

WIRC of ICAI

Refresher Course on MahaRERA Practice and Professional Opportunities

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LAWS EVOLVED IN PROPERTY TRANSACTION

- **Contract Act 1872 –General**
- **Transfer of Property Act,1882**
- **Indian Stamp Act, 1899**
- **Registration Act, 1908**
- **Cooperative Societies Act 1912**
- **Mah.Ownership Flats Act, 1963**
- **Consumer Protection Act 1986**
- **Real Estate(Reg & Dev) Act, 2016**

THE MAHARASHTRA OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) ACT, 1963

- **Flat Owners get Statutory Rights**
- **Can demand Building relevant papers**
- **Get the Agreement Registered**
- **Agreement in Specific Format**
- **Maintain property till society formed**

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 !**



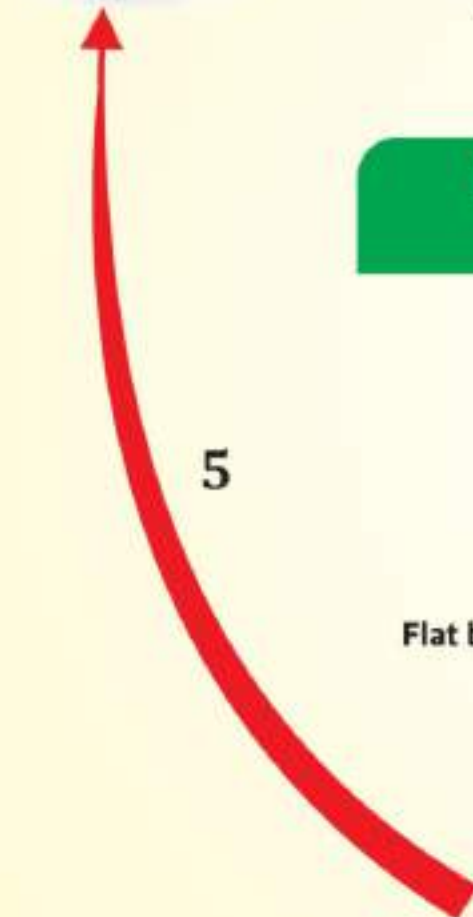
Flat buyer, RTI activist & common man may file RTI applications
& write complaints to **GOVERNMENT**,
and struggles to get orders passed against builder.

and / or

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

5

3



WORKING OF RERA 2016

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



सत्यमेव जयते

**Court Orders
or Punishment**
10

**State Government
Direction or Action**
5



**Competent
Authority**

**Real Estate Regulatory Authority Ensures
Compliance & Enforcement**

APPELLATE TRIBUNAL



**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.



SUPREME COURT OF INDIA **on Constitutional Validity of RERA**

Nearly 40 petitions in different High Courts.

**Union Govt filed a Transfer Petition (Civil)
Nos. 1448- 1456 of 2017**

Held :

- (1) The Bombay High Court to hear all the petitions**
- (2) Decide the petitions within 2 months**

BOMBAY HIGH COURT WP 2737 of 2017
on Constitutional Validity of RERA

• **Neelkamal Realtors Suburban Pvt. Ltd.**

Vs.

Union of India and ors.

• **Held on : DECEMBER 06, 2017**

Challenged :

(1) RERA violative of the provisions of Articles 14, 19(1)(g), 20 and 300-A of the Constitution of India.

(2) Most of the sections of RERA

BOMBAY HIGH COURT WP 2737 of 2017

on Constitutional Validity of RERA

- **Held :**
- **All the provisions of RERA constitutionally valid and directed to register the on going projects and comply with RERA.**
- **Section 6 regarding extension of the registration as against one year, the RERA to decide on case to case basis.**
- **Appellate Tribunal U/s 43 to have two judicial members as against earlier one.**

SUPREME COURT :WP 43 OF 2019

- **Pioneer Urban Land and Infrastructure Ltd**
- **Vs**
- **Union of India & Others**
- **Order Dated: 9th August, 2019**
- **Challenged Home Buyers as Financial Creditors under IBC, 2016 while RERA in place.**
- **Held :**
- **The Amendment to the Code include Home Buyers as financial creditor u/s 5(8)(f) does not infringe Articles 14, 19(1)(g) read with Article 19(6), or 300-A of the Constitution of India.**

SUPREME COURT : WP 43 OF 2019

- **Held :**
- **The RERA is to be read harmoniously with the Code**
- **In the event of conflict that the Code will prevail over the RERA.**
- **Concurrent remedies to Allottees:**
 - (a) Consumer Protection Act, 1986,**
 - (b) RERA**
 - (c) Triggering of the Code.**
- **Directed the Chief Secretaries of all the states/ UT to appoint Permanent Authority/Tribunal in 3 months as per RERA.**

Professional Opportunities under RERA

- Consultancy
- Compliance
- Complaint Handling
- Complex situations

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



Let us be Partner in Nation Building

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Let us empower each one of us by sharing knowledge. Let us Innovate, Get involved & Solve issues collectively within four corners of Law.

Thank you for Getting involved in the discussion!

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CHAIRMAN

MAHARASHTRA SOCIETIES WELFARE ASSOCIATION, CO-OPTED MEMBER OF TASK FORCE FOR NPOS & Co-OPS OF MAHARASHTRA, CONVENER TO PREPARE GUIDANCE NOTE ON AUDIT OF DISTRICT AND STATE CO-OP BANKS –PUBLISHED BY PDC OF ICAI, CO-OPTED MEMBER OF CO-OP COMMITTEE (MAHARASHTRA) OF WIRC OF ICAI.