatever name called, or any other area specified as such by the appropriate Government or any competent authority and includes any area designated by the appropriate Government or the competent authority to be a planning area for future planned development, under the law relating to Town and Country Planning for the time being in force and as revised from time to time;

SEC. 2 DEFINITIONS

(zm) "real estate agent" means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

CHAPTER II

REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

3. Prior registration of real estate project with Real Estate Regulatory Authority.
4. Application for registration of real estate project.
5. Grant of registration.-Within 30 days
6. Extension of registration.
7. Revocation of registration. – On default
8. Obligation of Authority consequent upon lapse of or on revocation of registration.
9. Registration of real estate agents.
10. Functions of real estate agents.

CHAPTER III: FUNCTIONS AND DUTIES OF PROMOTER

11. Functions and duties of promoter.
12. Obligations of promoter regarding veracity of advertisement or prospectus.
13. No deposit or advance to be taken by promoter without first entering into agreement for sale.
14. Adherence to sanctioned plans and project specifications by the promoter.
15. Obligations of promoter in case of transfer of a real estate project to a third party.
16. Obligations of promoter regarding insurance of real estate project.
17. Transfer of title.
18. Return of amount and compensation.

CHAPTER IV

RIGHTS AND DUTIES OF ALLOTTEES

19. Rights and duties of allottees.



CHAPTER III

FUNCTIONS AND DUTIES OF PROMOTER



SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

(1) The promoter shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including—

- (a) details of the registration granted by the Authority;
- (b) quarterly up-to-date the list of number and types of apartments or plots, as the case may be, booked;

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

- (c) quarterly up-to-date the list of number of garages booked;
- (d) quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate:
- (e) quarterly up-to-date status of the project; and
- (f) such other information and documents as may be specified by the regulations made by the Authority.

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

(2) 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.

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

(3) The promoter at the time of the booking and issue of allotment letter shall be responsible to make available to the allottee, the following information, namely:—

- (a) Sanctioned Plan layout plans, along with specifications, approved by the competent authority, by display at the site or such other place as may be specified by the regulations made by the Authority;
- (b) the stage wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity.

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

- (4) The promoter shall—
- (a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder of allottees as per the agreement for sale, or to the association of allottees, as the case may be till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:
Provided that the responsibility of the promoter, with respect to the structural defect

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

(b) be responsible to obtain the completion certificate or the occupancy certificate, or both as applicable from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

- (c) be responsible to obtain the lease certificate where the real estate project is developed on a leasehold land, specifying the period of lease and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees;
- (d) be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees;

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

(e) enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable:

Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;

(

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

- (f) execute a registered conveyance deed of the apartment, plot or building as the case may be in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees of competent authority, as the case may be, as provided under section 17 of this Act;
- (g) pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoing (including land cost, ground rent municipal or

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project):

Provided that where any promoter fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

estate project to such allottees or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person;

(h) after he executes an agreement for sale for any apartment, plot or building, as the case may be,

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

not mortgage or create a charge on such apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or building, as the case may be;

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

(5) The promoter may cancel the allotment only in terms of the agreement for sale: Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.

(6) The promoter shall prepare and maintain all such other details as may be specified, from time to time, by regulations made by the Authority.

SEC. 17 TRANSFER OF TITLE

(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

SEC. 17 TRANSFER OF TITLE

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to hand over the necessary documents and plans, including common areas, to the association of the allottees or the competent

SEC. 17 TRANSFER OF TITLE

authority, as the case may be, as per the local laws:

Provided that, **in the absence of any local law**, the promoter shall handover the necessary documents and plans, including common areas, **the association of the allottees** or the competent authority, as the case may be, **within thirty days after obtaining the occupancy certificate.**

Mah. Rules 9. TRANSFER OF TITLE.

- (1) Promoter to enable formation of Legal Entity like Cooperative Society, Company, Association, Federation etc. under section 11(4)(e) of the Act:-
- (i) Where a Co-operative Housing Society or a Company or any other legal entity of purchasers is to be constituted for a single building not being part of a Layout or in case of layout of more than one building or a wing of one building in the layout, the Promoter shall submit application to the Registrar for registration of the Co-operative Housing Society under the Maharashtra Co-operative Societies Act, 1960 or a Company or any other Legal Entity, within two months from the

9. TRANSFER OF TITLE.

date on which the occupation certificate in respect of such a building or a wing of the building is issued or a minimum of sixty per cent of the total of allottees in such a building or a wing have taken possession and the Promoter has received the full consideration from such allottees, whichever is earlier.

- (ii) Where a Promoter is required to form an Apex Body either as a federation of separate and independent Co-operative Housing Societies or Companies or any other Legal Entities or as a Holding Company of separate and independent Co-operative Housing Societies or companies or

9. TRANSFER OF TITLE.

any other Legal Entities, then the Promoter shall submit an application to the Registrar for registration of the co-operative society or the company to form and register an Apex Body in form of Federation or Holding entity consisting of all such entities in the Layout formed as per rule 9 (1)(i) herein above. Such application shall be made within a period of **two months from the date of the receipt of the occupation certificate of the last of the building** which was to be constructed in the Layout.

- (iii) If the promoter fails to form the legal entity like Cooperative Society or Company or

9. TRANSFER OF TITLE.

Association or Federation, as the case may be, the Authority shall by an order direct the Promoter to apply for formation of such legal entity or **may authorize the allottees to apply for formation of such legal entity.**

(2) Promoter to Convey Title under section 17 of the Act:-

(i) Period for Conveyance of title, by Promoter, to legal entity of allottees in case of single building project-

If no period for conveying the title of the Promoter to the legal entity of the allottees is

9. TRANSFER OF TITLE.

agreed upon, the Promoter shall (subject to his right to dispose of the remaining Apartments, if any) execute the conveyance **within one month from the date on which the Co-operative society or the company is registered or, as the case may be, the association of the Apartment takers is duly constituted or within three months from the date of issue of occupation certificate,** whichever is earlier.

- (ii) Period for Conveyance of title, by Promoter, to organization of allottees in case of Layout-
 - a) In the case of a building or a wing of a building in a Layout, **if no period for conveying**

9. TRANSFER OF TITLE.

the title of the Promoter of that building or a wing of that building to the legal entity of the **allottees is agreed upon**, the Promoter shall (subject to his right to dispose of the remaining Apartments, if any) execute the **conveyance of the structure** of that building or wing of that building (excluding basements and podiums) within one month from the date on which the Co-operative society or the company is registered or, as the case may be, the association of the Apartment takers is duly constituted or **within three months from the date of issue of occupation certificate**, whichever is earlier.

9. TRANSFER OF TITLE.

- b) In the case of a Layout, if no period for conveying the title of the Promoter in respect of the entire undivided or inseparable land underneath all buildings/ wings along with structures of basements and Podiums constructed in a Layout is agreed upon, the Promoter shall (subject to his right to utilize the balance development potential of the said Layout, execute the conveyance of the entire undivided or inseparable land underneath all buildings jointly or otherwise within one month from the date on which the Apex Body or Federation or Holding Company is registered or, as the case may be, the association of the allottees

9. TRANSFER OF TITLE.

is duly constituted or within three months from the date of issue of occupation certificate to the last of the building or wing in the layout, whichever is earlier .

(3) If the promoter fails to convey the title in accordance with rule 9 (2), in favour of Cooperative Society or Company or Association or Federation, as the case may be, the Authority shall by an order direct the Promoter to convey the title in favour of such legal entity

(4) The said legal entity shall also be entitled to have an unilateral deemed conveyance executed in their

9. TRANSFER OF TITLE.

favour and have it registered under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act 1963.

Provided that, after conveying the title to the association of allottees under section 17, the promoter shall continue to have the rights and entitlement to advertise, market, book, sell or offer to sell or allot to person to purchase any apartment or building or plot which is still not sold or allotted and shall be allowed to do so by the association of allottees without any restriction or entry of the building and development of common areas:

9. TRANSFER OF TITLE.

Provided further that, in such case, the promoter shall be permitted the entry of premises of the building and common areas to also discharge his obligations under sub-section 3 of section 14:

Provided also that, in respect of the real estate project for which development or re-development permission are subject to approvals under the provisions of specific local laws such as the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, the Maharashtra Housing and Area Development Authority Act, 1976, the Mumbai Metropolitan Region Development Authority Act,

9. TRANSFER OF TITLE.

1974, the Maharashtra Regional Town Planning Act, 1966, the Nagpur Improvement Trust Act, 1936 etc.; the conveyance of title shall be made by the respective public authority, within such specific period as may be provided under the relevant law applicable to such authority or rules or regulations framed there under.

(5) The promoter upon receiving the certificate of registration from the Authority, obtain insurances as provided by the Act and also in respect of such other matters as may be notified by the State Government under section 16 and handover relevant documents to the association, society, federation or body corporate, as the case may be, before the conveyance of title.

OBLIGATION OF THE PROMOTER WITH ALOTTEES

Contractual Obligations

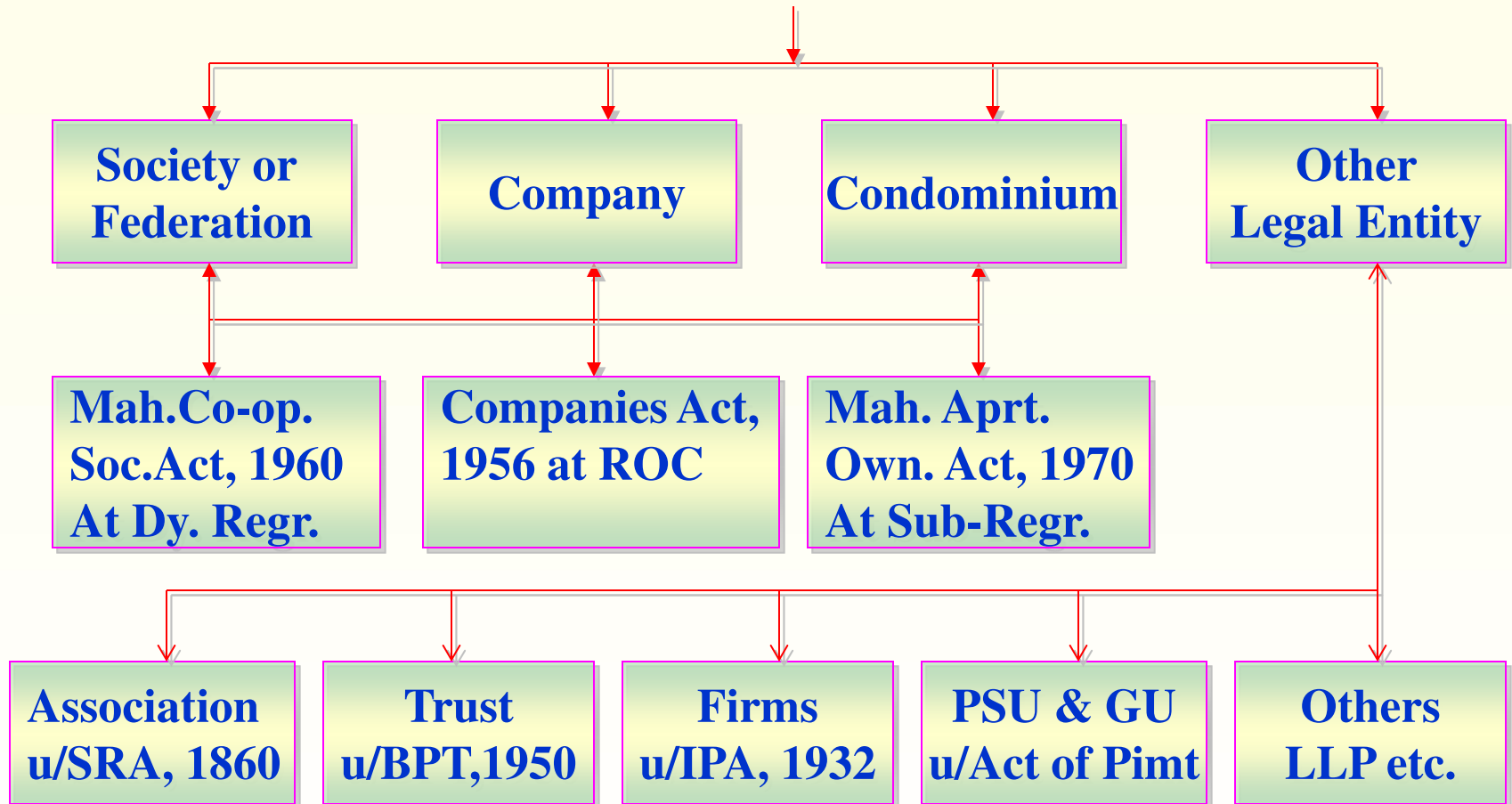
1. Enter into Agreement
2. Registration of Agreement
3. Receive the Flat Consideration
4. Hand over the Possession of flat as agreed

Statutory Obligations

1. Register Agent on Receipt of Advance
2. Complete the Building in all respect
3. Provide O.C., B.CC.
4. Provide Common Facilities
5. Water Connection
6. Electric connection
7. Disclose the information
8. Provide all Documents
9. Registration of Society / Legal Body
10. Providing Conveyance

FORMATION OF LEGAL ENTITY .

TO MANAGE COMMON SERVICES, AREA & FACILITIES
AS PER LOCAL LAW OR WITHIN 3 MONTHS OF OC



TO CONVEY LAND AND BUILDING TO THE LEGAL ENTITY DELIVER RELEVANT DOCUMENTS AS PER LOCAL LAW OR WITHIN 3 MONTHS OF REGISTRATION OF ENTITY

**Present Legal Remedies
as per MOFA for All Completed
Projects with OC.**

**As per Real Estate (Development
and Regulation) Act, 2016 –
As per Local Law**

**Civil Court
U/Specific Relief
Act, 1963**

**Consumer Court
U/ Consumer
Protection Act, 1986**

**Criminal Court
U/S-13 of
MOFA 1963**

**Regulatory
Authority
&
Appellate Tribunal in
place of Civil Court
/Criminal Court**

**Execution of Deemed Conveyance as per MOFA
through Competent Authority /Dy.Dist.Regr,
C.S**

**Consumer Court
Deemed Conveyance
To continue as per
MOFA 1963**

AMENDMENT IN MOFA IN 2005- PURPOSE

- 1.To provide a Competent (Quasi Judicial) Authority in addition to existing Legal Remedies.**
- 2. To order & Implement the remedial steps by Competent Authority in the common interest of flat buyers.**

**Competent Authority to be notified by the Govt.
U/s 5A of MOFA not below the rank of Dist. Dy.Registrar of C.S. As per Notification Dated. 25-06-08, All the DDR of the State have been notified to be Competent Authority u/s 5A for their respective Jurisdiction**

U/S11. TO CONVEY LAND AND BUILDING TO THE LEGAL ENTITY WITHIN 4 MONTHS & DELIVER RELEVANT DOCUMENTS.

Conveyance can be done as per MOFA Rules

On Single Plot or Sub-divided Plot

On layout Plot with Common Areas, Rds, Gym, Garden etc. Sub-divison Not Possible or Township or cluster /Complex devlpmt.

On Single Plot & Singe Entity Convy Land & Bldg all Comm Facilities on the plot to Sole Entity

To All Entities Jointly with 100% rights of resp. Bldg & % Plot & Com. Facilities & Apex Body for to Mge Services as per Plan Passed at the time of sanction of Layout

To each Entities On appln with 100% rights of resp. Bldg & % Plot & Com. Facilities

To Fedn or Apex Body, if desired by all entities On the Layout Plot

CH-IV : SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

- (1) The allottee shall be entitled to obtain the information relating to sanctioned plans layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter.
- (2) The allottee shall be entitled to know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale.

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

- (3) The allottee shall be entitled to claim the possession of apartment, plot or building, as the case may be, and the association of allottees shall be entitled to claim the possession of the common areas, as per the declaration given by the promoter under sub-clause (C) of clause (I) of subsection (2) of section 4.
- (4) The allottee shall be entitled to claim the refund of amount paid along with interest at such rate as may

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

be prescribed and compensation in the manner as provided under this Act, from the promoter, if the promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement for sale or due to discontinuance of his business as a developer on account of suspension or revocation of his registration under the provisions of this Act or the rules or regulations made thereunder.

(5) The allottee shall be entitled to have the necessary documents and plans, including that of common areas, after handing over the physical Act.

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

possession of the apartment or plot or building as the case may be, by the promoter.

(6) Every allottee, who has entered into an agreement or sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

(7) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6).

(8) The obligations of the allottee under sub-section (6) and the liability towards interest under sub-section (7) may be reduced when mutually agreed to between the promoter and such allottee.

(9) Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperative society of the allottees, or a federation of the same.

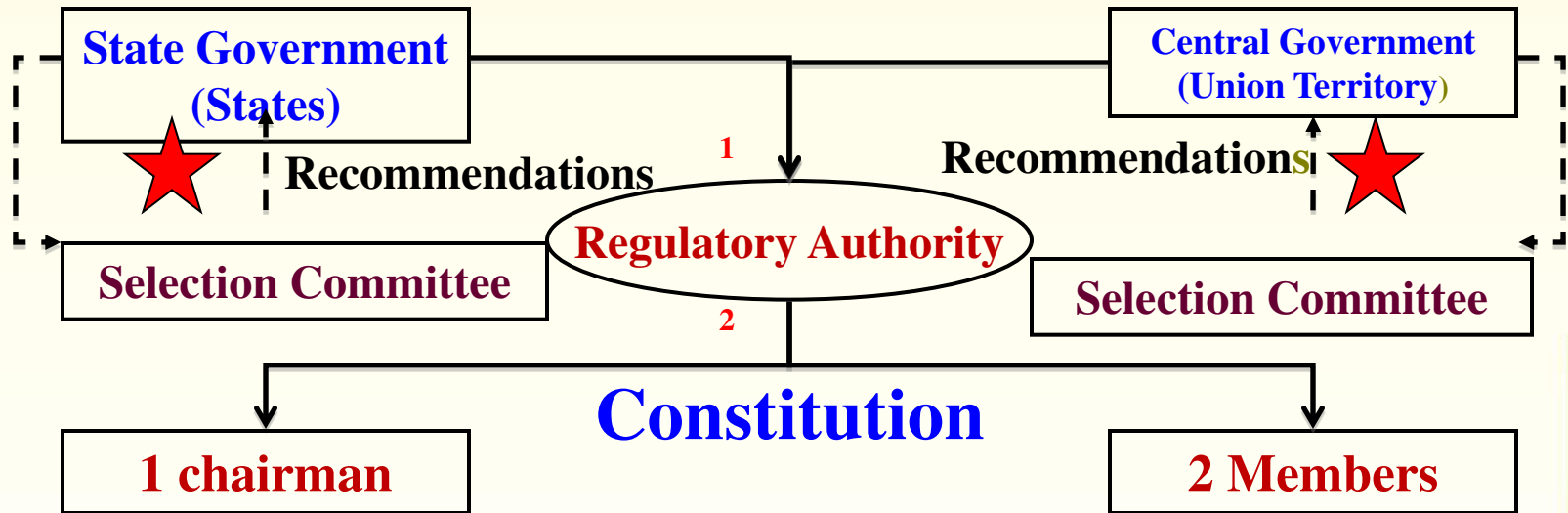
SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

(10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or buildings the case may be.

(11) Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building, as the case may be as provided under sub-section (1) of section 17 of this Act.

CH-V Establishment of Regulatory Authority

Appropriate Government



A person with at least 20 yrs of experience

Or

Secretary to CG or any equivalent post in CG or SG

A person with at least 15 yrs of experience

Or

Secretary to SG or any equivalent post in CG or SG

Functions of Regulatory Authority

ADJUDICATION

- Settle disputes amongst allottee themselves
- Settle disputes b/w allottee & promoters
- Recovery of Penalties

REGULATORY & RULE MAKING

- Ensure compliance of Directions
- Recommendations
- Advise to Appropriate Govt.
- Making Enquiries

Functions of RA

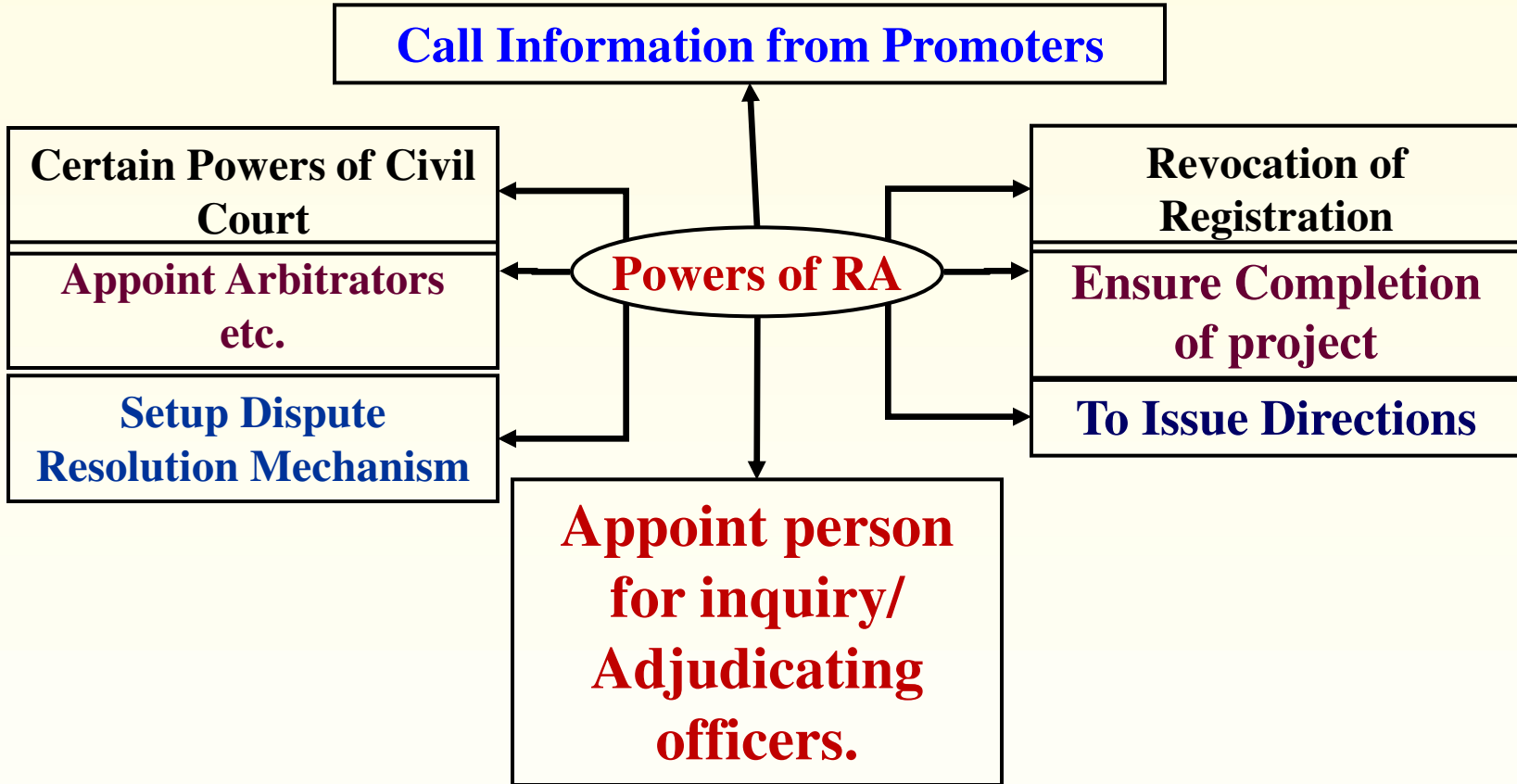
PROMOTER

- Granting Registration
- Maintain Website
- compliance of obligations
- Enter names of Defaulter Developers on the website

CONSUMERS

- To fix charges levied on allottee
- Ensure construction of Affordable Housing
- Standardization of construction
- Promote transparent, efficient & competitive real estate sector

Powers of Regulatory Authority



CHAPTER V :THE REAL ESTATE REGULATORY AUTHORITY

20. Establishment and incorporation of Real Estate Regulatory Authority.
21. Composition of Authority.
22. Qualifications of Chairperson and Members of Authority.
23. Term of office of Chairperson and Members.
24. Salary and allowances payable to Chairperson and Members.
25. Administrative powers of Chairperson.
26. Removal of Chairperson and Members from office in certain circumstances.
27. Restrictions on Chairperson or Members on employment after cessation of office.
28. Officers and other employees of Authority.
29. Meetings of Authority.
30. Vacancies, etc., not to invalidate proceeding of Authority.

31. Filing of complaints with the Authority or the adjudicating officer.
32. Functions of Authority for promotion of real estate sector.
33. Advocacy and awareness measures.
34. Functions of Authority.
35. Powers of Authority to call for information, conduct investigations.
36. Power to issue interim orders.
37. Powers of Authority to issue directions.
38. Powers of Authority.
39. Rectification of orders.
40. Recovery of interest or penalty or compensation and enforcement of order etc.

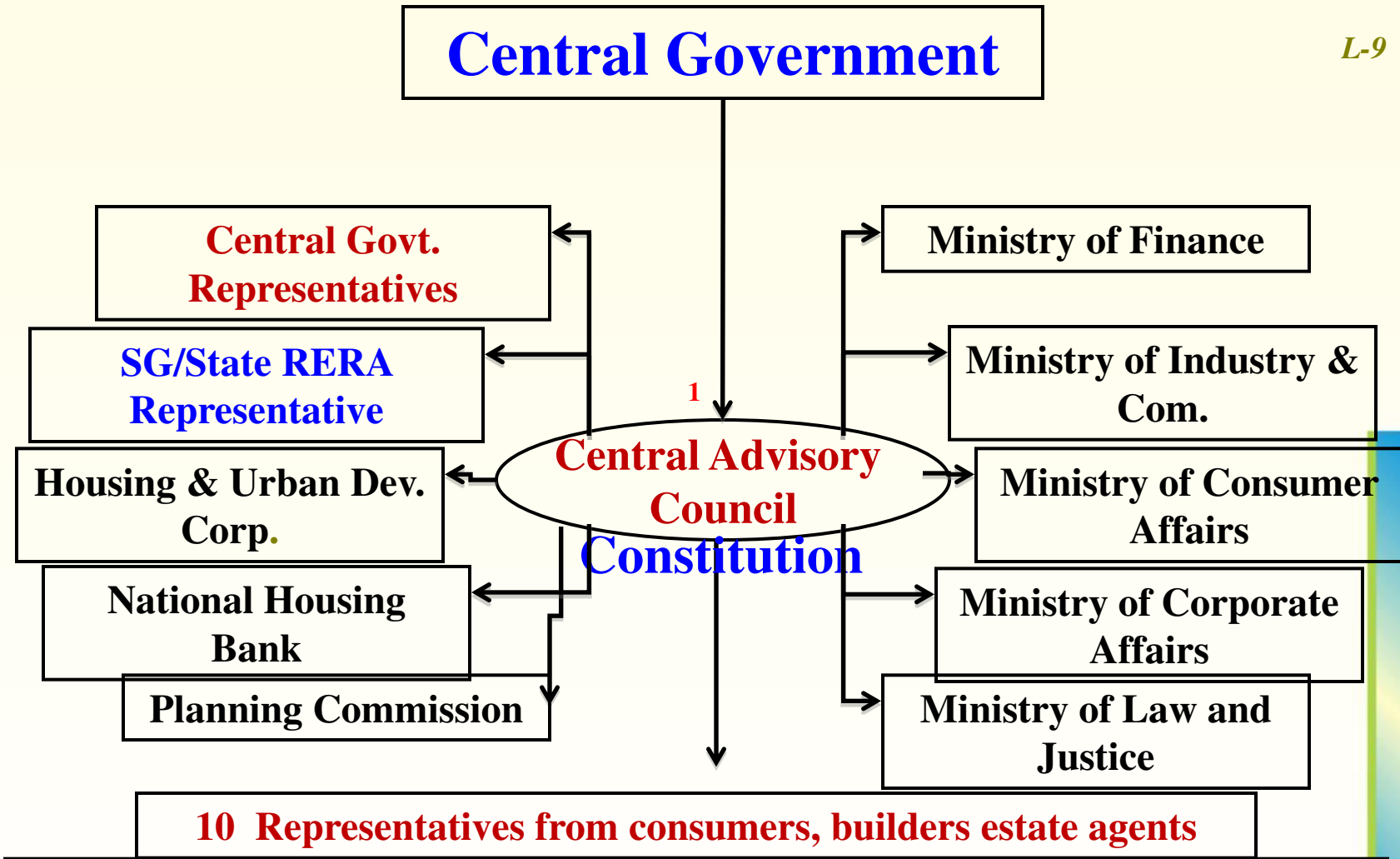
ARRANGEMENT OF CLAUSES

CHAPTER VI CENTRAL ADVISORY COUNCIL

41. Establishment of Central Advisory Council.
42. Functions of Central Advisory Council.



Establishment of Central Advisory Council

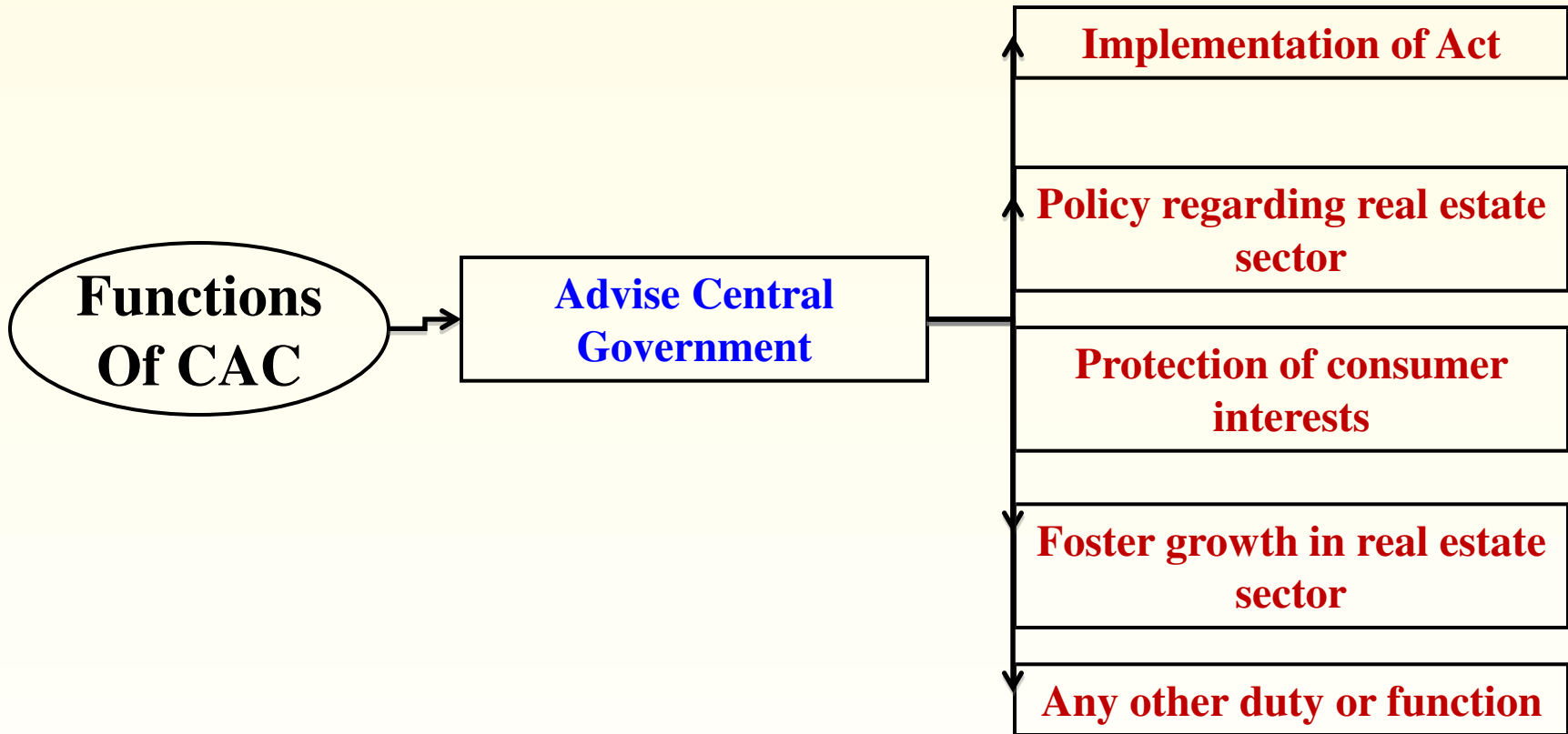


1. Central Government to appoint Central Advisory Council.



Functions of Central Advisory Council

L-1



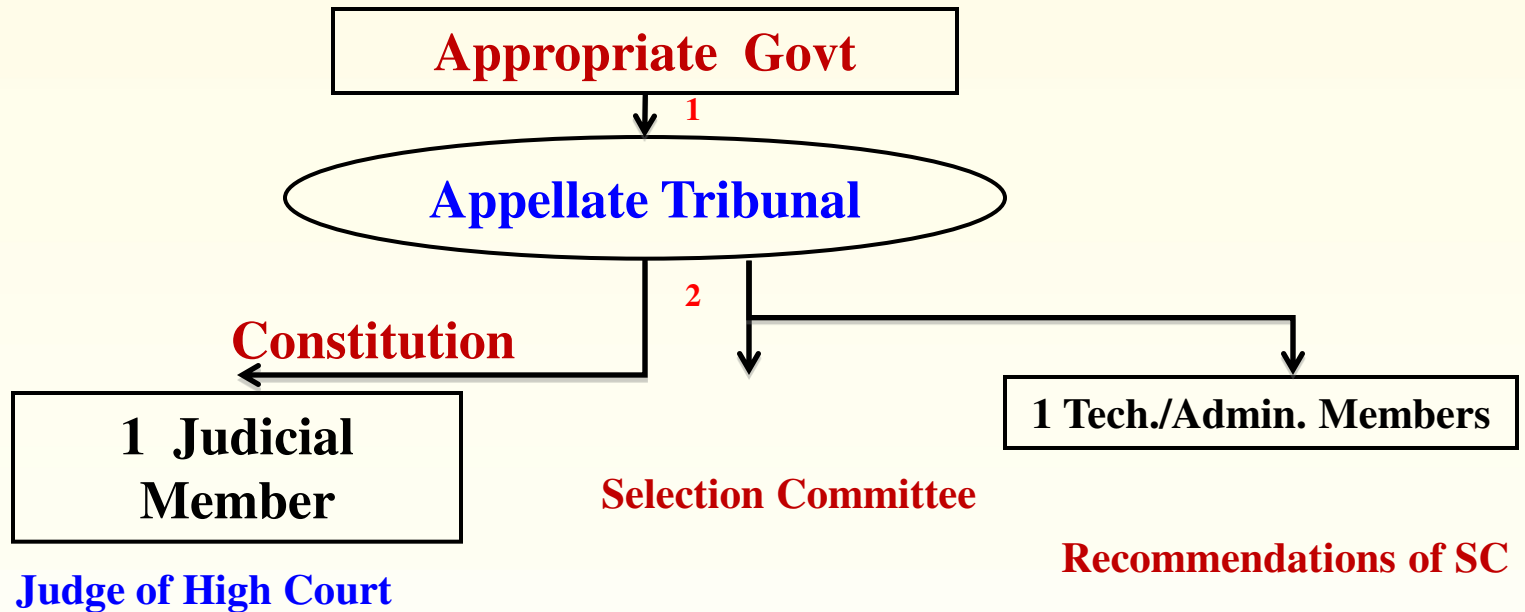
CHAPTER VII : THE REAL ESTATE APPELLATE TRIBUNAL

43. Establishment of Real Estate Appellate Tribunal.
44. Application for settlement of disputes and appeals to Appellate Tribunal.
45. Composition of Appellate Tribunal.
46. Qualifications for appointment of Chairperson and Members.
47. Term of office of Chairperson and Members.
48. Salary and allowances payable to Chairperson and Members.
49. Removal of Chairperson and Member from office in certain circumstances.
50. Restrictions on Chairpersons or Judicial Member or Technical or Administrative Member on employment after cessation of office.

ARRANGEMENT OF CLAUSES

51. Officers and other employees of Appellate Tribunal.
52. Vacancies.
53. Powers of Tribunal.
54. Administrative powers of Chairperson of Appellate Tribunal.
55. Vacancies etc. not to invalidate proceeding of Appellate Tribunal.
56. Right to legal representation.
57. Orders passed by Appellate Tribunal to be executable as a decree.
58. Appeal to High Court.

Establishment of Appellate Tribunal



Judge of High Court

Judge of Supreme Court

Or

Chief Justice of High Court

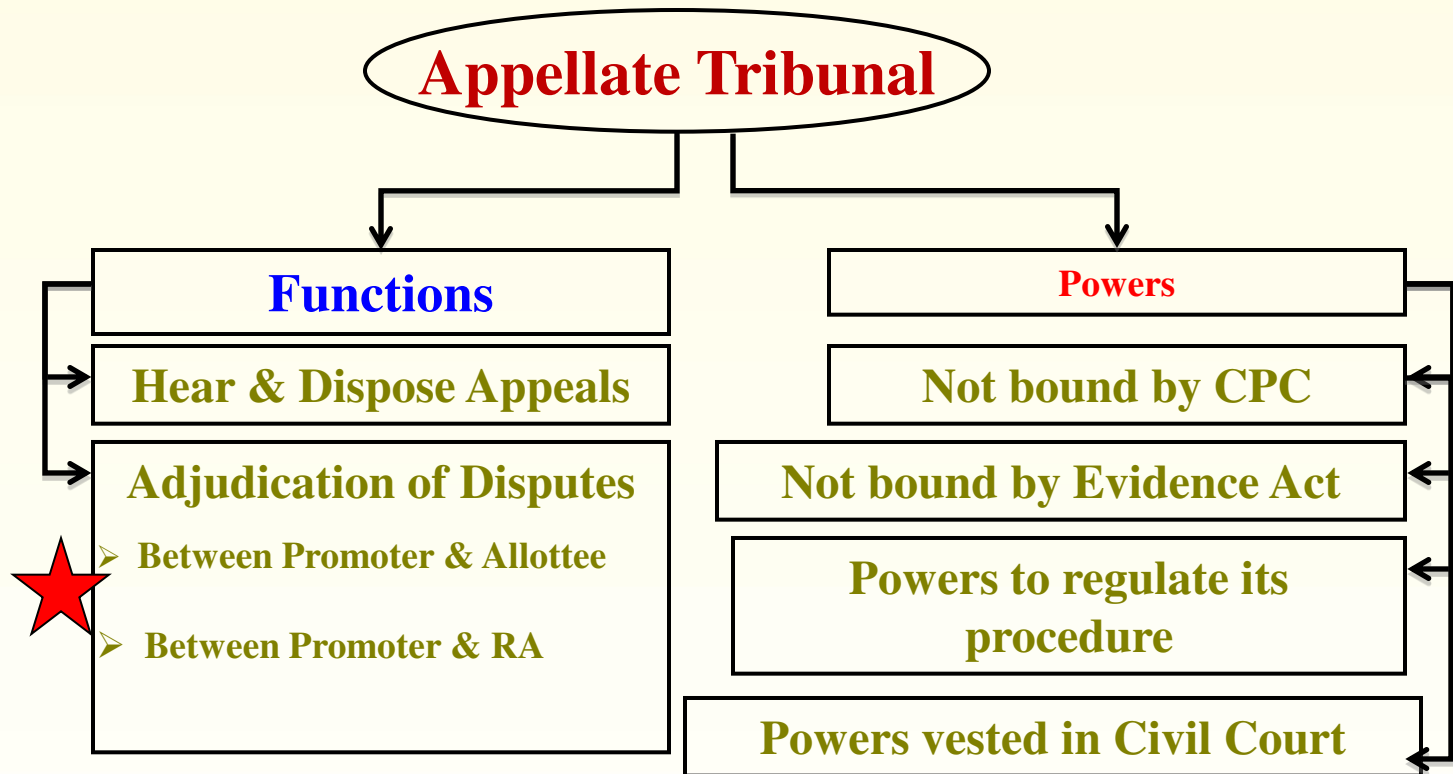
A person with 20 yrs experience in field of urban development, housing, real estate etc.

Or

Secretary to GOI or an equivalent post in CG or SG

Powers & Functions of Appellate Tribunal

L-8



Appeal to be preferred to AT against order of RA (within 30 days).

Appeal to be decided by AT within 60 days.

Order of AT to be executed as Decree of civil court.

RIGHT TO LEGAL REPRESENTATION

➤ As per Section 56 of the Act:

- (1) Chartered Accountant,
- (2) Cost Accountant
- (3) Company Secretary
- (4) Legal Practitioner – (Advocate)

Are authorized to appear on behalf of applicant or appellant before Appellate Tribunal or a Regulatory Authority or Adjudicating Officer as the case may be.

Thus only above professionals are authorised under the Act to :

- ✓ Represent a person (promoter) before any real estate regulatory authority for registration of real estate project,
- ✓ Represent a person before real estate appellate tribunal.
- ✓ Represent a person before any other competent authority for any other purpose under Real Estate (Regulation and Development) Act, 2016.

ARRANGEMENT OF CLAUSES

CHAPTER VIII

OFFENCES, PENALTIES AND ADJUDICATION

59. Punishment for non-registration u/s 3.
60. Penalty for contravention of section 4.
61. Penalty for contravention of other provisions of this Act.
62. Penalty for non-registration and contravention under sections 9 and 10.
63. Penalty for failure to comply with orders of Authority by promoter.
64. Penalty for failure to comply with orders of Appellate Tribunal by promoter.

ARRANGEMENT OF CLAUSES

65. Penalty for failure to comply with orders of Authority by real estate agent.
66. Penalty for failure to comply with orders of Appellate Tribunal by real estate agent.
67. Penalty for failure to comply with orders of Authority by allottee.
68. Penalty for failure to comply with orders of Appellate Tribunal by allottee.
69. Offences by companies.
70. Compounding of offences.
71. Power to adjudicate.
72. Factors to be taken into account by the adjudicating officer.

OFFENCES AND PENALTIES

Section	Offence	Penalty
59(1)	Contravention of S-3 i.e. failure to obtain registration.	Upto 10% of cost of project as per RERA.
59(2)	Contravention of any other provision of (other than S-3) or of rules made there under.	Punishable with a term extended upto 3 yrs. Or with fine which may extend upto further 10% of the cost of project or with both.

OFFENCES AND PENALTIES

Section	Offence	Penalty
60	Provides false information or contravenes the provisions of sec.4 – Application for registration with RERA	Penalty upto 5% of cost of project.
61	Contravention of any other provisions of the Act.	Penalty upto 5% of cost of project.

OFFENCES AND PENALTIES

Section	Offence	Penalty
62	Non Registration by Estate Agents or contraventions of section 9 and 10 regarding registration of estate agents with RERA	Rs.10,000/- during which such default continues which may cummulative extend upto 5% of cost of plot/flat/ Apt for which sale and purchase has been facilitated as per RERA.
63	Failure to comply with the orders of Authority by the Promoter	Penalty for every day during which the default continues, which may be cummulative upto 5% of cost of project.

OFFENCES AND PENALTIES

L-11

Section	Offence	Penalty
64	Failure to Comply with the Orders of Appellate Tribunal by Promoter	Punishable with imprisonment for a term which may extend upto 3 years or with fine for every day during which such default continues, which cumulatively extend upto 0% of the estimated cost of project.
65	Failure to comply with the orders of Authority by the Real Estate Agent.	Penalty for every day during which the default continues, which may be cummulative upto 5% of cost of plot/flat as the case may be for which sale /purchase done.

OFFENCES AND PENALTIES

Section	Offence	Penalty
66	Failure to Comply with the Orders of Appellate Tribunal by real estate agent	Punishable with imprisonment for a term which may extend upto 1 year or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost of flat/Apt as the case may be done.
67	Failure to comply with the orders of Authority by the Allottee.	Penalty for every day during which the default continues, which may be cummulatively upto 5% of cost of plot/flat as the case may be for which sale /purchase done.

OFFENCES AND PENALTIES

Section	Offence	Penalty
68	Failure to Comply with the Orders of Appellate Tribunal by the allottee.	Punishable with imprisonment for a term which may extend upto 1 year or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost of flat/Apt as the case may be.
69	Offence committed by Company- Every officer at the relevant time and also the company shall be liable to pay the penalty.	Every Director officer or manager who is liable to discharge the duties shall be considered as committed the offence and shall be accordingly committed.

CH- VIII: OFFENCES, PENALTIES AND ADJUDICATION

- 70: Compounding of Offences: The offences may be compounded not withstanding anything contained in the Code of Criminal Procedure , 1973.**
- 71. Power to Adjudicate: For adjudicating compensation under section : 12(Amount taken without Agreement, 14(Obligations for promoter regarding insurance of the project 18(Return of Amount and Compensation, 19((Rights and duties of Allottees.**

ARRANGEMENT OF CLAUSES

CHAPTER IX

FINANCE, ACCOUNTS, AUDITS AND REPORTS

73. Grants and loans by Central Government.
74. Grants and loans by State Government.
75. Constitution of Fund.
76. Crediting sums realised by way of penalties to Consolidated Fund of India or State account.
77. Budget, accounts and audit.
78. Annual report.



CHAPTER IX

FINANCE, ACCOUNTS, AUDITS AND REPORTS

73. Grants and loans by Central Government.
74. Grants and loans by State Government.
75. Constitution of Fund.: Grants, Fees, Int and applied for salaries, Allowances, Members and all administrative expenses.
76. Crediting sums realised by way of penalties to Consolidated Fund of India or State account.
77. Budget, accounts and audit. : to be prepare by the RERA, Audited by Comptroller and Auditor General of India -Annually and lay before Parliament or the State Assembly.
78. Annual report. In such form and such items as may be prescribed by the Appr.Govt.


CHAPTER X - MISCELLANEOUS

79. Bar of jurisdiction : Bar of Civil Court
80. Cognizance of offences. : Not Court other than Authority and Not court inferior to Metropolitan Magistrate or Judicial Magistrate of First Class.
81. Delegation. Power other than Rules making may be delegated to any officers for any purpose.
82. Power of appropriate Government to supersede Authority.
83. Powers of appropriate Government to issue directions to Authority and obtain reports and returns.
84. Power of appropriate Government to make rules.

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85. Power to make regulations with Authority
 86. Laying of Rules –Central Govt before Parliament and for state Govt – before assembly for 30 days.
 87. Members, etc., to be public servants-U/s. 21 of Indian Penal Code.
 88. Application of other laws not barred: This is in addition to and not derogation of the Provisions of any other law for the time being.
 89. Act to have overriding effect.
 90. Protection of action taken in good faith.
 91. Power to remove difficulties.: Central Govt may notify any order for 2 years to remove difficulties.
 92. Repeal.. Mah. Hsg(R&D) Act, 2012

The features 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, 2016 includes :

- a. Definition of Parking Space has been added :
to give details of Parking Spaces by the Promoter (Rule 2(o))
- b. The Promoter is required to furnish the details while registering the project :
 - i) Title Report of the land to be submitted by the practicing Advocate reflecting the flow of the title:
(Rule 3(2)(c))



ii) Disclosure by the Promoter about his intention of consuming the FSI :


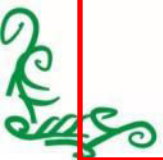
It is the general practice that the approvals to the Real Estate Projects are available in stages/ phases. Hence approved plan does not reflect the total development proposed by the developer on the project land. The consumer must be informed about the total development which the developers intend to carry. (Rule 3(2)(e))



iii) Use of construction Technology and Design Standards



iv) Nature of organization of Allottees to be constituted.






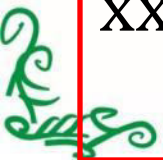
- v) The Authority may ask for more information or documents
- vi) Registration Fees for Real Estate Project
Rs. 1 per Square Meter for project where area of land proposed to be developed is less than 1000 Square Meter
Rs.2 per Square Meter for projects where area of land proposed to be developed is more than 1000 Square Meters (rule 3(5))
- vii) Registration exempted for renovation, repairs or redevelopment which does not involve marketing, advertisement, selling or new allotment of any apartment or structural repairs, rehabilitation buildings being constructed under any scheme of law (rule 3(6))

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- Viii) Withdrawal charges would be determined by regulations (Rule 3(7))
 - ix) The Promoter has to disclose land cost, cost of construction and estimated cost of the real estate project as required under the Act :
Since penalty is levied on the cost of the project these information is necessary (rule 3(8))
 - x) All projects where occupancy certificates to all the building under sanctioned Plan not received needs to be registered with Authority (rule 4(1))
 - xi) Status of ongoing projects be disclosed as per **the last sanctioned plan** and also about the status of development of common areas along with expected period of completion to be disclosed.

- 
- xii) CA to certify the amount of receivables in respect of sold/allotted apartments and estimated receivables calculated on ASR rates for unsold apartments(rule 4(2))
 - xiii) **Cannot sell** the apartment if Promoter has not registered within 90 days from the date of notification of Section 3 of the Act(rule 4(4) 2nd Proviso)
 - xiv) Withdrawal of amounts deposited in the separate account on the basis of certificate issued by the engineer, architect and chartered accountant about the extent of project completed vis-à-vis the estimated cost of the project (rule 5(1)(b))
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- xv) In case of ongoing projects : If estimated cost of receivable is less than the estimated cost required for completing the project then he has to deposit 100 percent in separate account (rule 5(1)(ii))
 - xvi) Land cost incurred and cost of construction has been defined in detail in explanations under the rule 5
 - xvii) Registration period includes the period where actual work could not be started due to specific orders from any court of law, Competent Authority, Tribunal etc or such circumstances as may be decided by the Authority(Rule 6(a))
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- xviii) Extension to the real estate project may be granted by Authority depending upon documents furnished, and on same charges as required for registration of the Project (rule 7)
 - xix) Revocation of Projects cannot be made unless all the parties who have created third party interest are heard (rule 8(2))
 - xx) Transfer of Title : in case of Only one building in layout, then within two months from the date of occupation certificate, In multiple buildings within two months from the date of receipt of occupation certificate for last building in the layout.(rule 9(1))
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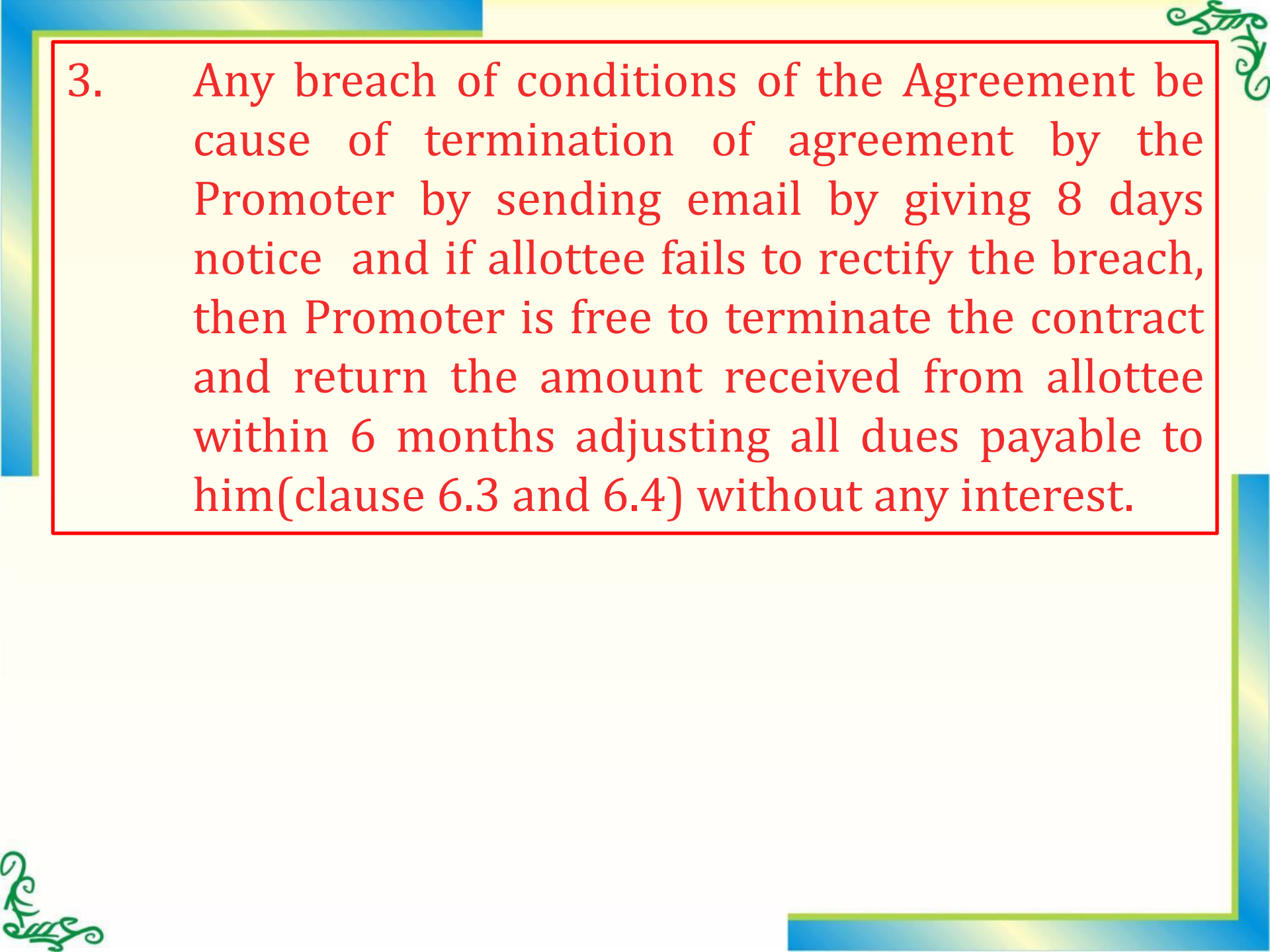
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- xxi) Deemed conveyance under MOFA exists(9(3))
Conveyance in case of Statutory Bodies like MHADA, CIDCO, NIT etc would be as per the provisions of the respective acts related to them(9(4))
 - xxii) Fees for Registration of Real Estate Agents Rs, 10,000 for individual, Rs. 25 lakhs for companies registered under companies act and Rs, one lakh for other entities besides companies act (rule11)
 - xxiii) Rate of interest payable for Promoter as well as Allottees is SBI Prime Lending Rate plus two percent
 - xxiv) Fees for filing a complaint with the Authority is Rs. 10000/- (Rule 23(1))

xxv) Fees for filing a complaint with Adjudicating Officer is Rs. 10000/- (rule 24(1))

xxvi) Forms for various purposes, application and certification Form 'A' to Form 'M'

xxvii) Annexure 'A' Agreements

1. Parking spaces can be sold by the Promoter at consideration (Point 1.a of the Agreement)
2. Earnest Money Deposit is 10 percent of purchase consideration and further amounts as per the stages of physical completion



3. Any breach of conditions of the Agreement be cause of termination of agreement by the Promoter by sending email by giving 8 days notice and if allottee fails to rectify the breach, then Promoter is free to terminate the contract and return the amount received from allottee within 6 months adjusting all dues payable to him (clause 6.3 and 6.4) without any interest.

The Salient Features of The Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of complaints and Appeal, etc.) Rules, 2016

- a) Recovery of interest or penalty would be recovered as arrears of land revenue as provided in Maharashtra Land Revenue Code (Rule 3)
- b) Compounding of Offences under section 59, 64,66,68 of the Act has been varying from 2 percent to 10 percent of the project cost (rule 5)
- c) Fees for filing appeal is Rs. 5000/- (Rule 9)

KEY CENTRAL LEGISLATIONS PERTAINING TO REAL ESTATE ARE

- **Indian Stamp Act**: Deals with the amount of duty to be paid on the prescribed instruments including instruments transferring interest in any immovable property.
- **Indian Easements Act, 1882**: Deals with the easementary rights of parties, such as right to access etc.
- **Indian Contract Act, 1872 (“ICA”)**: Deals with the contractual rights and obligations of the parties.

Types of rights over land recognised in India?

-Purely contractual between the parties

- (i) **Freehold** – absolute ownership; the owner has the right to use the real estate for any lawful purpose and sell when and to whom he decides.
- (ii) **Leasehold** – exclusive use; the lessee has the right to possess and use the immovable property for a fixed period as per the terms of the lease agreement executed with the lessor.
- (iii) **Licence** – the licensee has the right to use the property as per the terms of the licence executed with the licensor..

Types of rights over land recognised in India?

-Purely contractual between the parties

- ((iv) **Easements** – the right which an owner of land has over another piece of land which is not his, for e.g. right of way, light, air etc.
- (v) **Adverse possession** – a special right obtained through open, continuous, and uninterrupted possession in defiance of the real owner's title of private land, for more than 12 years (for government property, this period is 30 years).
- Apart from the above, the parties can contractually have certain rights on the property for e.g. right of first refusal, pre-emption rights etc.

ACTS & RULES APPLICABLE

- **Transfer of Property Act, 1882,**
- **REGISTRATION ACT, 1908 – For registration of Conveyance deed**
- **MAHARASHTRA STAMP ACT, 1958 – For Stamp Duty Verification and calculation**
- **M.C.S. ACT, 1960- under which society is registered, Companies Act etc.**
- **INCOME TAX ACT, 1961 – To Verify Tax Liabilities of the Vendor**
- **MAH. OWNERSHIP FLATS ACT, 1963- Under which Flats are purchased and local law.**

ACTS & RULES APPLICABLE

- **ULC-** For verifying any violations under the Act or any other land related legislations.
- **Criminal Procedure Code / Civil Procedure Code and Consumer Protection Act–** For proceeding against the builder
- **BMC – Development Control Rules-**For Legality of the Building construction.
- **LAND REVENUE CODE –** Where Land Records Order kept
- **BYE-LAWS:** Applicable to all the societies

DEPARTMENT TO BE VISITED

- **City Survey Office – for Property Card**
- **Collector of Stamps – For Stamp Duty**
- **Sub Registrar – For Registration of Copy**
- **Assessment Dept– For Change in the Prop. Tax Bill**
- **Collector office : For N.A. Order**
- **Revenue Dept : ULC order**
- **Many more dept on case to case basis**

Disclaimer

All the efforts are made to cover the important provisions of the law. The material contained herein is not exhaustive, and contains certain generalizations. The latest Provisions and Notifications must be viewed. The presenter is not responsible for any loss incurred on the actions taken based on the material presented. -----

CA. Ramesh S. Prabhu

Presented By :
CA. Ramesh S Prabhu
(Chairman) M S WA

**Thank
YOU!!**

The text 'Thank YOU!!' is rendered in a 3D, gold-colored font with a sparkling, diamond-like texture. The letters are arranged in two lines: 'Thank' on the top line and 'YOU!!' on the bottom line. A vibrant red rose with green leaves is positioned in the center, overlapping the 'n' in 'Thank' and the 'O' in 'YOU!!'. The entire graphic is set against a white background with a subtle drop shadow.