

***PRESENTATION ON REAL  
ESTATE (REGULATION AND  
DEVELOPMENT) ACT, 2016 &  
RULES 2016***

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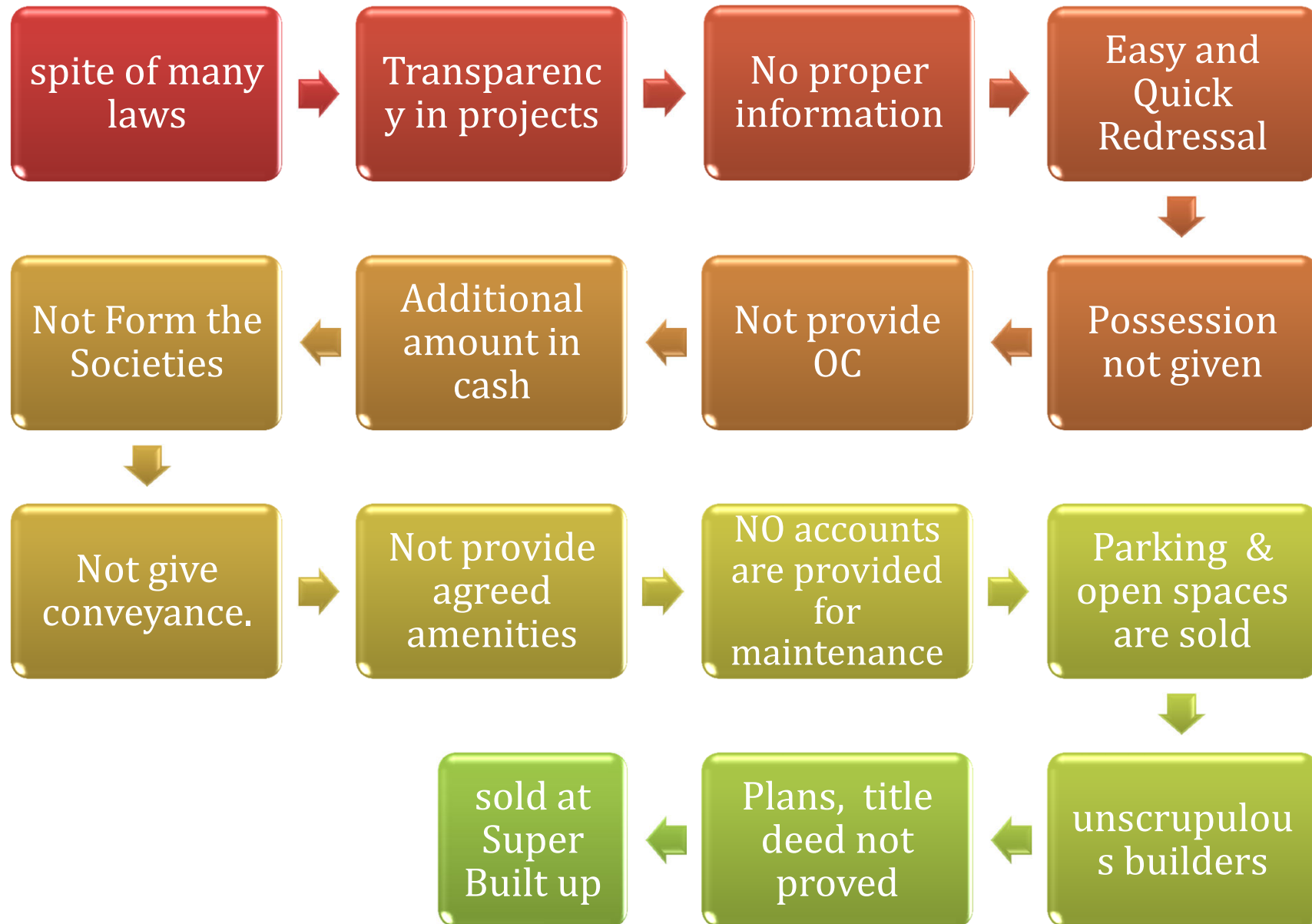
**PRESENT BY**

**CA. Ramesh S. Prabhu**

Chairman, MahaSeWA

# WHY THIS Act IS REQUIRED..??

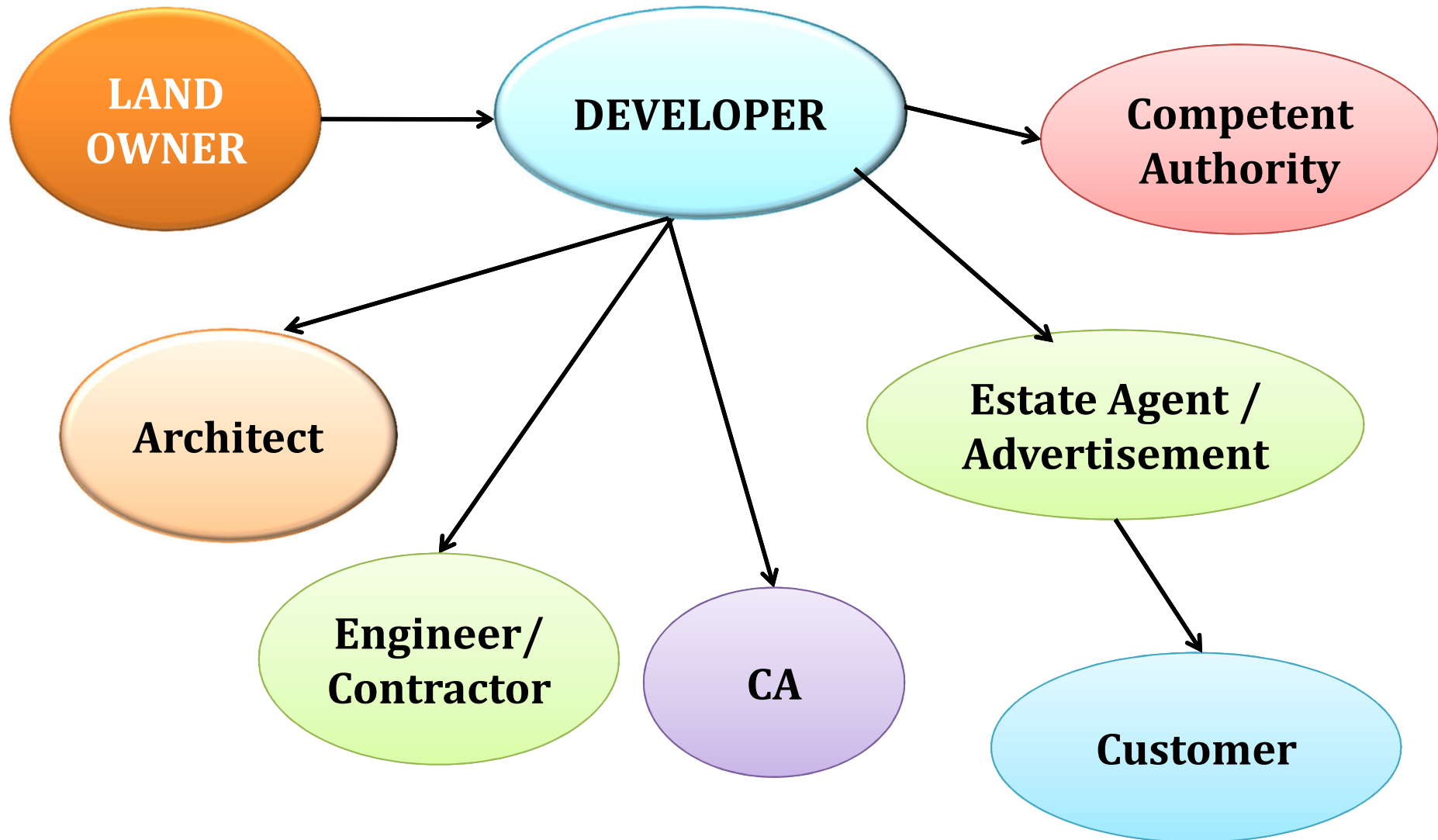
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# STACK HOLDERS UNDER RERA

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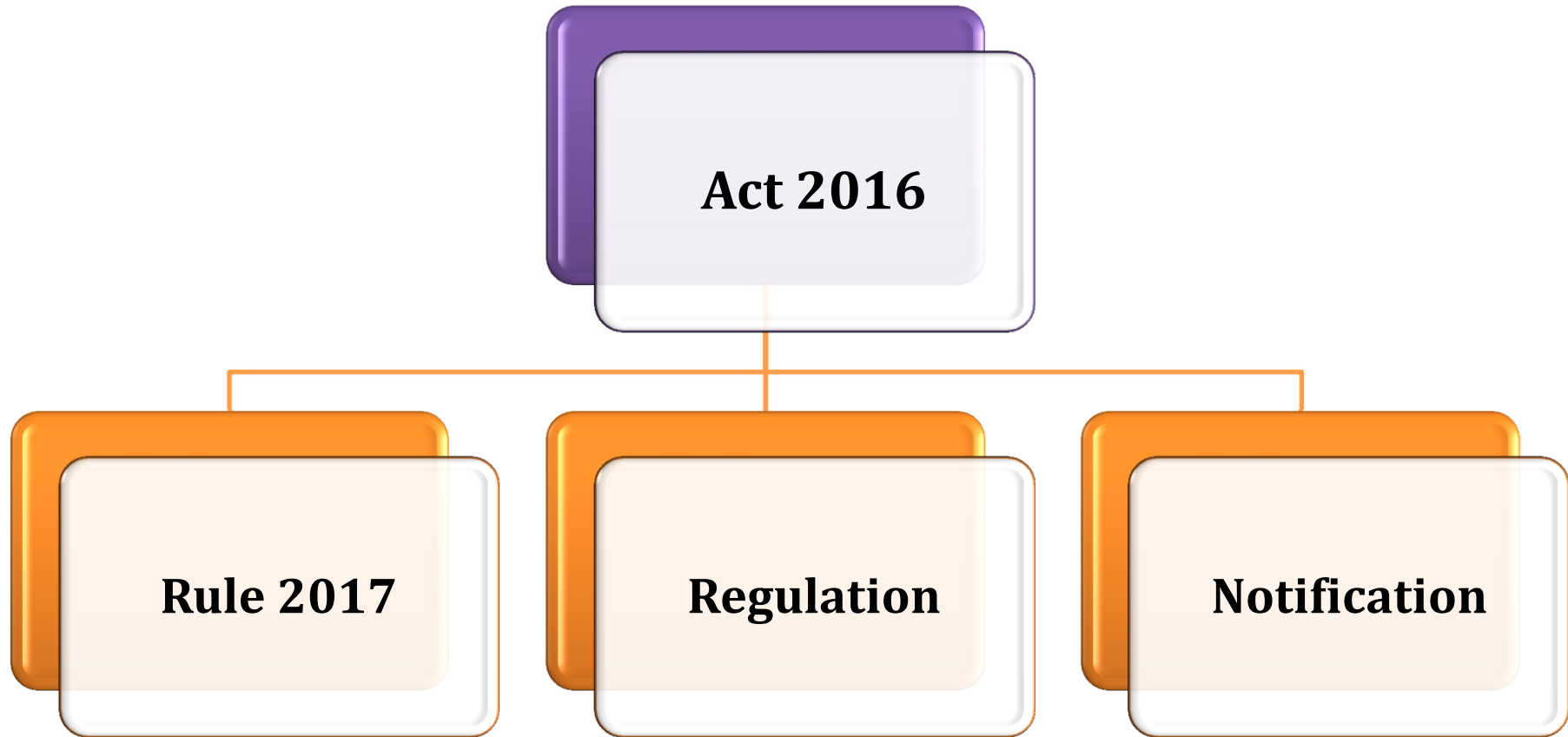
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# RERA

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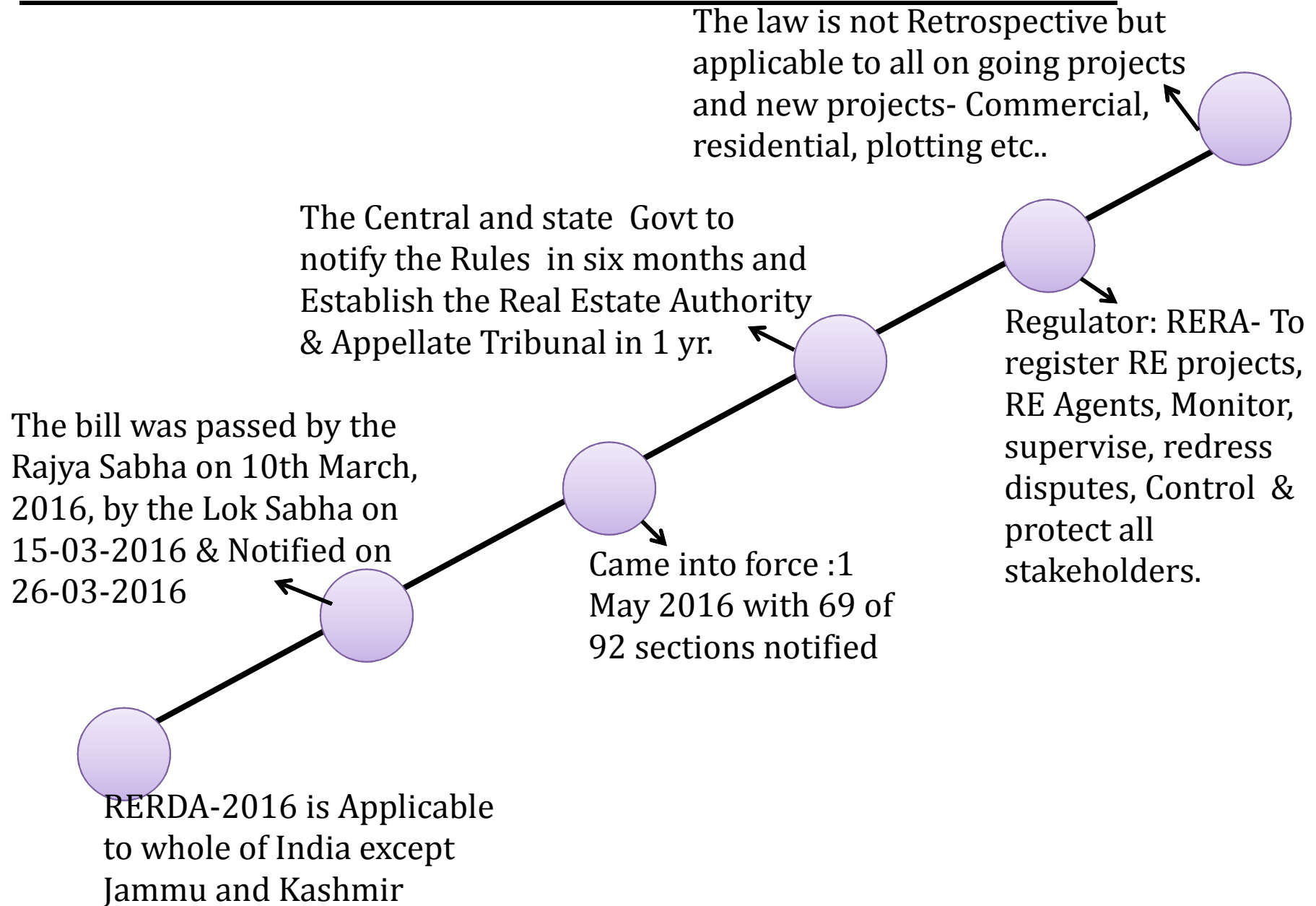
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# Intro: RERA 2016

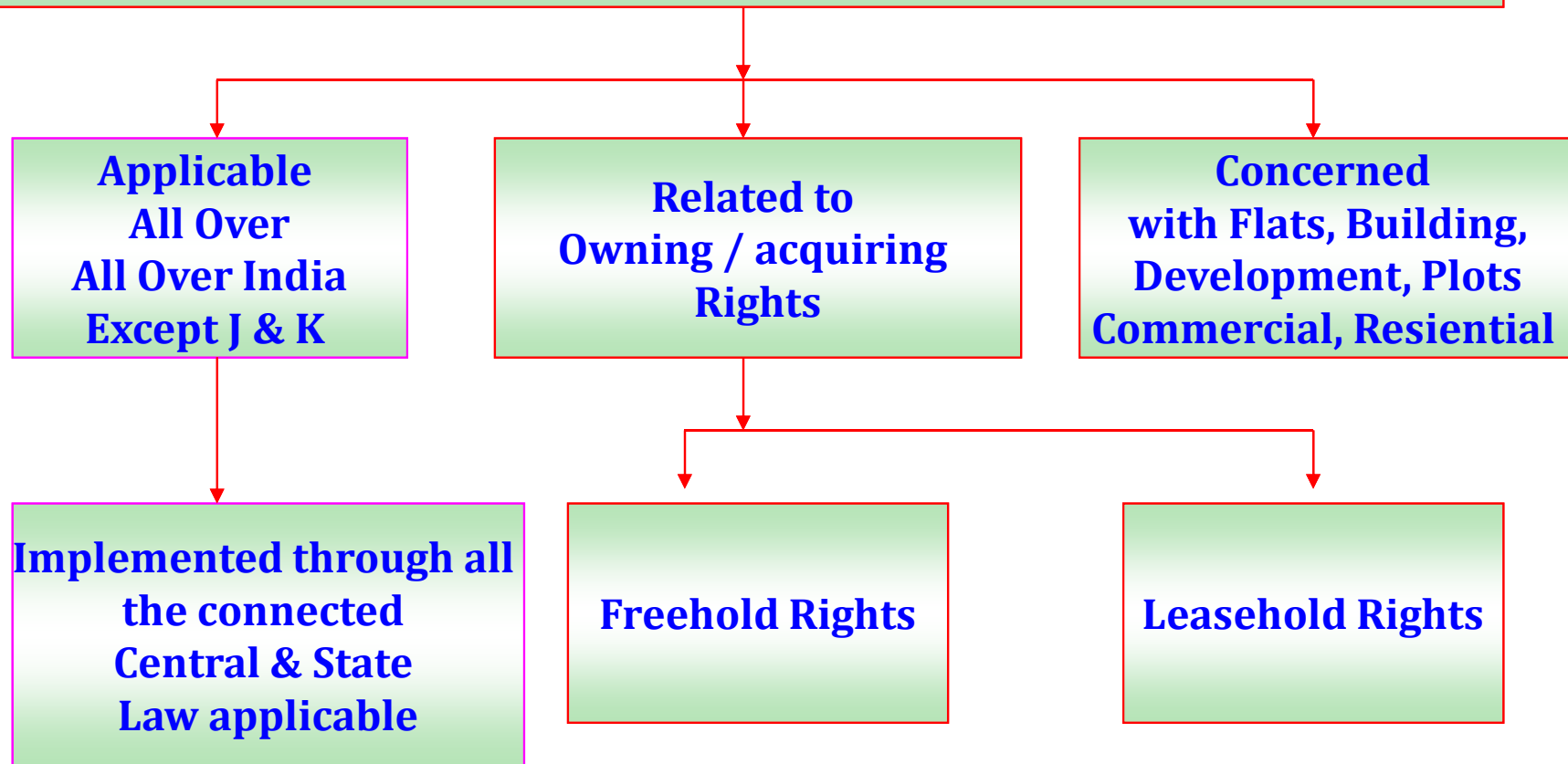
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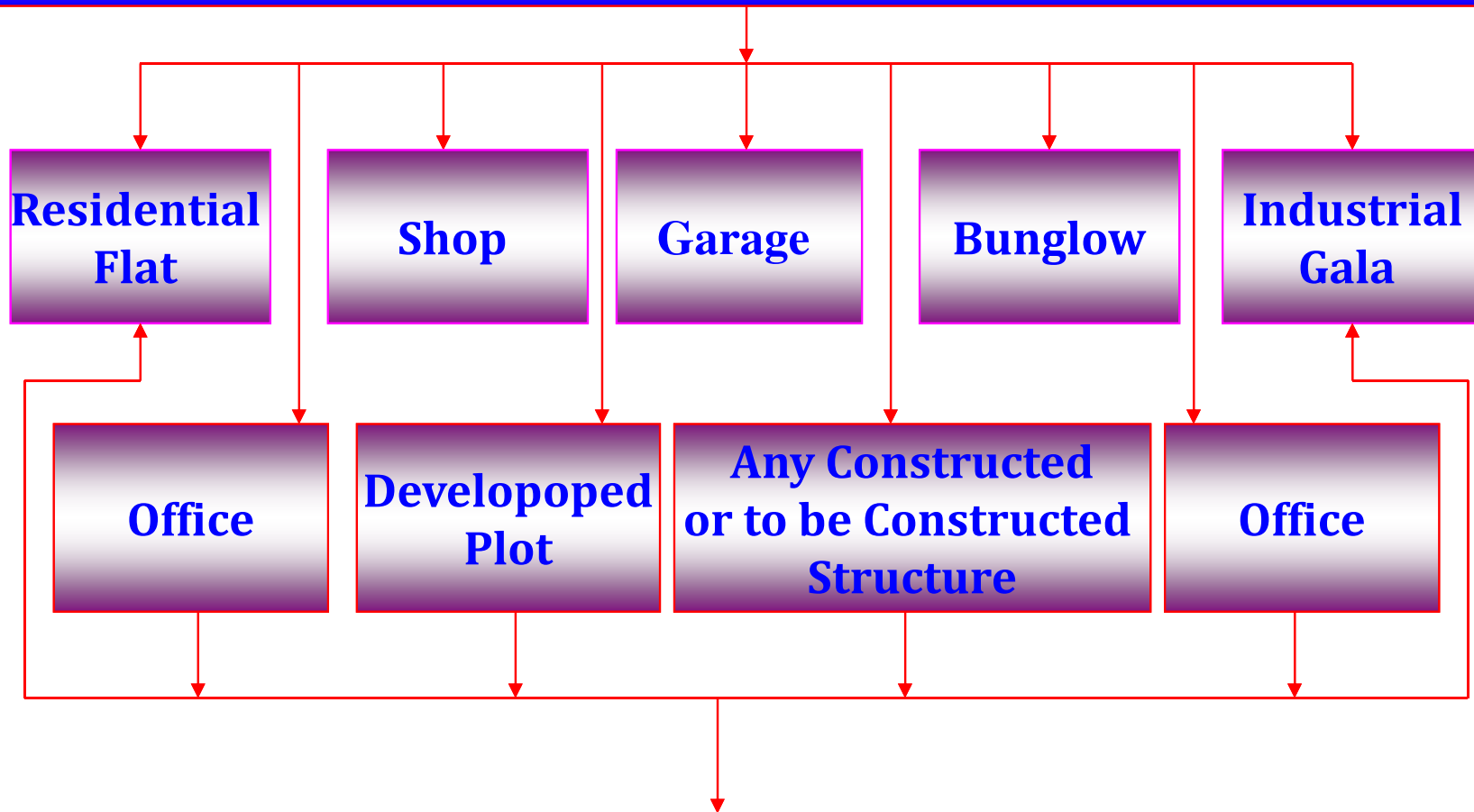


# MOTHER OF REAL ESTATE DEVELOPMENT LAW -

**Real Estate (Regulation & Development) Act, 2016**

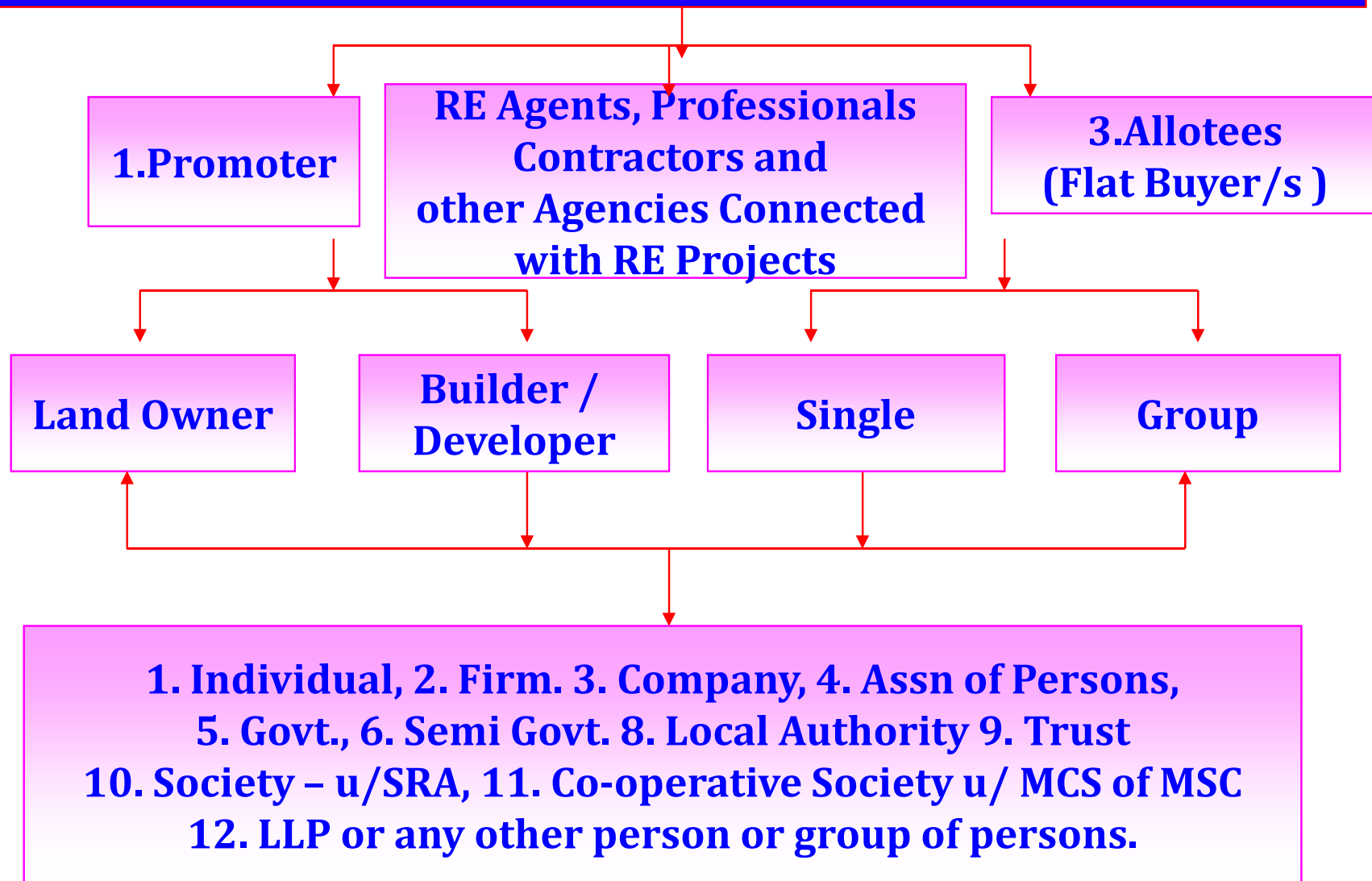


# APARTMENTS = INDEPENDENT UNIT/PLOT



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

# **PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE under RERA**







# 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



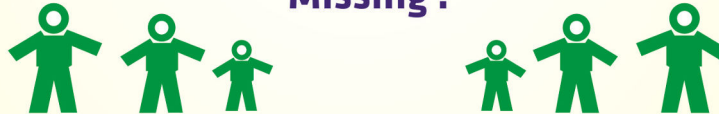
सत्यमेव जयते

1

**Enforcement & Delivery Mechanisms  
are Missing !**

2

**Compliance is  
Missing !**



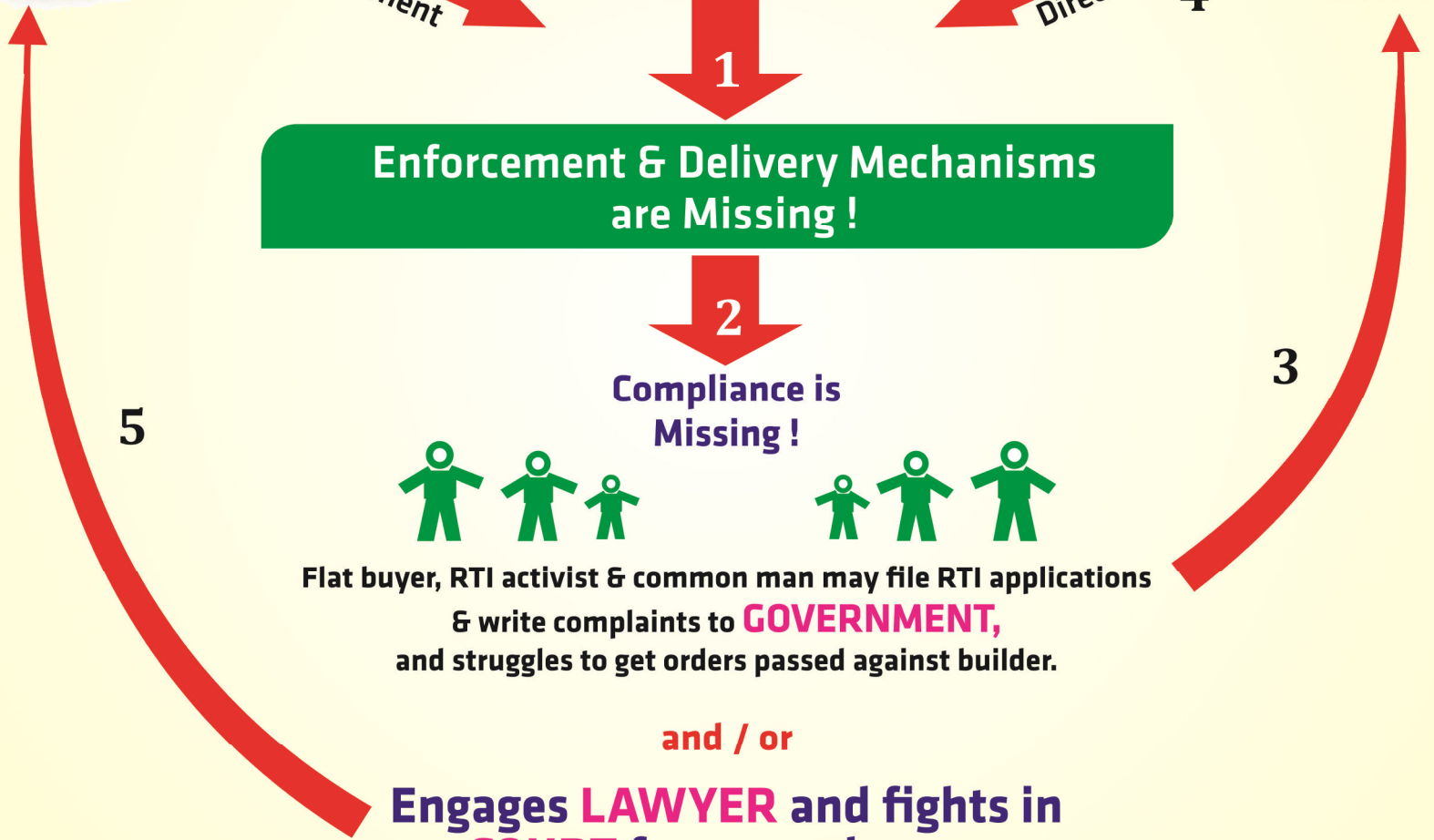
Flat buyer, RTI activist & common man may file RTI applications  
& write complaints to **GOVERNMENT**,  
and struggles to get orders passed against builder.

and / or

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

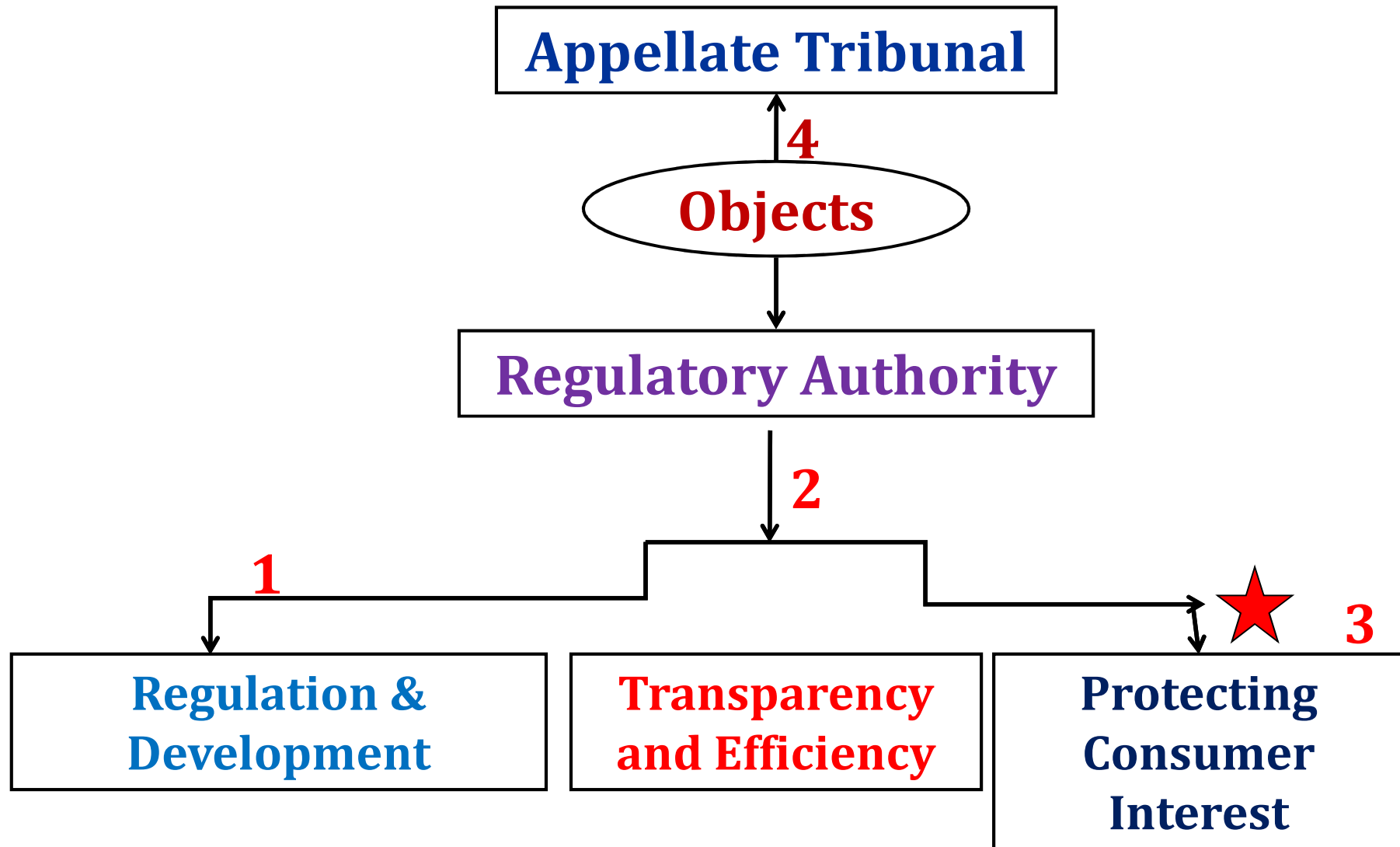
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3



# THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT , 2016

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



# WORKING OF RERA 2016

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

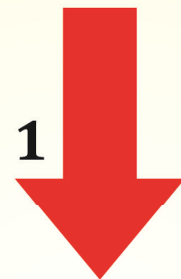


**Court Orders  
or Punishment**  
10

**State Government  
Direction or Action**  
5



सत्यमेव जयते



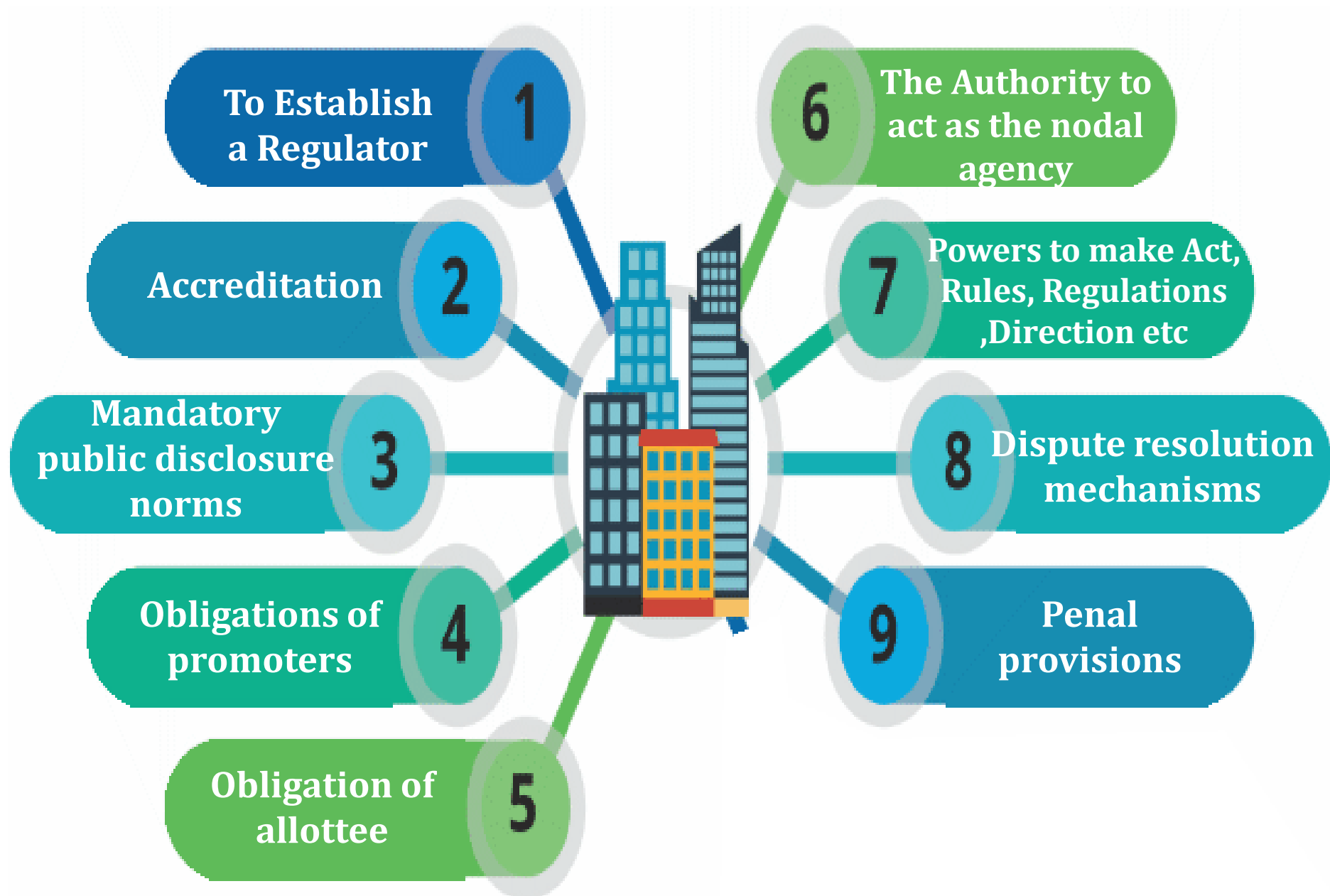
**Compliance & Service delivery as per Agreement  
Rules & Laws is Improved**



Flat buyer, RTI activist & common man may file RTI applications & write complaints to  
**REGULATORY AUTHORITY & APPELLATE AUTHORITY,**  
to get orders passed against builder.

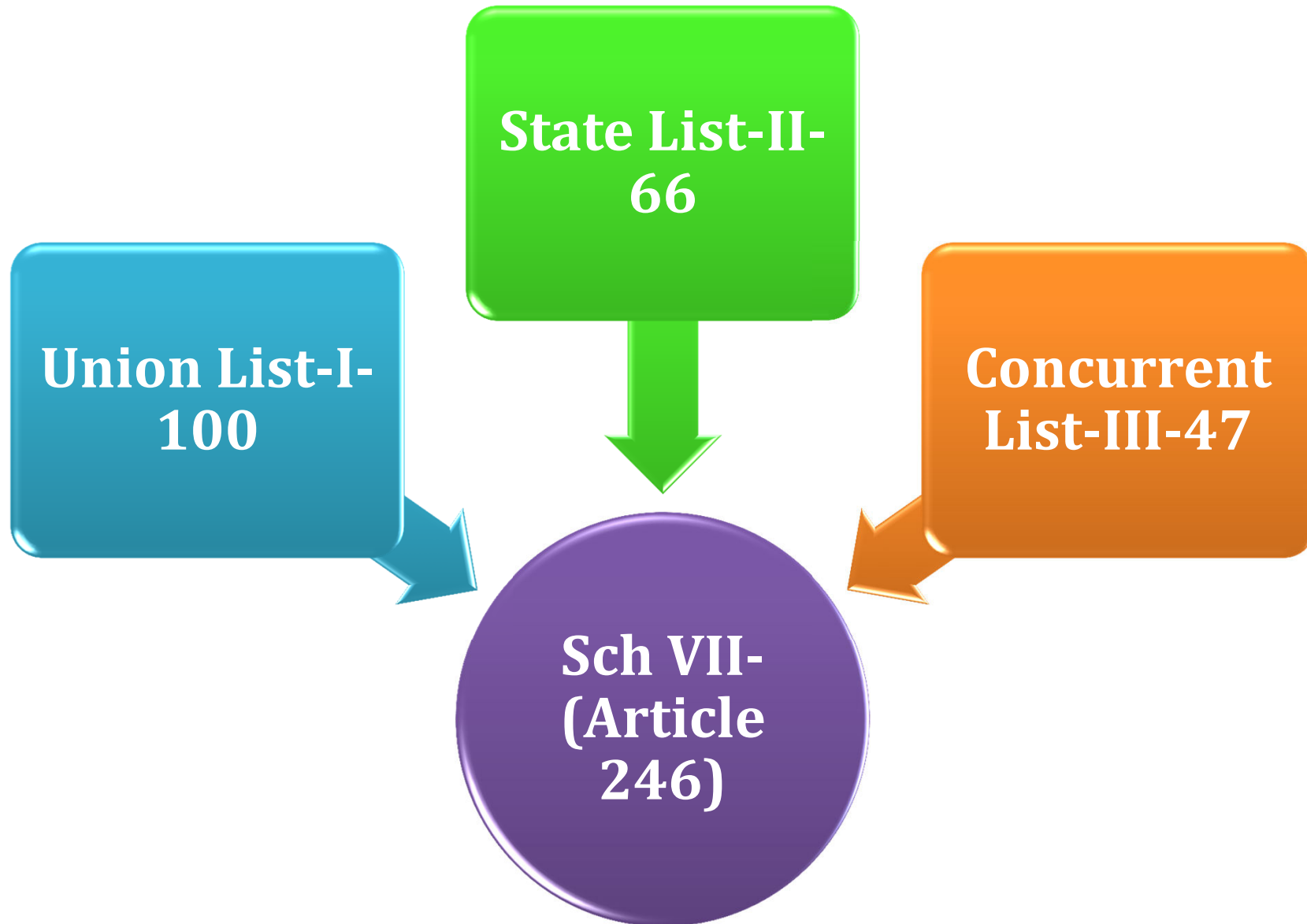
# THE SALIENT FEATURES OF THE RERDA-2016

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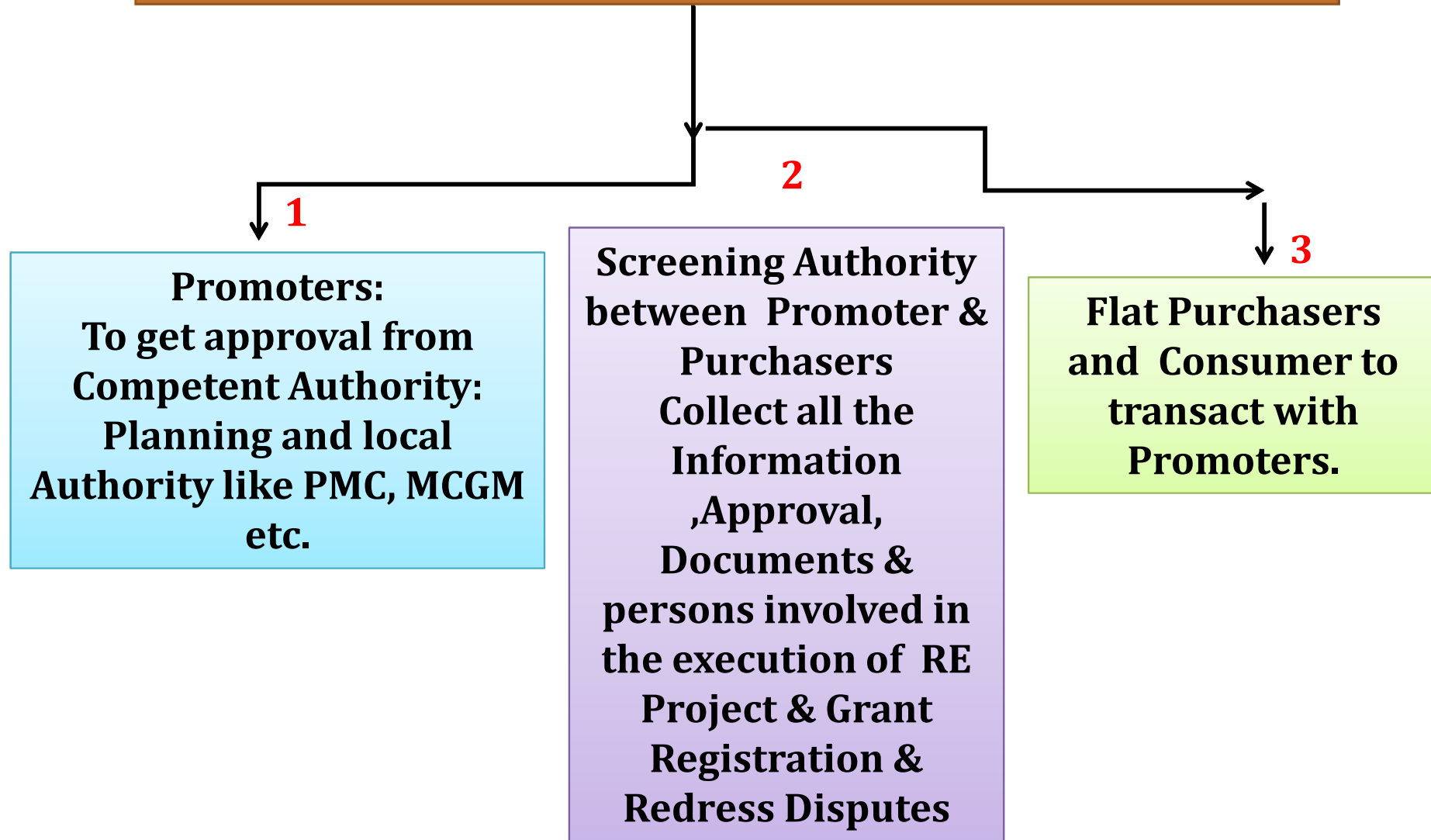


# CONSTITUTIONAL FRAMEWORK

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# REAL ESTATE Regulatory Authority : Not a separate Approval Authority





# U/S. 3 COMPULSORY REGISTRATION OF REAL ESTATE PROJECT

**FOR DEVELOPMENT  
OF  
ANY IMMOVABLE PROPERTY  
IN PHASES OR OTHERWISE  
And  
All Pending Projects where  
OC is not received within 3 months  
And New Project before offer for sale.**

**REGISTRATION  
EXEMPTED**

**AREA DOES  
NOT EXCEED 500  
SQ.METERS OR  
Less than 8 Units**

**All Completed  
Projects Where  
OC is Granted.**

**RENOVATION  
OR REPAIRS  
WHICH DOES  
NOT INVOLVE  
REALLOTMENT  
& MARKETING**



# 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.

**No & Size of  
Layout, phases**

**Proposed  
Project &  
facilities**

**Approvals  
for each phase**

**Declaration by  
Promoter**

**He has Title &  
land is free from  
Encumbrances &  
Specimen of  
Agreement for sale  
Conveyance deed  
Allotment letter etc**

**Project to be  
Completed  
as per Terms  
of Registration  
And schedule of  
completion**

**Project to be  
Completed  
Within the period  
Of sanction by  
Competent  
Authority**

**70% of Realized  
amt to be deposited  
in a separate a/c  
In Sch. Bank  
For meeting cost  
Of project**

# U/S. 7 RECOVATION 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**

## **RERDA- 2016**

**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**

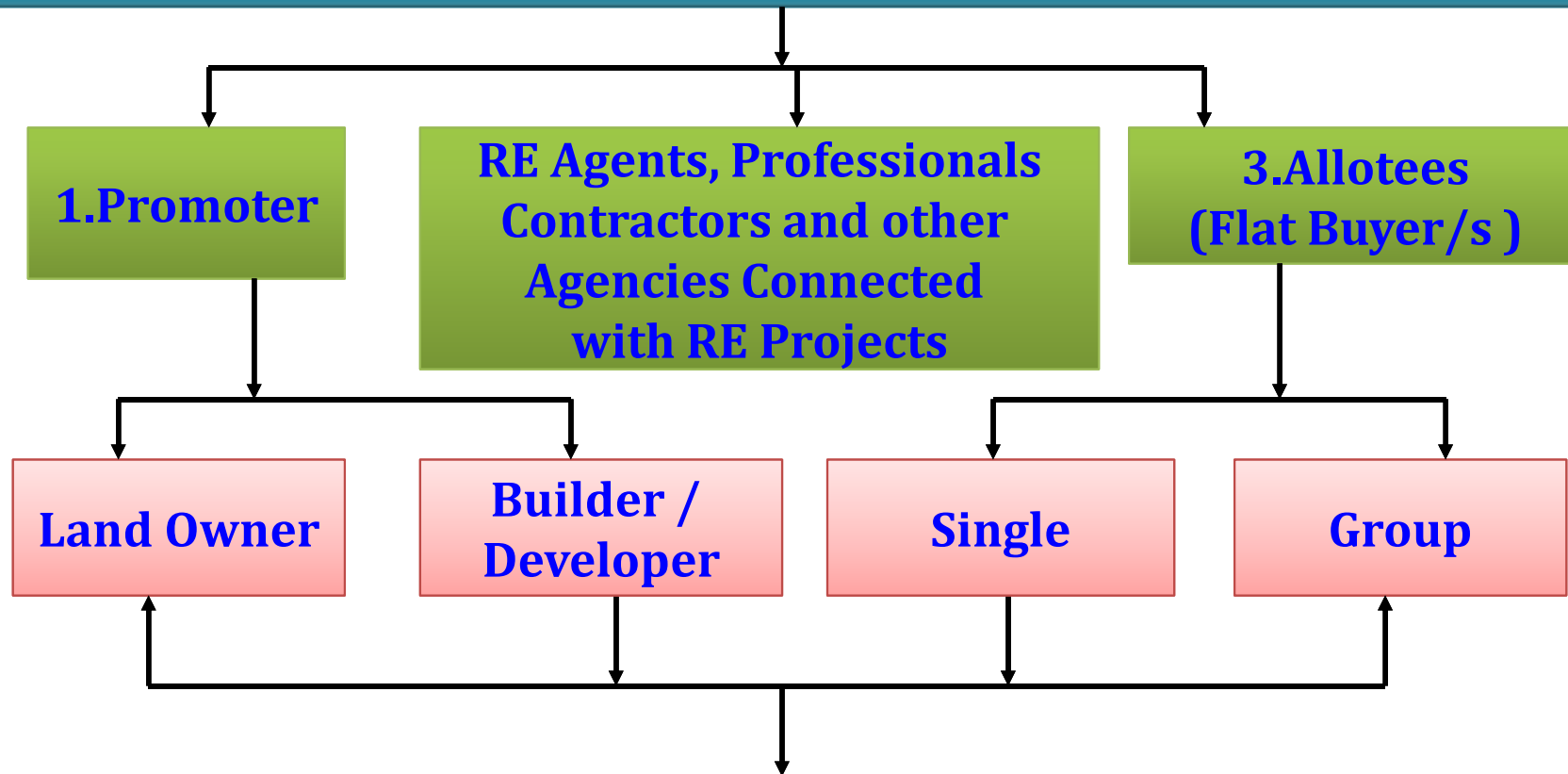
**Chapter VII : The Real Estate Appellate Tribunal : Sec 43 to 58**

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

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

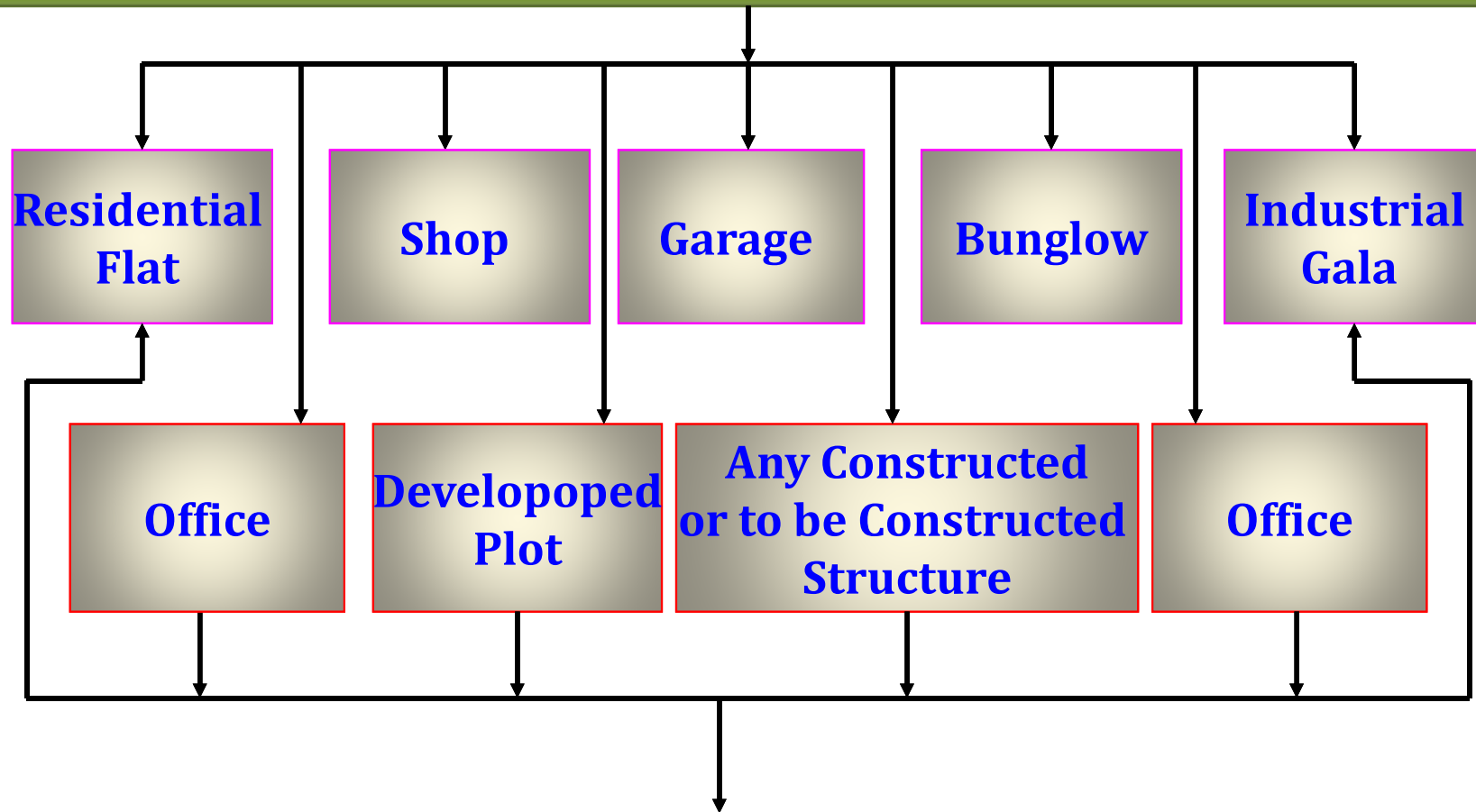
**Chapter X : Miscellaneous : Sec 79 to 92**

# PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE under RERA



1. Individual, 2. Firm. 3. Company, 4. Assn of Persons,
5. Govt., 6. Semi Govt. 8. Local Authority 9. Trust
10. Society - u/SRA, 11. Co-operative Society u/ MCS of MSC
12. LLP or any other person or group of persons.

# APARTMENTS = INDEPENDENT UNIT/PLOT

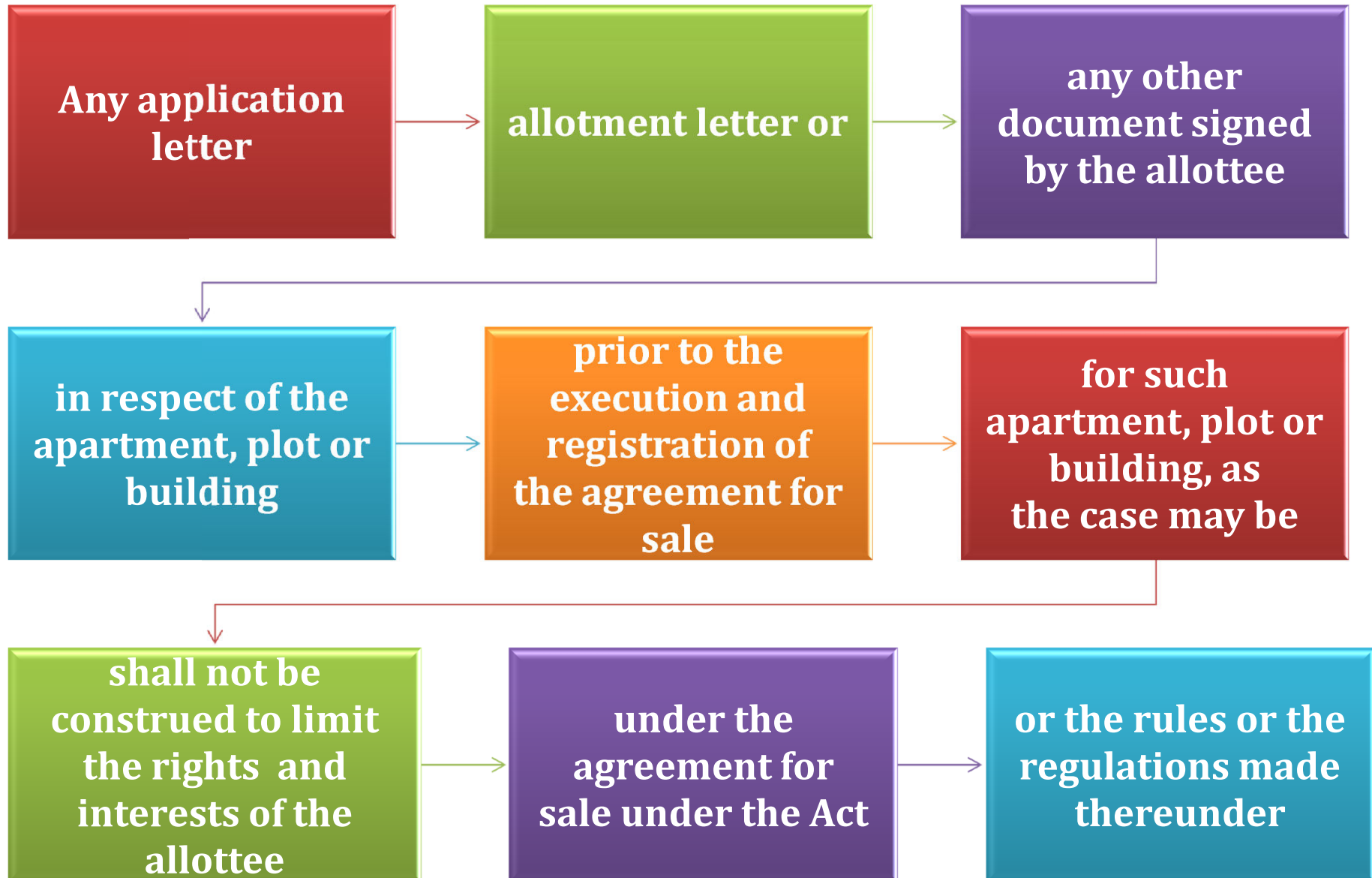


**Provided or agreed to be provided by the Promoter  
To the Purchaser for a Consideration**

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

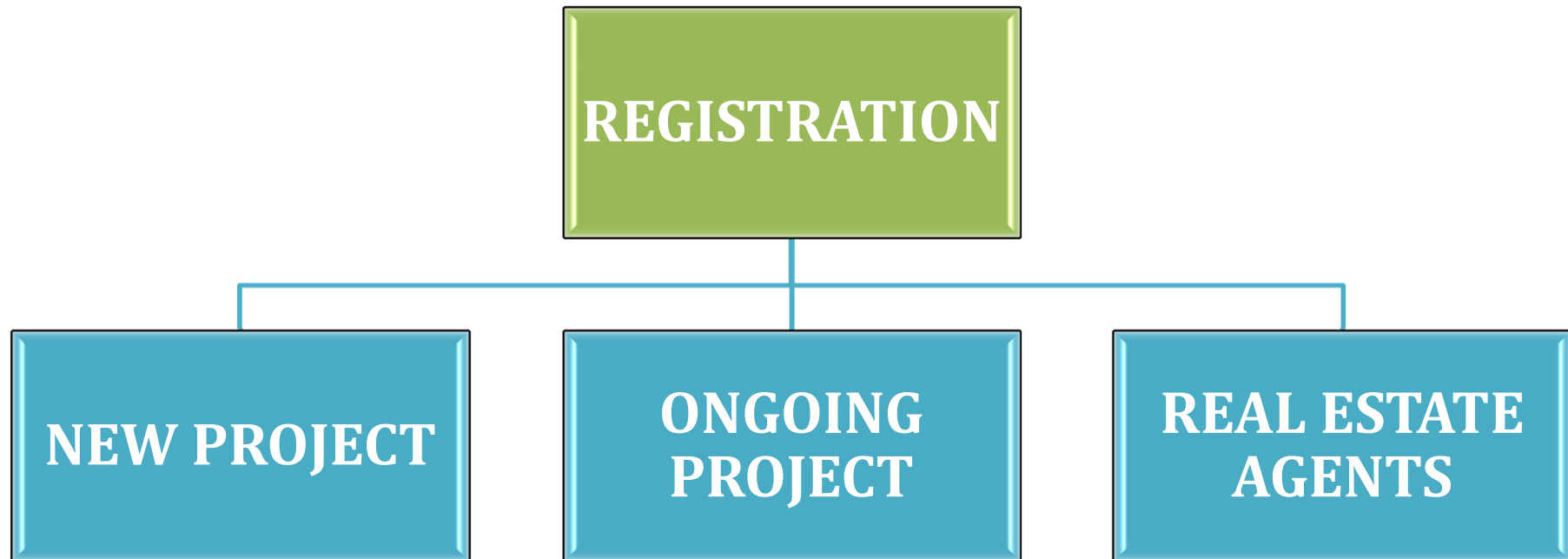
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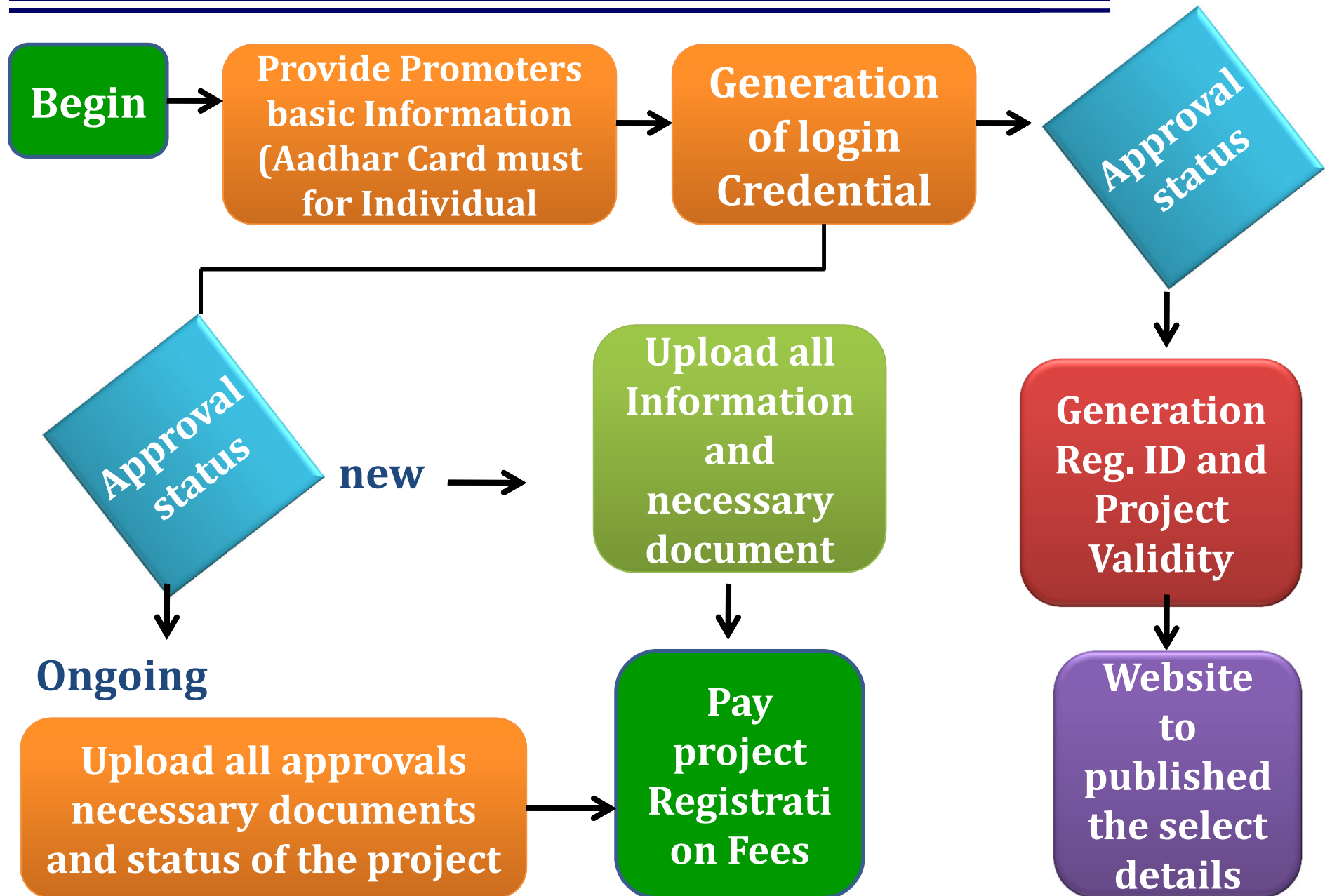


# REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

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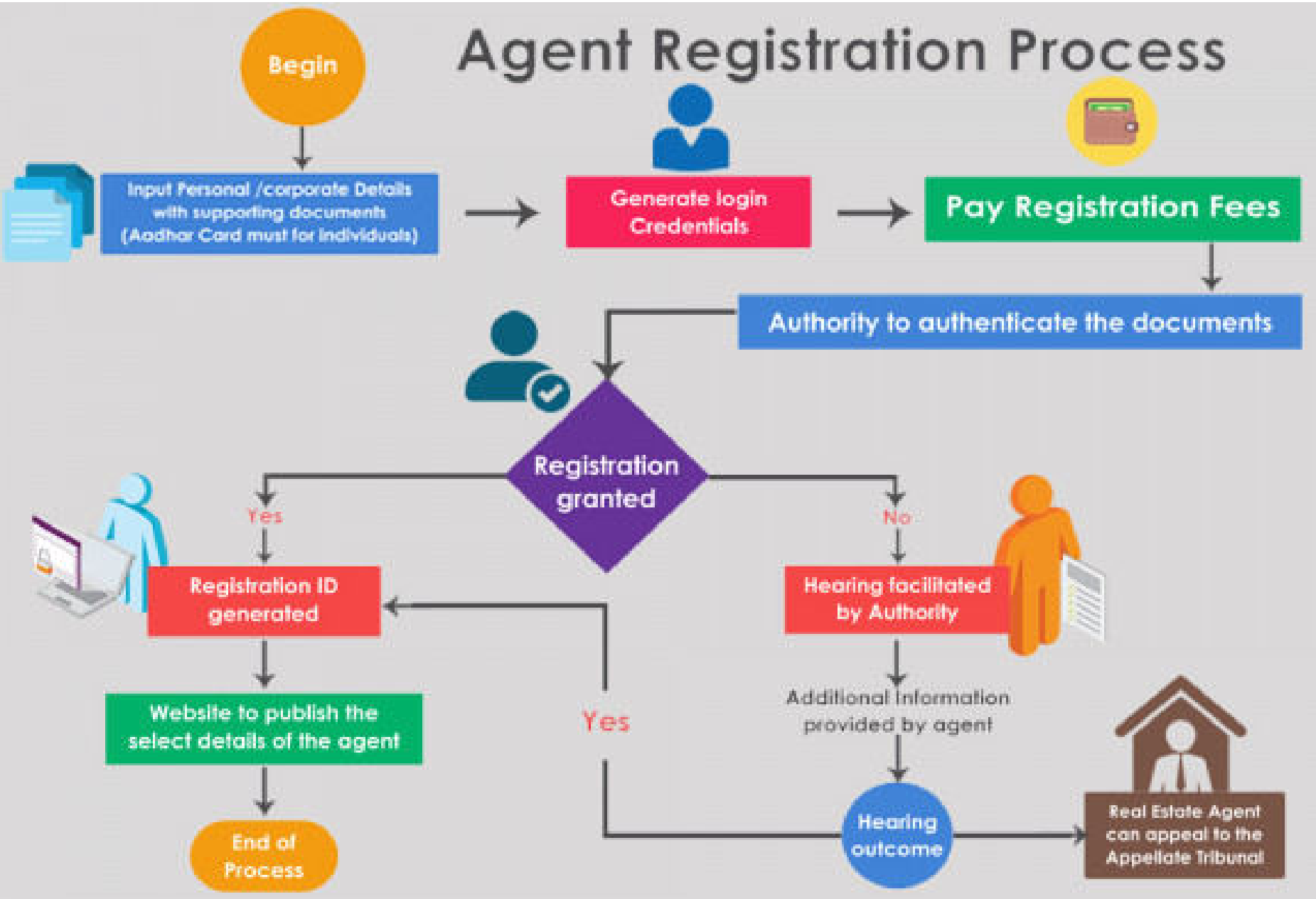


# PROJECT REGISTRATION



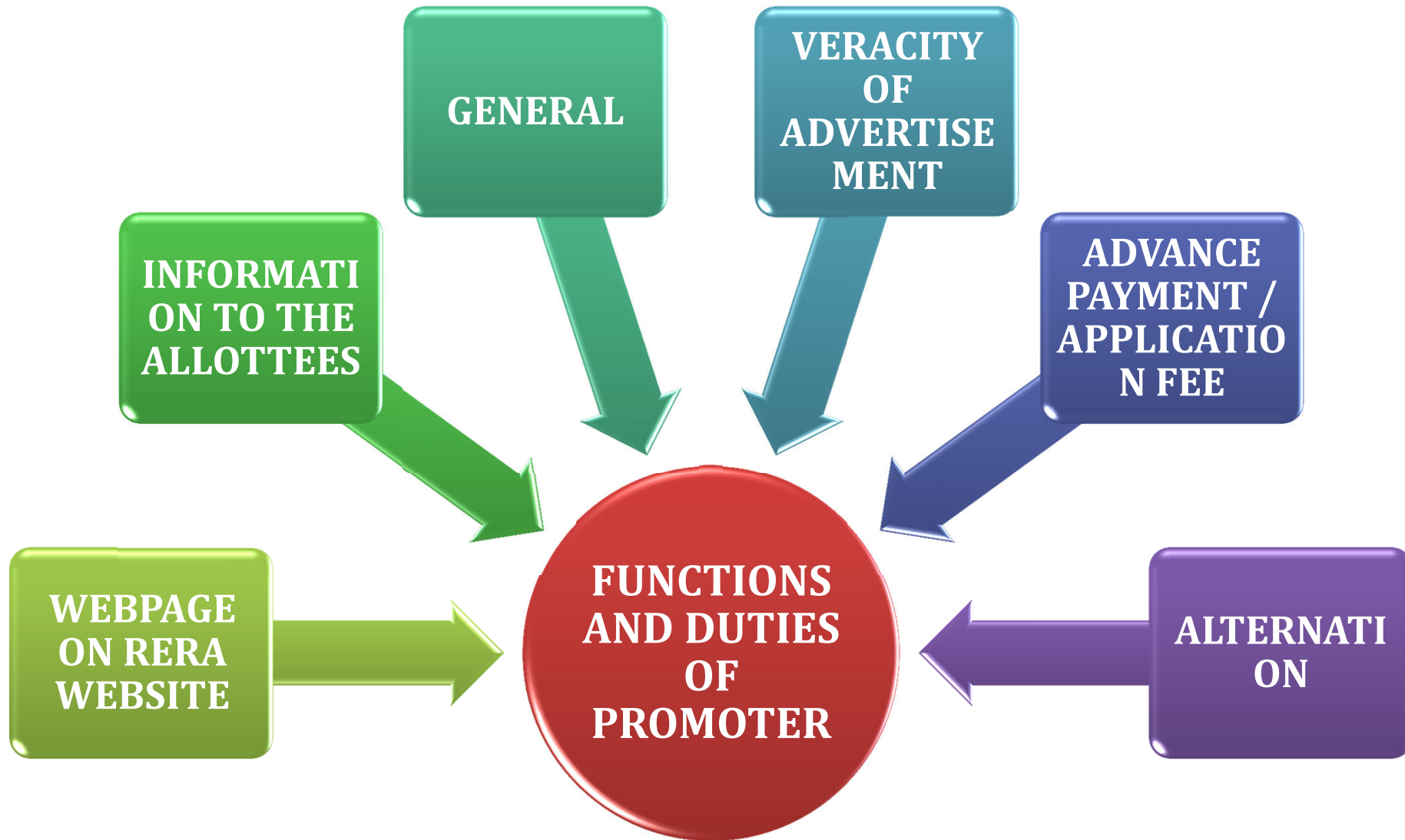


# AGENT REGISTRATION



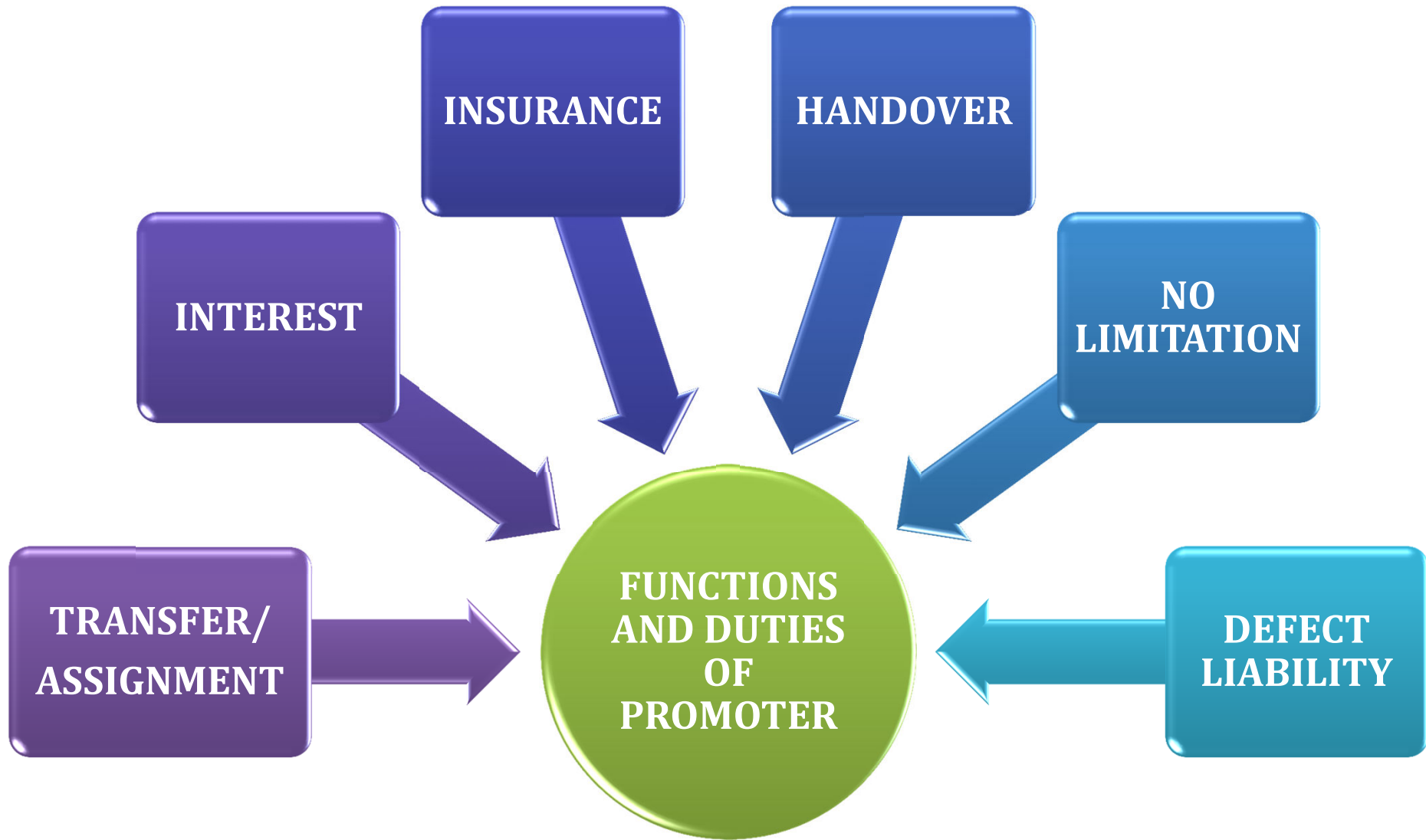
# **FUNCTIONS AND DUTIES OF PROMOTER**

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# **FUNCTIONS AND DUTIES OF PROMOTER**

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# 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

**Society or  
Federation**

**Company**

**Condominium**

**Other  
Legal Entity**

**Mah.Co-op.  
Soc.Act, 1960  
At Dy. Regr.**

**Companies Act,  
1956 at ROC**

**Mah. Aprt.  
Own. Act, 1970  
At Sub-Regr.**

**Association  
u/SRA, 1860**

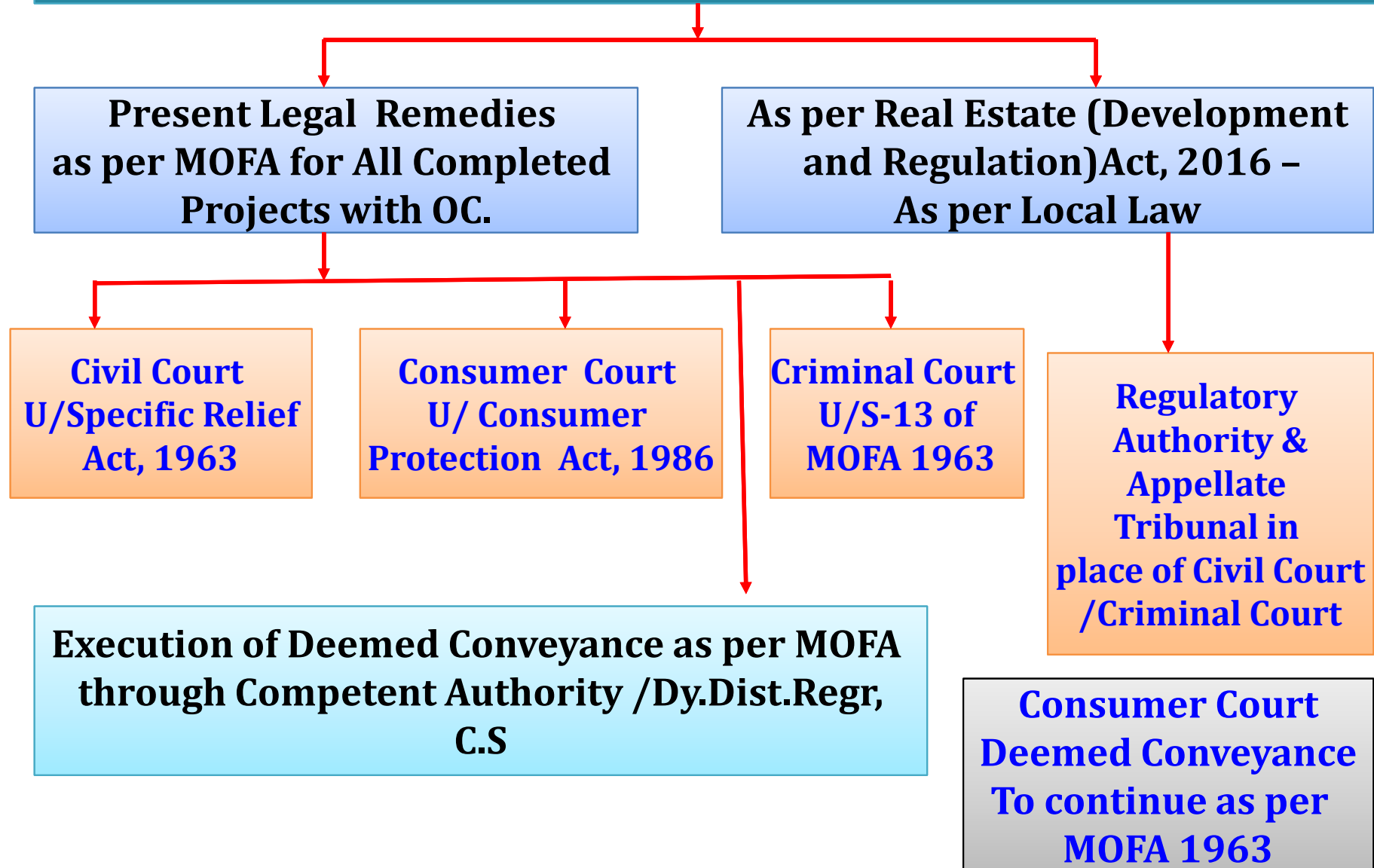
**Trust  
u/BPT,1950**

**Firms  
u/IPA, 1932**

**PSU & GU  
u/Act of Pimt**

**Others  
LLP etc.**

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



## **AMENDMENT IN MOFA IN 2005- PURPOSE**

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graph TD; A[AMENDMENT IN MOFA IN 2005- PURPOSE] --> B[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.]; B --> C[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];
```

- 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 & Blg 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

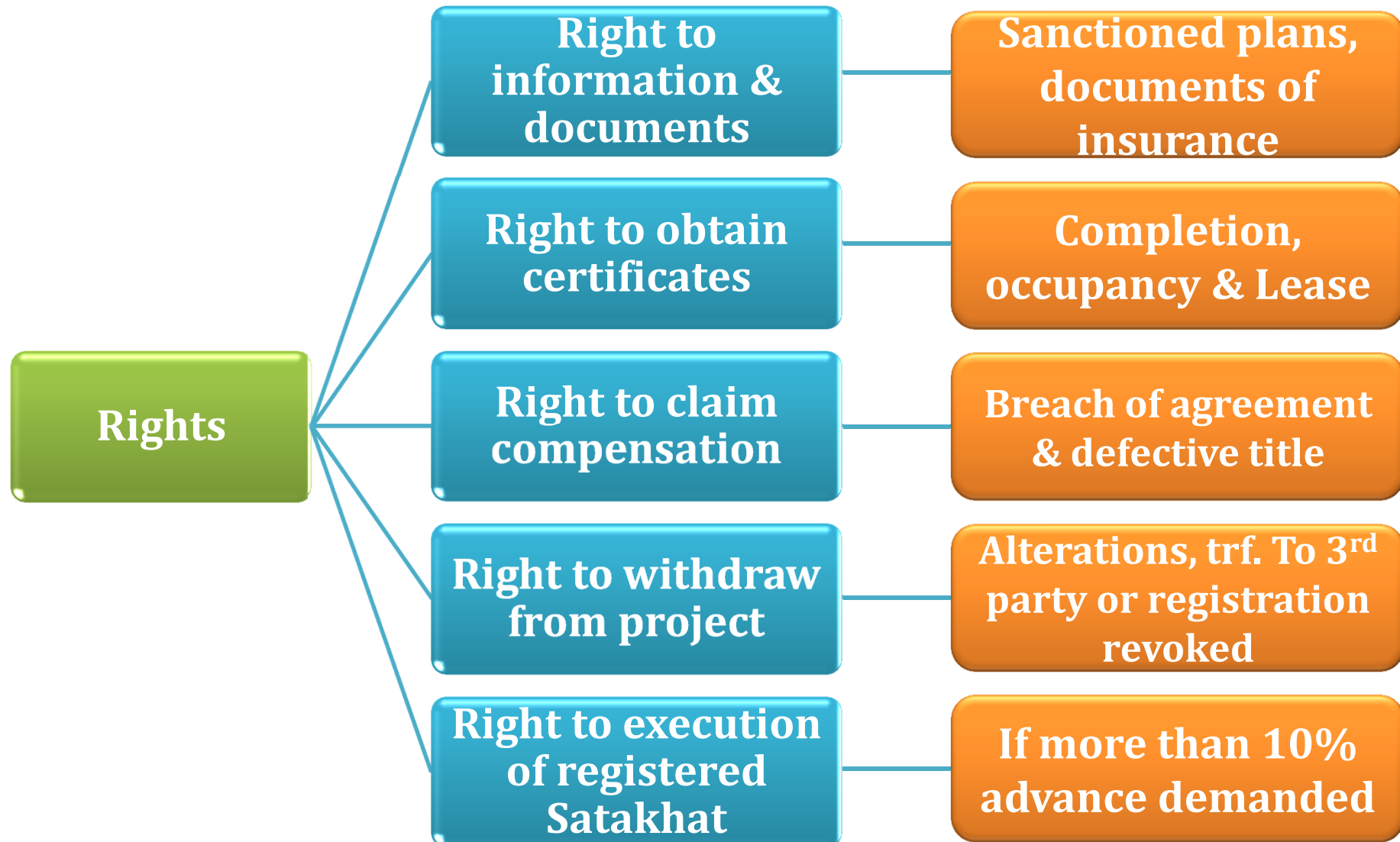
To each Entities On appln with 100% rights of resp. Bldg & % Plot & Com. Facilities

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



# RIGHTS OF ALLOTTEES

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# DUTIES OF ALLOTTEES

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**Before booking, verify builder's registration**

**Not to buy apartment in unregistered projects**

**Not to pay more than 10% of cost before agreement and payment should be made by banking channels only.**

# **DUTIES OF ALLOTTEES**

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**To make necessary payments as per Satakhat & interest for delay thereon**

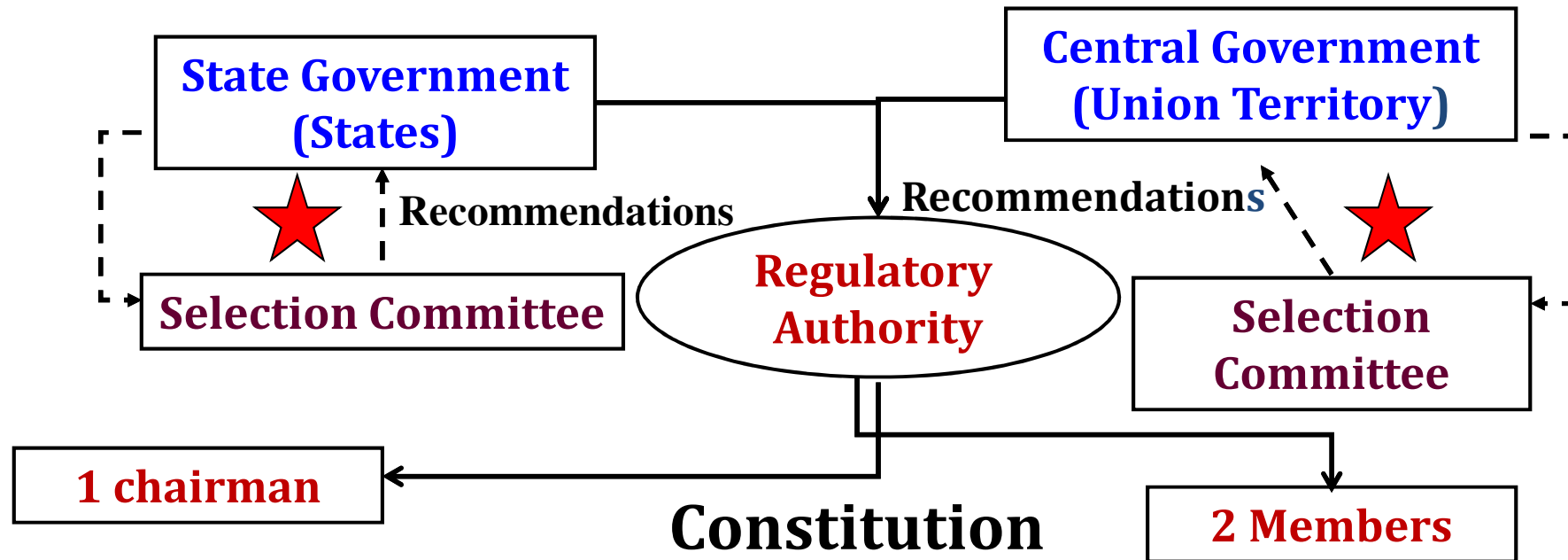
**To participate in formation of association**

**To participate in registration of conveyance deed**

**To take physical possession within a period of 2 months receiving occupancy certificate**

# CH-V Establishment of Regulatory Authority

## Appropriate Government



A person with at least 20 yrs of experience

Or

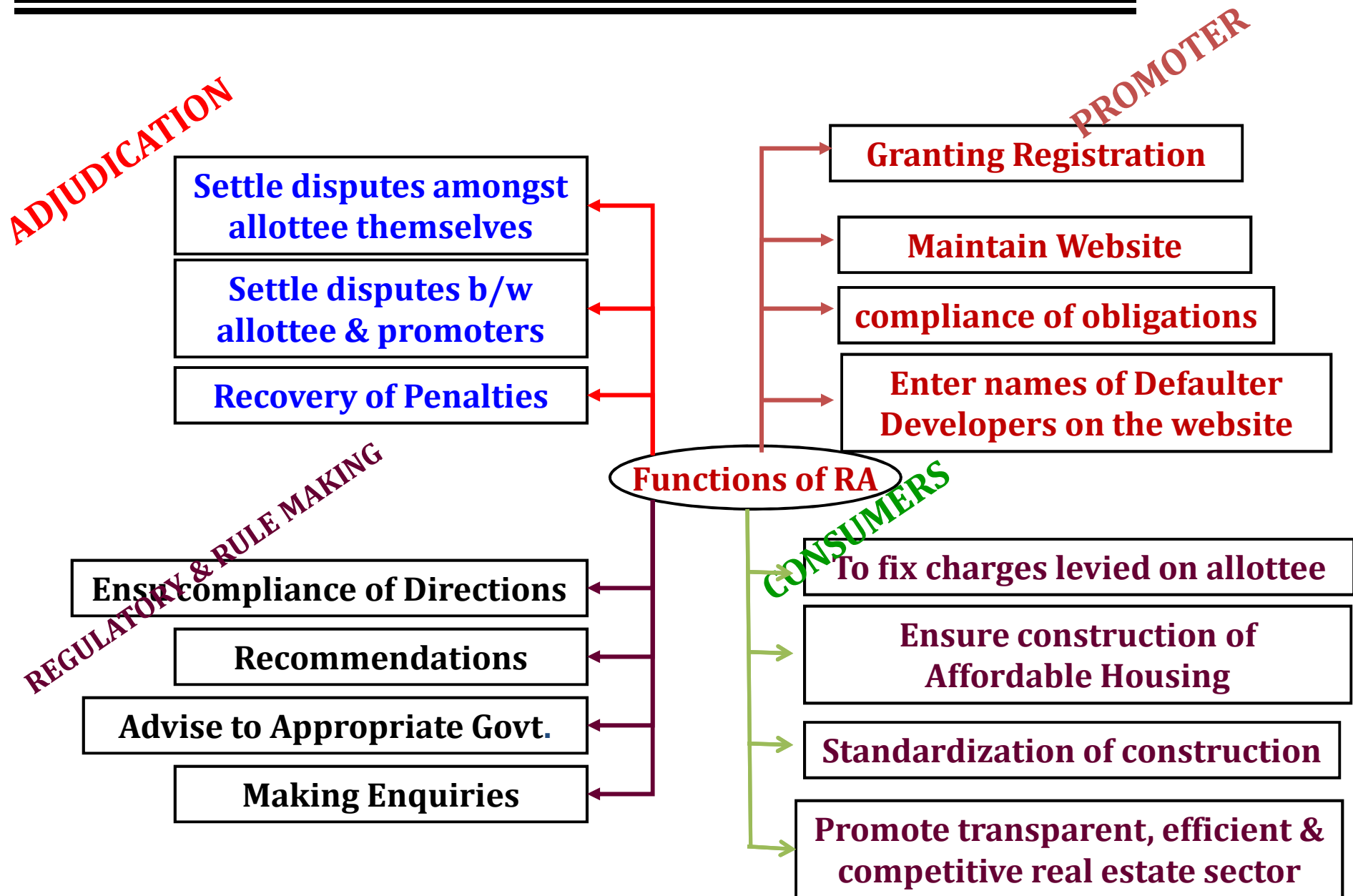
Secretary to CG or any equivalent post in CG or SG

A person with at least 15 yrs of experience

Or

Secretary to SG or any equivalent post in CG or SG

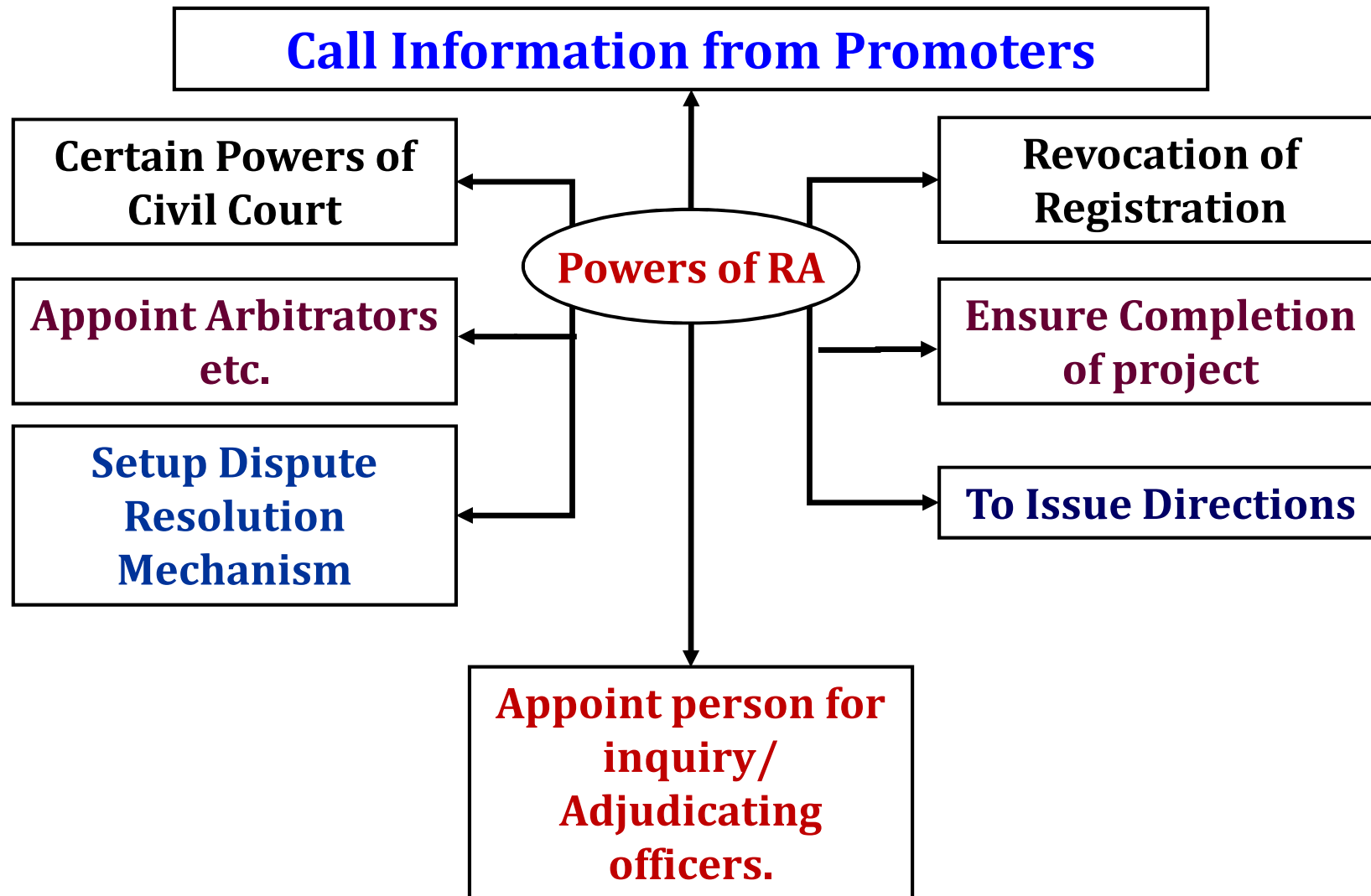
# Functions of Regulatory Authority



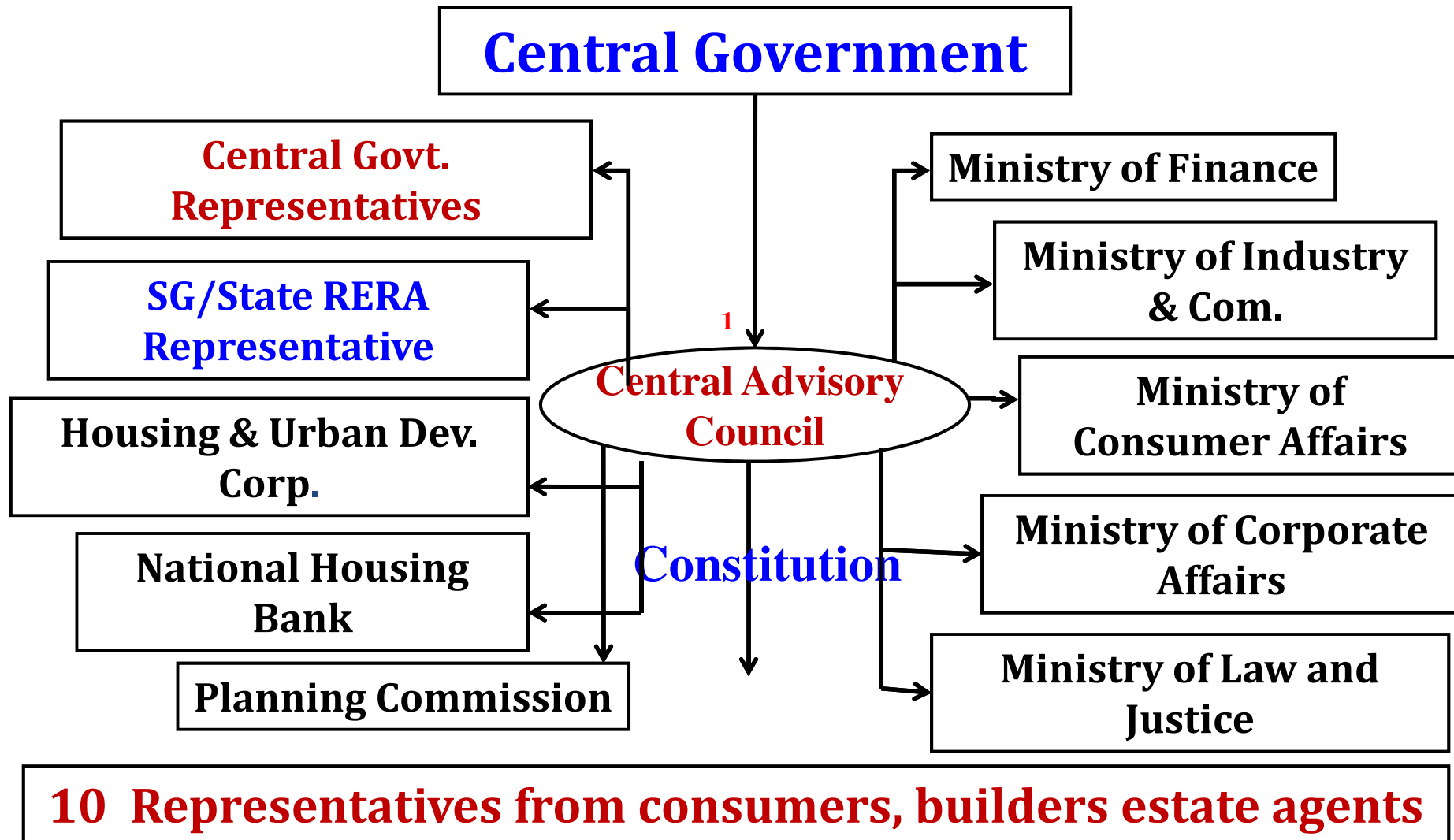
# Powers of Regulatory Authority

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# Establishment of Central Advisory Council

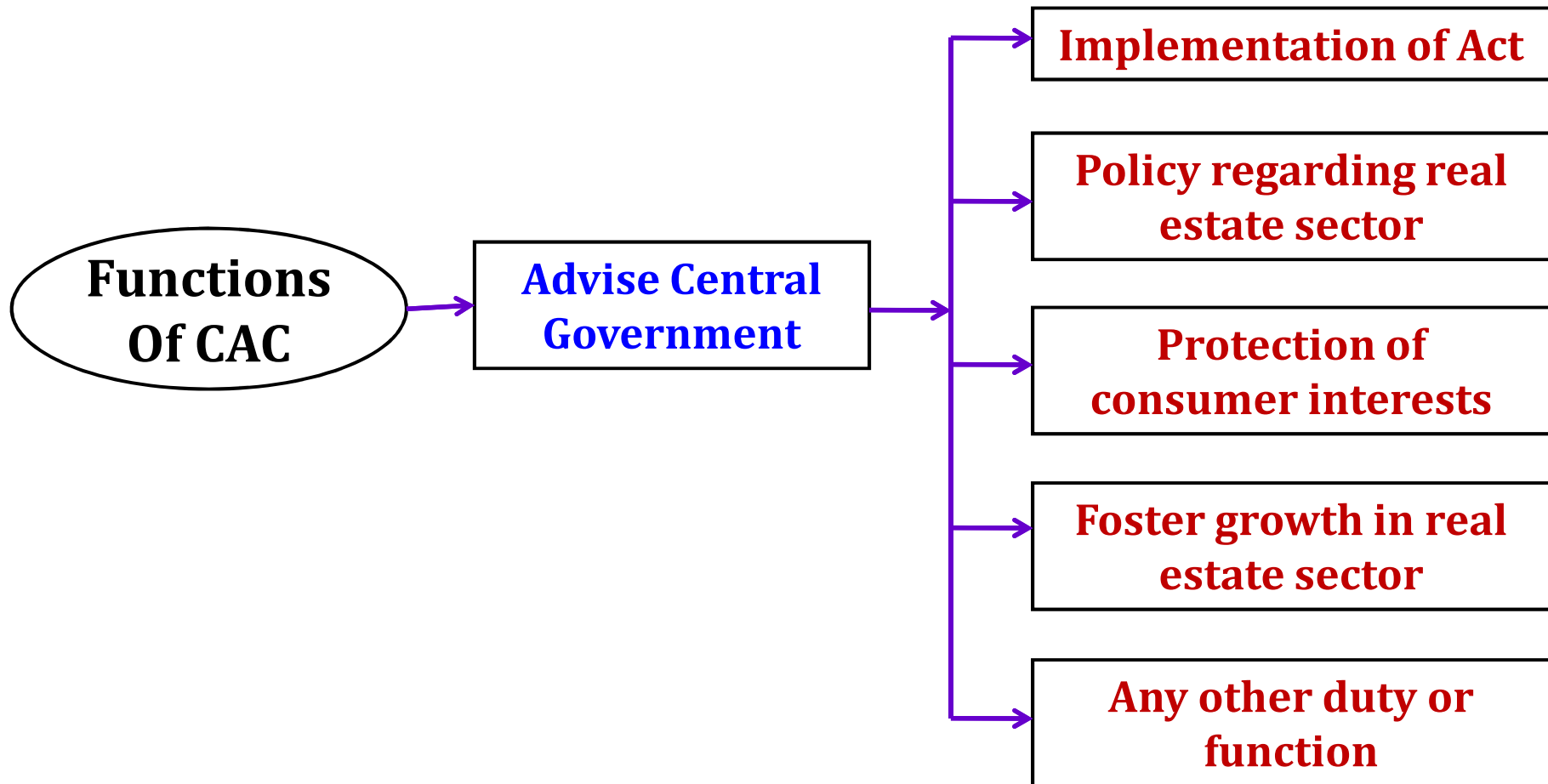


1. Central Government to appoint Central Advisory Council.

# Establishment of Central Advisory Council

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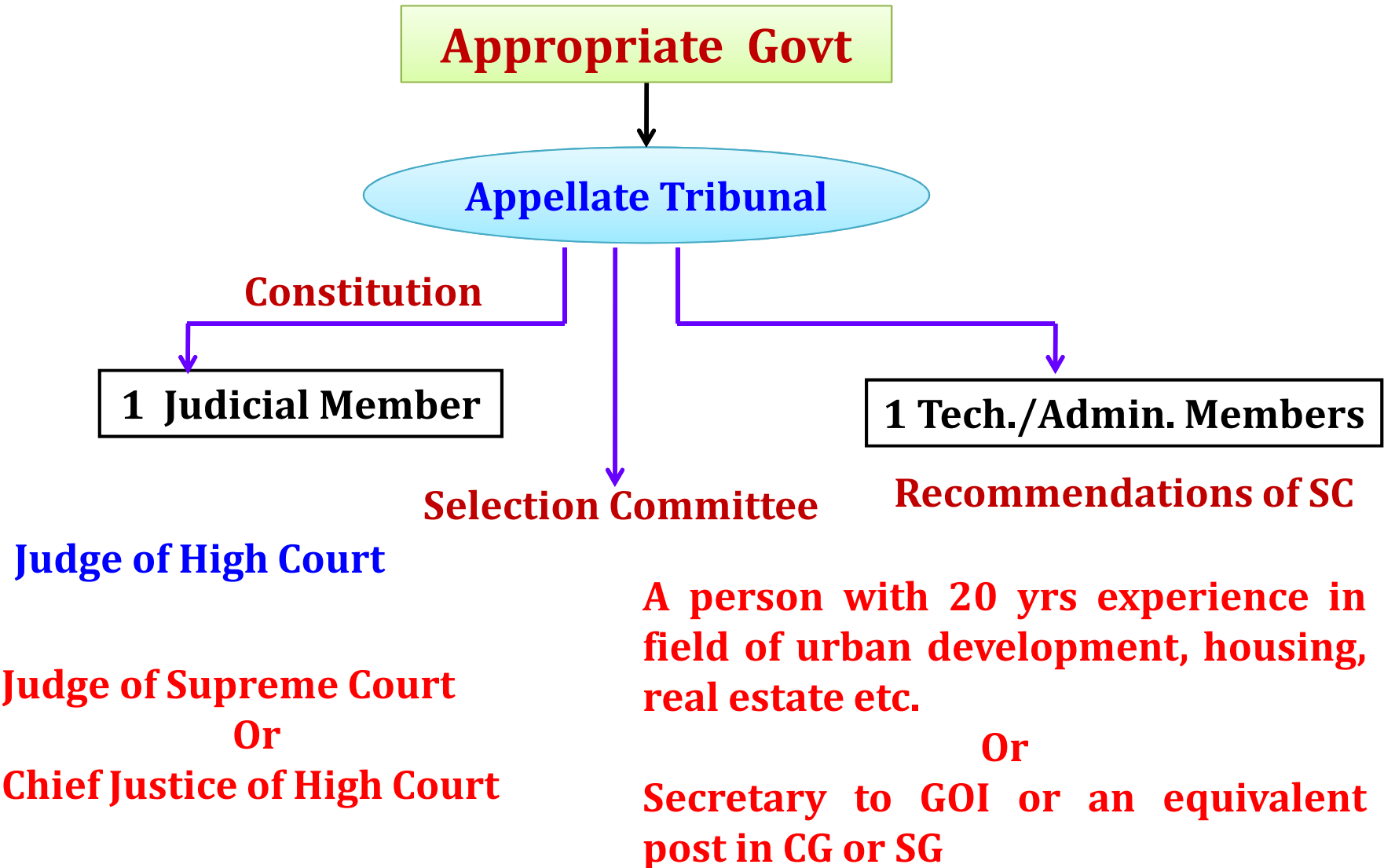




# Establishment of Appellate Tribunal

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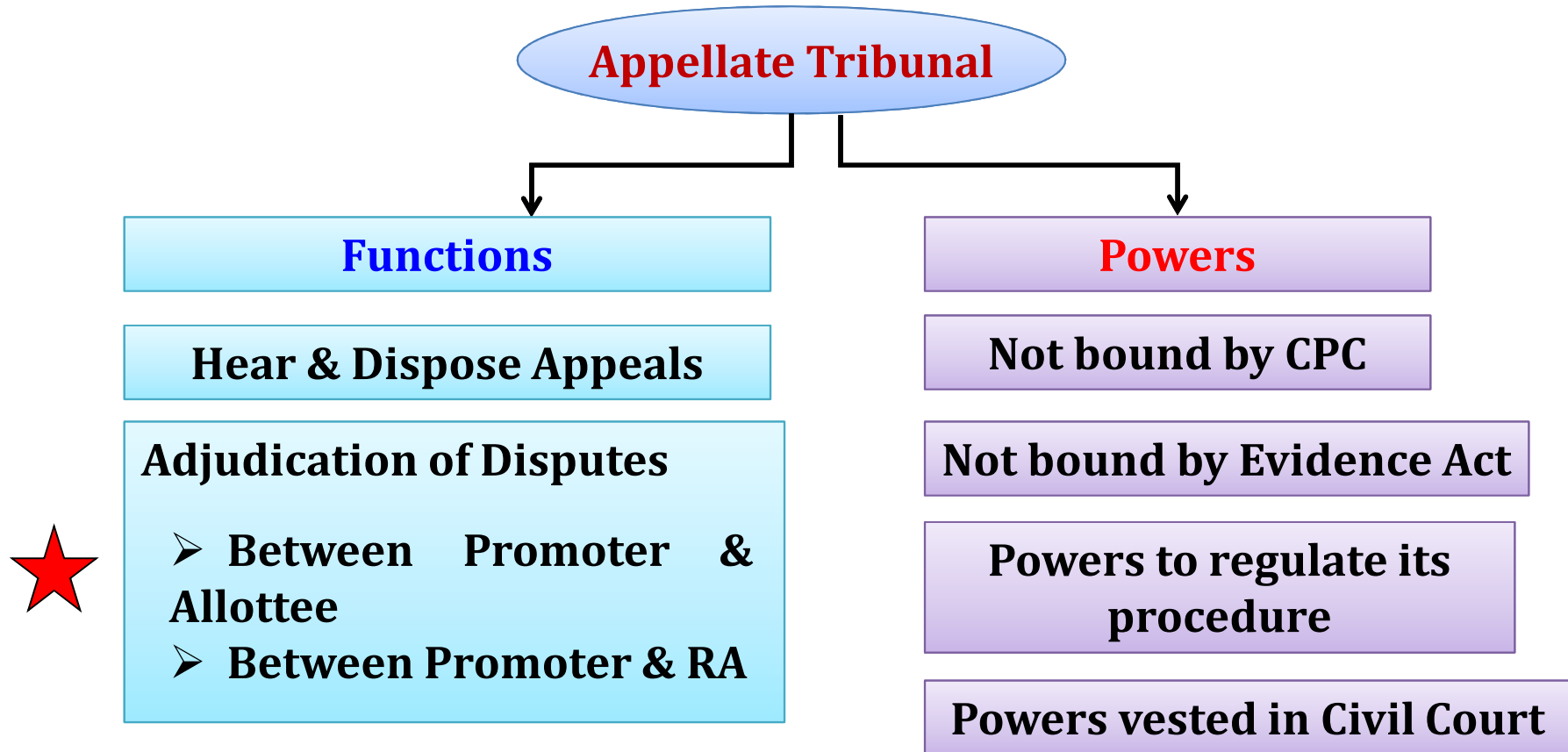
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# *Powers & Functions of Appellate Tribunal*

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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.

# OFFENCES AND PENALTIES

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## OFFENCES, PENALTIES AND ADJUDICATION

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graph TD; A[OFFENCES, PENALTIES AND ADJUDICATION] --> B[Compounding of Offences]; A --> C[Power to Adjudicate]; B --- D([The offences may be compounded notwithstanding anything contained in the Code of Criminal Procedure, 1973.]); C --- E([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.])])])])
```

### Compounding of Offences

**The offences may be compounded notwithstanding anything contained in the Code of Criminal Procedure, 1973.**

### 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.**

# KEY CENTRAL LEGISLATIONS PERTAINING TO REAL ESTATE ARE

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Indian Stamp Act



Indian Easements Act, 1882:



Indian Contract Act, 1872 (“ICA”):

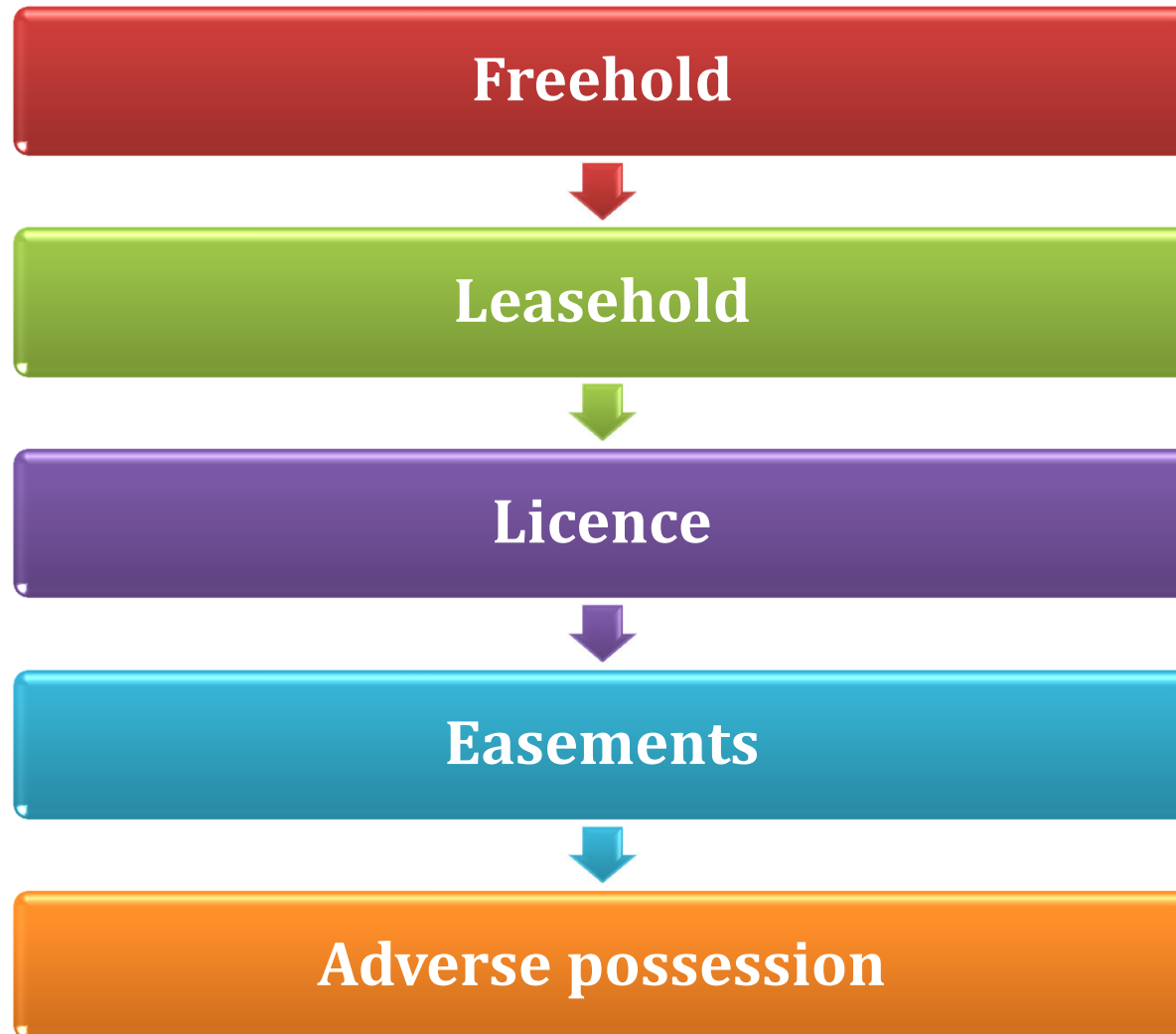


# Types of rights over land recognised in India?

- Purely contractual between the parties

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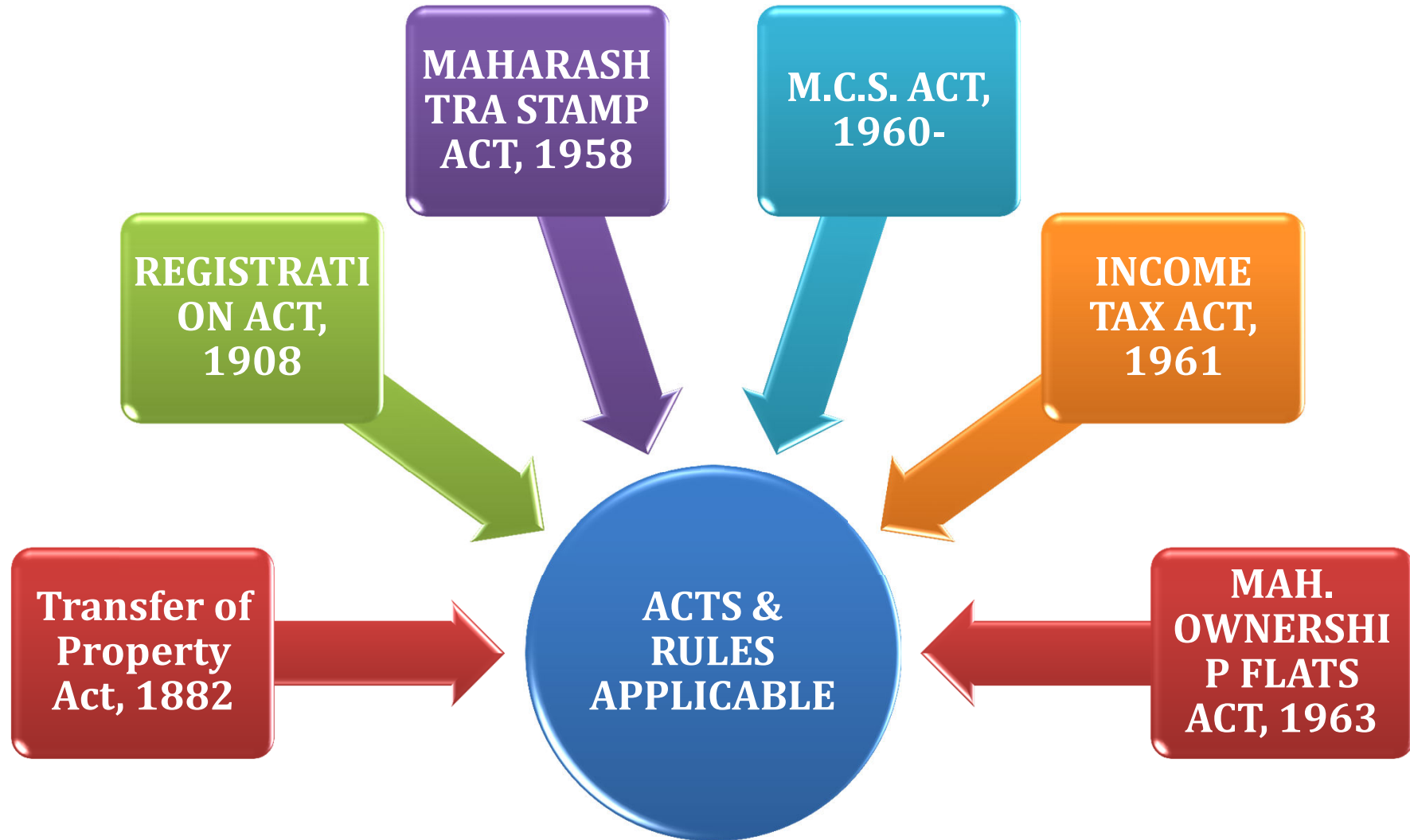
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# ACTS & RULES APPLICABLE

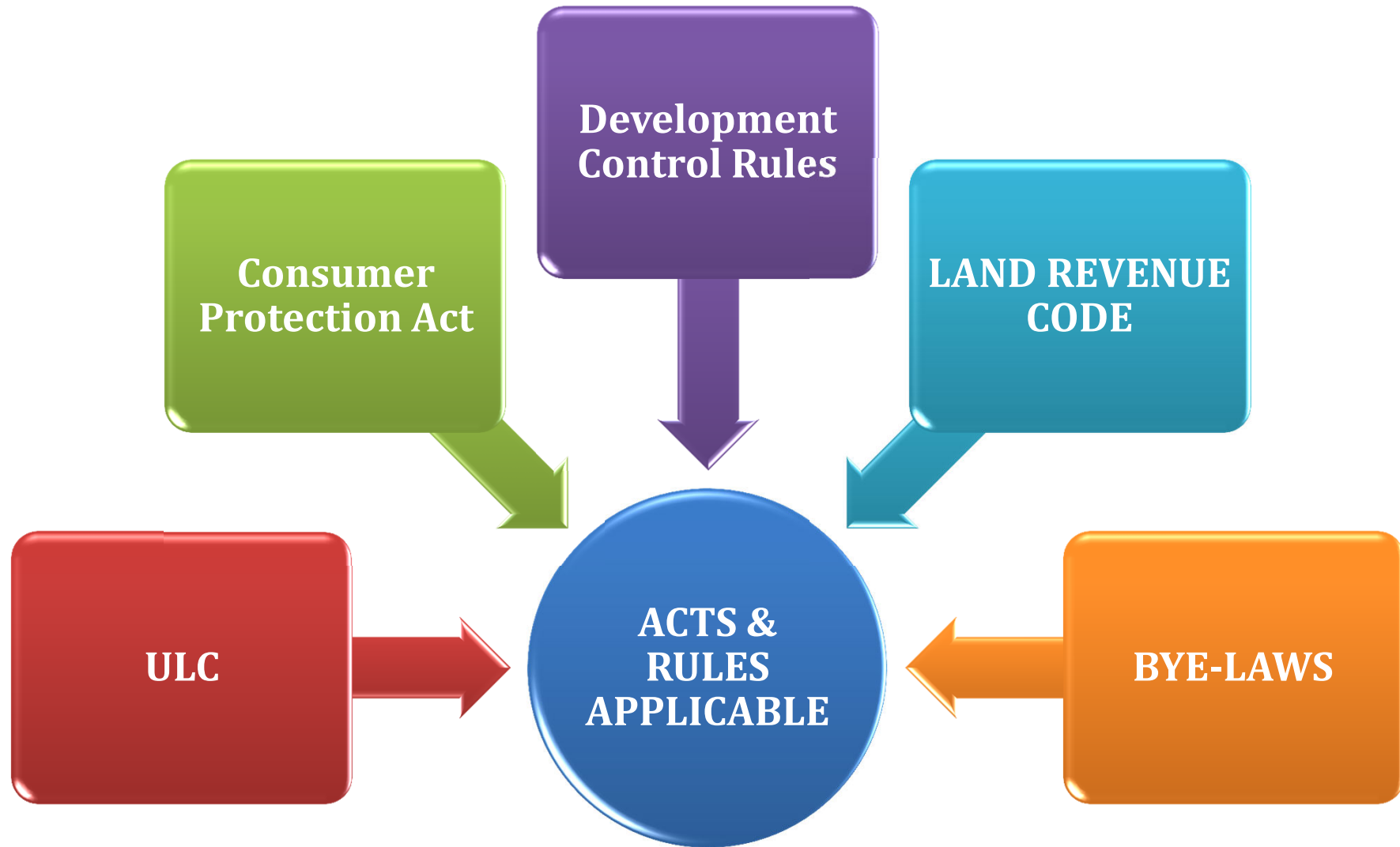
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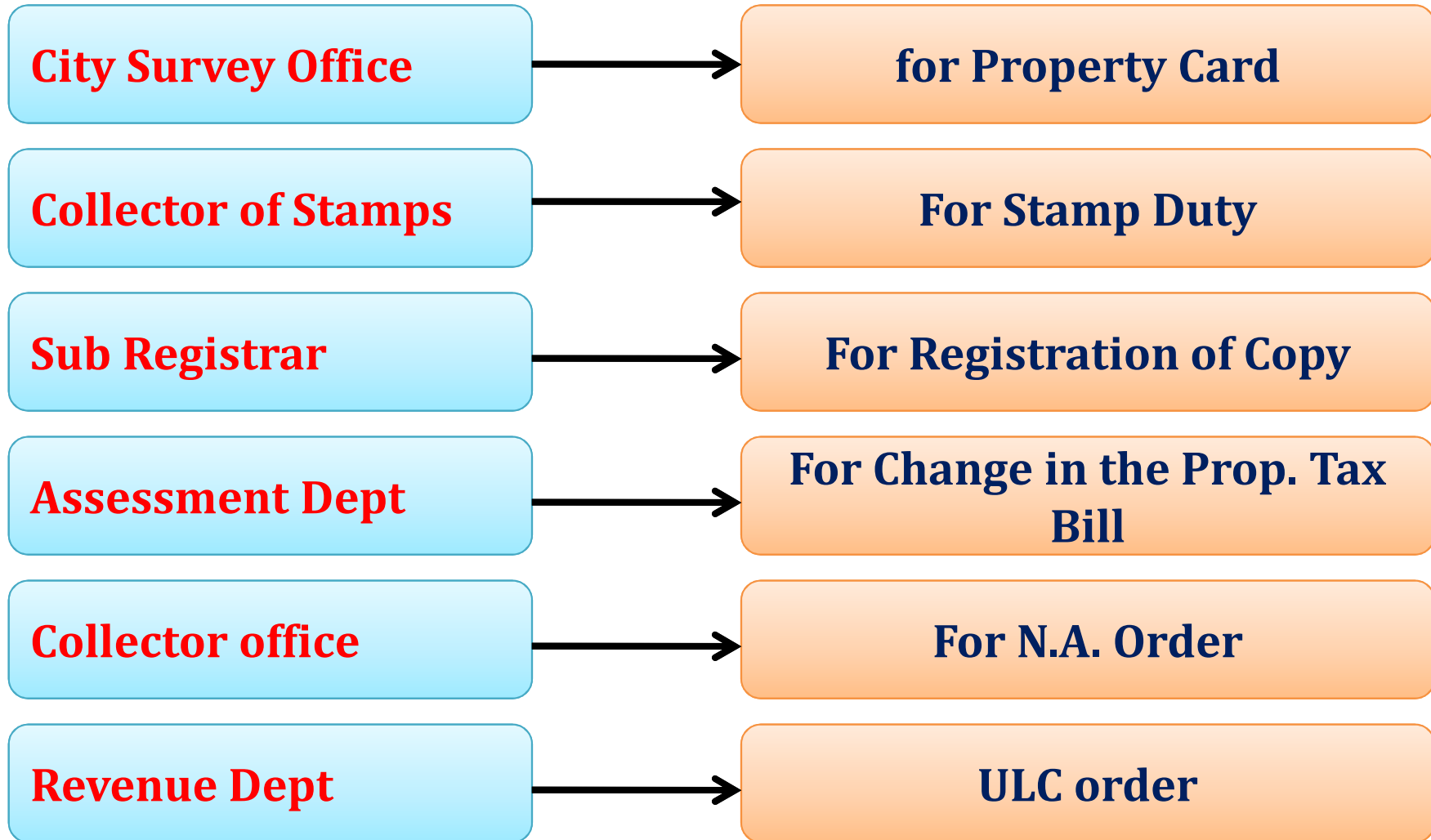
# ACTS & RULES APPLICABLE

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# DEPARTMENT TO BE VISITED

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**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