



LECTURE MEETING



REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016



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सत्यमेव जयते

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PART II — Section 1

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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



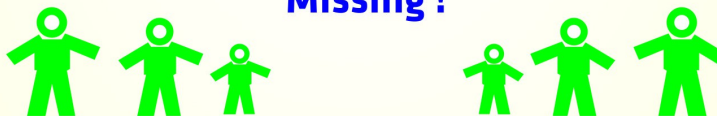
सत्यमेव जयते

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**

5

3



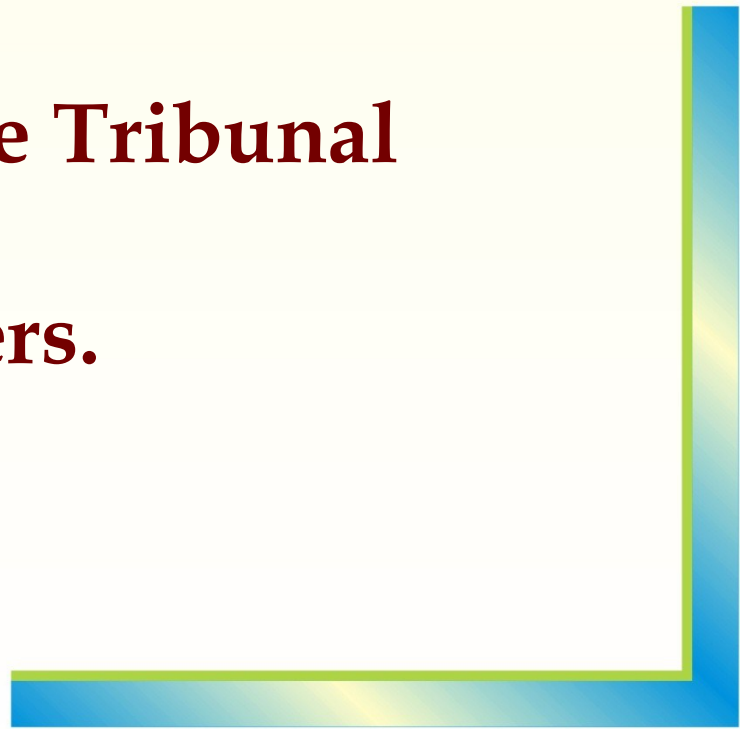
Complete Regulations of Real Estates in India.

- **Flat Owners to get Statutory Rights**
- **Can get relevant papers at one place**
- **Verify about the title**
- **Get the Agreement Registered on payment of more than 10% of the cost**
- **Regulate the amount collected from the consumers in a separate Escrow A/c.**



Complete Scheme Complete Regulations of Real Estates in India

- **Bar of other Civil jurisdiction**
- **To establish a Regulatory Authority**
- **To Establish an Appellate Tribunal**
- **Protect all the stakeholders.**



WORKING OF RERA 2016

DUTY OF BUILDER TO DISCLOSE VARIOUS DOCUMENT, PLANS ETC.

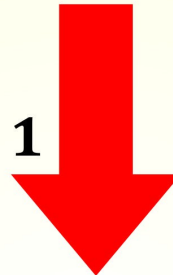


Court Orders
or Punishment
10

State Government
Direction or Action
5



सत्यमेव जयते



Competent
Authority

6

4

Housing Regulatory Authority
Ensures Compliance & Enforcement

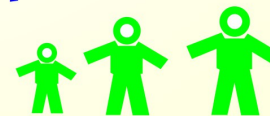
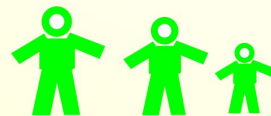


3

Appellate Authority



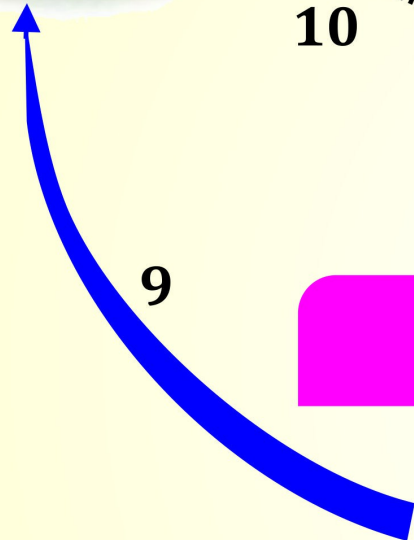
Compliance & Service delivery as per Agreement
Rules & Laws is Improved



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

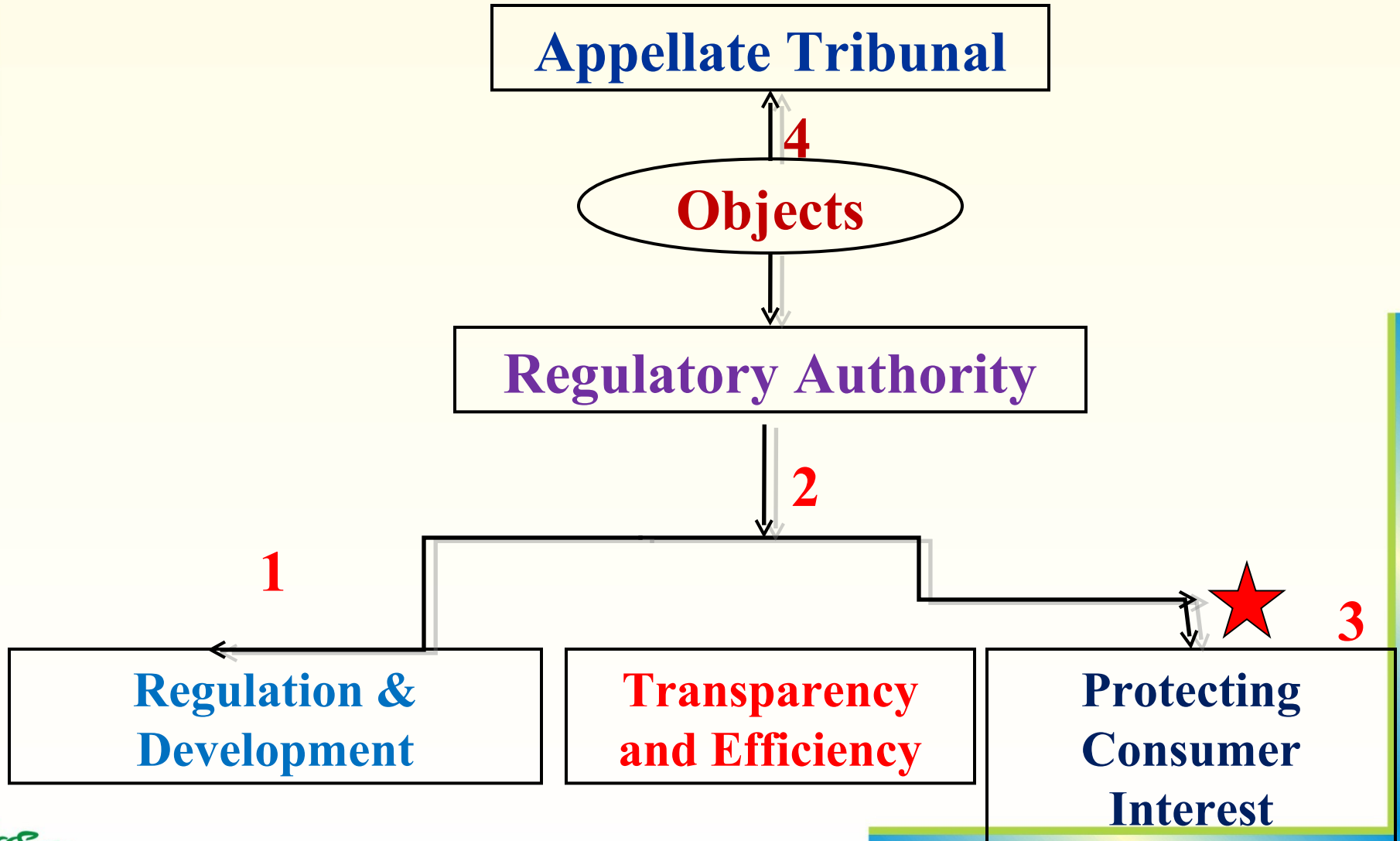
REGULATORY AUTHORITY & APPELLATE AUTHORITY,


to get orders passed against builder.




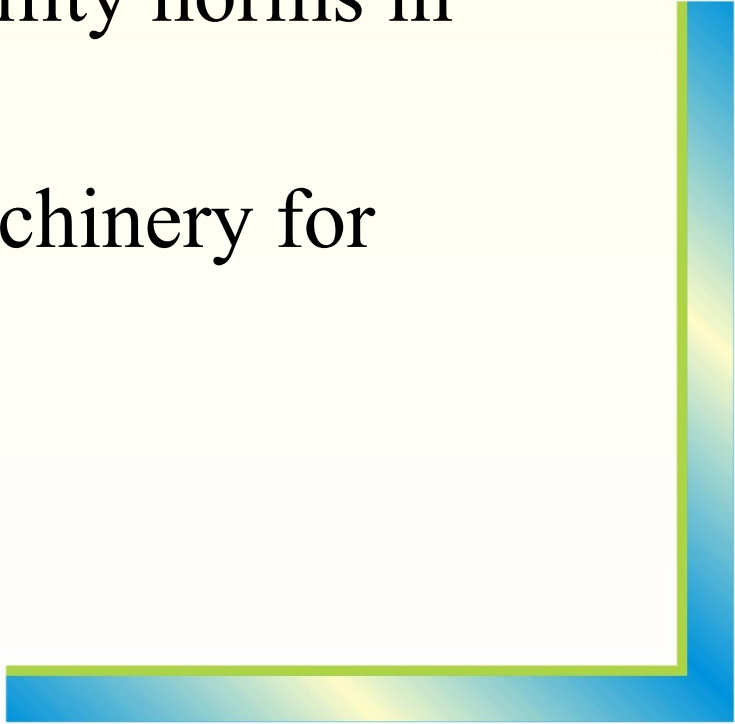
THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT , 2016

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





The Real Estate (Regulation & Development) Act, 2016


- Seeks to establish a regulatory oversight mechanism to enforce disclosure,
 - Fair practice and accountability norms in the real estate sector, and
 - To provide adjudication machinery for speedy dispute redressal.
- 
- 



The Real Estate (Regulation & Development) Act, 2016


- The Act aims at restoring confidence of the general public in the real estate sector;
- by instituting transparency and accountability in real estate and housing transactions.

Currently, the real estate and housing sector is largely unregulated and unclear, with consumers often unable to procure complete information, or enforce accountability against builders and developers in the absence of effective regulation.






The Real Estate (Regulation & Development) Act, 2016

- The sector, in recent years, has also emerged as a source of black money and corruptions in the economy.
 - The Act is expected to ensure greater accountability towards consumers, bring transparency and fairness in transactions and reduce frauds and delays significantly.
 - All of these factors would make a sizable dent in the corruption in this sector.
- 



The Real Estate (Regulation & Development) Act, 2016

- The Act is also expected to promote regulated and orderly growth through efficiency,
 - professionalism and standardization.
 - It seeks to ensure consumer protection, without adding another stage in the procedure for sanctions
- 

The salient features of the Real Estate (Regulation & Development) Act, 2016 are

- Establishment of a 'Real Estate Regulatory Authority' (RERA) in each State by the Appropriate Government (Centre for the UTs and State Governments in the case of the States), with specified functions, powers, and responsibilities to facilitate the orderly and planned growth of the sector;
- Mandatory registration of Real Estate Projects and Real Estate Agents with the Real Estate Regulatory Authority as a system of accreditation;

The salient features of the Draft Real Estate (Regulation & Development) Act are

- Mandatory public disclosure norms for all registered developers, including details of developer, project, land status , statutory approvals and contractual obligations;
- Obligations of promoters to adhere to approved plans and project specifications, and to refund moneys in cases of default;
- Obligation of allottee to make necessary payments and other charges agreed to under the agreement and payment of interest in case of any delay;

The salient features of the Real Estate (Regulation & Development) Act are

- Provision to compulsorily deposit of 70% portion of funds received from the allottees in a separate bank account, to be used for that real estate project only;
- The Authority to act as the nodal agency to coordinate efforts regarding development of the real estate sector and render necessary advice to the appropriate Government to ensure the growth and promotion of a transparent, efficient and competitive real estate sector; as also establish dispute resolution mechanisms for settling disputes between promoters and allottees/ buyers;

The salient features of the Real Estate (Regulation & Development) Act, 2016 are

- Authorities to comprise of one Chairperson and not less than two members having adequate knowledge and experience of the sector;
- Establishment of a 'Real Estate Appellate Tribunal' by the Appropriate Government to hear appeals from the orders of the Authority and to adjudicate on disputes. Tribunal to have one Judicial member and another could be technical or Administrative member.

The salient features of the Real Estate (Regulation & Development) Act, 2016 are

- Penal provisions to ensure compliance with orders of the Authority and Tribunal;
- Jurisdiction of Civil Courts barred on matters which the Authority or the Tribunal is empowered to determine;
- States to have powers to make rules over subjects specified in the Act and the Regulatory Authority to have powers to make regulations;
- Powers to Central Government to issue directions to States on matters specified in the Act have also been specified.

Professional Opportunities

- Advising the Real Estate Developers about the Real Estate Regulations.
- Registration of the project with the Real Estate Regulatory Authority after complying with all the requirements.
- File Quarterly Returns on the website about the progress of the work and the sale effected.

Professional Opportunities

- Certifying the Cost of the Project and also certifying the amount that can be withdrawn from the Escrow Account of the Project and other compliances.
- Advising the Flat Buyers by going through the website about the risks involved.
- Audit of every project account by the CA.
- Representing before the Real Estate Regulatory Authority and Appellate Tribunal on behalf the Flat buyers or Developer.

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
- water supplies

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

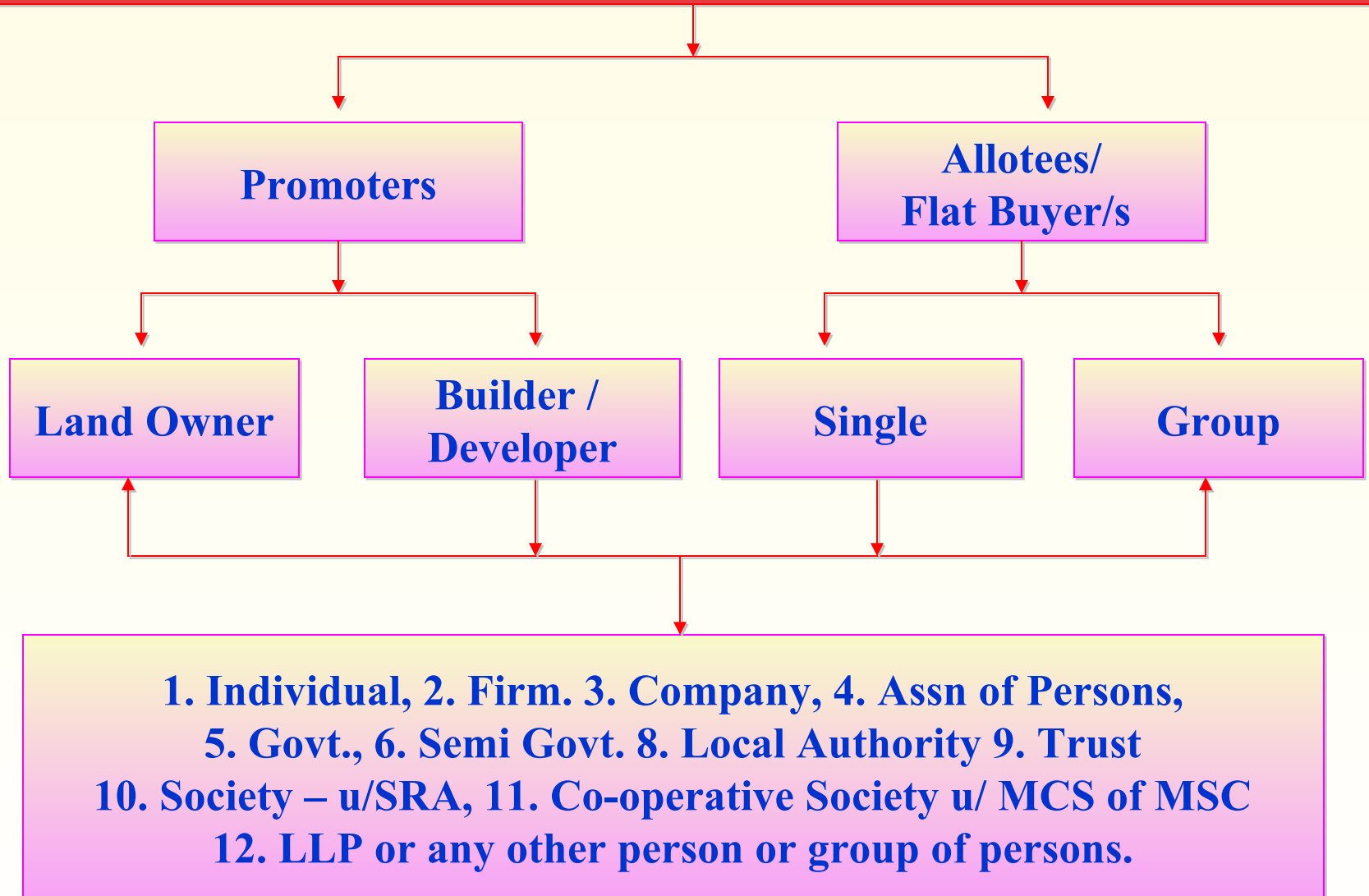
- Adulteration of foodstuffs,
- (46) Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List

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

THE REAL ESTATE (REGULATION & DEVELOPMENT) Act, 2016

- **Consists of 92 sections**
- **X Chapters**
- **To have Uniform regulations for construction activities all over India**
- **Rules to be framed by Approp. Govt**
- **Regulations to be issued by RERA**
- **Notifications from time to time.**

PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE



OBLIGATION OF THE BUILDER

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

REMEDIES WITH REGULATORY AUTHORITY

FOR VIOLATION OF STATUTORY OBLIGATIONS BY THE
Parties

Promoters

Allotees/
Consumers

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**

**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. 3 COMPULSORY REGISTRATION OF REAL ESTATE PROJECT

- 1. THE PROMOTER CARRING ON REAL ESTATE BUSINESS SHOULD APPLY WITHIN 3 MONTHS FROM THE COMMENCEMENT OF THE ACT.**
- 2. ONCE APPLICATION IS MADE PROMOTER TO CARRY ON BUSINESS UNTIL GRANTED CERTIFICATE OF REGISTRATION OR HIS APPLICATION FOR REGISTRATION IS REJECTED**



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.



FORMATION OF LEGAL ENTITY .

TO MANAGE COMMON SERVICES,
AREA & FACILITIES

Society or
Federation

Company

Condominium

Other
Legal Entity

Mah.Co-op.
Soc.Act, 1960
At Dy. Repr.

Companies Act,
1956 at ROC

Mah. Appt.
Own. Act, 1970
At Sub-Repr.

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**

Present Legal Remedies

As per Real Estate Act

**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**

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



THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016

Presenting By

CA. RAMESH S. PRABHU



Sec. 1. SHORT TITLE, EXTENT AND COMMENCEMENT.

- (1) This Act may be called the Real Estate (Regulation and Development) Act, 2016.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

SEC. 2 DEFINITIONS

In this Act, unless the context otherwise requires-

(a) "adjudicating officer" means the adjudicating officer appointed under sub-section (1) of section 71;

(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;

SEC. 2 DEFINITIONS

(c) "agreement for sale" means an agreement entered into between the promoter and the allottee;

(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

(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;

SEC. 2 DEFINITIONS

(f) "Appellate Tribunal " means the Real Estate Appellate Tribunal established under section 43;

(g) "appropriate Government" means in respect of matters relating to,—

- (i) the Union territory without Legislature, the Central Government;
- (ii) the Union territory of Puducherry, the Union territory Government;
- (iii) the Union territory of Delhi the Central Ministry of Urban Development;
- (iv) the State, the State Government;

SEC. 2 DEFINITIONS

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

(i) "Authority" means the Real Estate Regulatory Authority established under sub-section (1) of section 20;

(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

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"

SEC. 2 DEFINITIONS

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;

(l) "Chairperson" means the Chairperson of the Real Estate Regulatory Authority appointed under section 21;

(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

SEC. 2 DEFINITIONS

immovable property, as per the sanctioned plan;

(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;

SEC. 2 DEFINITIONS

- (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;
- (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;

SEC. 2 DEFINITIONS

- (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;
- (o) "company" means a company incorporated and registered under the Companies Act, 2013 and includes,—
 - (i) a corporation established by or under any Central Act or State Act;
 - (ii) a development authority or any public authority established by the Government in this

SEC. 2 DEFINITIONS

behalf under any law for the time being in force;

(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;

(q) "completion certificate" means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority

SEC. 2 DEFINITIONS

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;

(r) "day" means the working day, in the concerned State or Union territory as the case may be, notified by the appropriate Government from time to time;

(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

SEC. 2 DEFINITIONS

making of any material change in any immovable property or land and includes re-development;

(t) "development works" means the external development works and internal development works on immovable property;

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

SEC. 2 DEFINITIONS

(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;

(w) "external development works" includes roads and road systems landscaping, water supply, sewage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;

SEC. 2 DEFINITIONS

(x) "family" includes husband, wife, minor son and unmarried daughter wholly dependent on a person;

(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

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.—For the purpose of this clause—

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and

SEC. 2 DEFINITIONS

interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

(zb) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal water conservation, energy management, fire protection and fire safety requirements, social

SEC. 2 DEFINITIONS

infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

(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;

(zd) "Member" means the member of the Real Estate

SEC. 2 DEFINITIONS

includes the Chaiperson;

(ze) "Notification" means a notification published in the Official Gazettee and the expression "notify" shall be construed accordingly;

(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;

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 Limited Liability Partnership 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;

SEC. 2 DEFINITIONS

(viii) any such other entity as the appropriate Government may, by notification, specify in this behalf;

(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

SEC. 2 DEFINITIONS

time being in force and as revised from time to time;

(zi) "prescribed" means prescribed by rules made under this Act;

(zj) "project" means the real estate project as defined in clause (zn);

(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

SEC. 2 DEFINITIONS

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
- (iii) any development authority or any other public body in respect of allottees of—
 - (a) buildings or apartments, as the case may

SEC. 2 DEFINITIONS

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

SEC. 2 DEFINITIONS

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

SEC. 2 DEFINITIONS

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;

(zl) "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

(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

SEC. 2 DEFINITIONS

may be, and includes property dealers, brokers, middlemen by whatever name called;

(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

(zo) "regulations" means the regulations made by the Authority under this Act;

(zp) "rule" means the rules made under this Act by the appropriate Government;

(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

SEC. 2 DEFINITIONS

approved by the competent authority prior to start of a real estate project;

(zr) "words and expressions used herein but not defined in this Act and defined in any law for the time being in force or in the municipal laws or such other relevant laws of the appropriate Government shall have the same meanings respectively assigned to them in those laws.



CHAPTER II

REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS






SEC. 3 PRIOR REGISTRATION OF REAL ESTATE PROJECT WITH REAL ESTATE REGULATORY AUTHORITY.

(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued the






SEC. 3 PRIOR REGISTRATION OF REAL ESTATE PROJECT WITH REAL ESTATE REGULATORY AUTHORITY.

promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this



SEC. 3 PRIOR REGISTRATION OF REAL ESTATE PROJECT WITH REAL ESTATE REGULATORY AUTHORITY.

Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in subsection (1), no registration of the real estate project shall be required:—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive

SEC. 3 PRIOR REGISTRATION OF REAL ESTATE PROJECT WITH REAL ESTATE REGULATORY AUTHORITY.

of all phases:

Provided that, if the appropriate Government considers it necessary, it may reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act:


(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;



SEC. 3 PRIOR REGISTRATION OF REAL ESTATE PROJECT WITH REAL ESTATE REGULATORY AUTHORITY.

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment plot or building, as the case may be under the real estate project;

Explanation.—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.



SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

(1) Every promoter shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be specified by the regulations made by the Authority.

(2) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely:—

(a) a brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership,

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

companies, competent authority), and the particulars of registration, and the names and photographs of the promoter;

(b) a brief detail of the projects launched by him, in the past five years, whether already completed or being developed as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending details of type of land and payments pending.

(c) an authenticated copy of the approvals and commencement certificate from the competent

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

authority obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases;

- (c) the sanctioned plan, layout plan and specifications of the proposed project or the phase thereof, and the whole project as sanctioned by the competent authority;

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

- (d) the sanctioned plan, layout plan and specifications of the proposed project or the phase thereof, and the whole project as sanctioned by the competent authority;
- (e) the plan of development works to be executed in the proposed project and the proposed facilities to be provided thereof including fire fighting facilities drinking water facilities, emergency evacuation services, use of renewable energy;
- (f) the location details of the project with clear demarcation of land dedicated for the project along-with its boundaries including the latitude

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

- and longitude of the end points of the project;
- (g) proforma of the allotment letter, agreement for sale, and the conveyance deed proposed to be signed with the allottees;
- (h) the number, type and the carpet area of apartments for sale in the project along with the area of the exclusive balcony or verandah areas and the exclusive open terrace areas apartment with the apartment, if any;
- (i) the number and areas of garage for sale in the project;

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

- (k) the names and addresses of the contractors, architect, structural engineer, if any and other persons concerned with the development of the proposed project;
- (l) a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating:—
 - (A) that he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person;

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

- (B) that the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;
- (C) the time period within which he undertakes to complete the project or phase thereof, as the case may be;
- (D) that seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

architect and chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

Explanation.— For the purpose of this clause, the term "schedule bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

(E) that he shall take all the pending approvals on time, from the competent authorities:

(F) that he has furnished such other

SEC. 4 APPLICATION FOR REGISTRATION OF REAL ESTATE PROJECT

documents as may be prescribed by the rules or regulations made under this Act; and

- (m) such other information and documents as may be prescribed.
- (3) The Authority shall operationalise a web based online system for submitting application for registration of projects within a period of one year from the date of its establishments.

SEC. 5 GRANT OF REGISTRATION.

(1) On receipt of the application under sub-section (1) of section 4, the Authority shall within a period of thirty days.

(a) grant registration subject to the provisions of this Act and the rules and regulations made thereunder, and provide a registration number, including a Login Id and password to the applicant for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project; or

(b) reject the application for reasons to be recorded in writing, if such application does not conform to

SEC. 5 GRANT OF REGISTRATION.

the provisions of this Act or the rules or regulations made thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(2) If the Authority fails to grant the registration or reject the application, as the case may be, as provided under sub-section (1), the project shall be deemed to have been registered, and the Authority shall within a period of seven days of the expiry of the said period of thirty 30 days specified under sub-section (1) , provide a registration number and a Login Id and

SEC. 5 GRANT OF REGISTRATION.

password to this promoter for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project.

(3) The registration granted under this section shall be valid for a period declared by the promoter under sub-clause (C) of clause (1) of sub-section (2) of section 4 for completion of the project or phase thereof, as the case may be.

SEC. 6 EXTENSION OF REGISTRATION

The registration granted under section 5 may be extended by the Authority on an application made by the promoter due to force majeure in such form and on payment of such fee as may be specified by regulations made by the Authority:

Provided that the Authority may in reasonable circumstances without default on the part of the promoter based on the facts of each case, and for reasons to be recorded in writing extend the registration granted to a project for such time as it considers necessary, which shall in aggregate not exceed a period of one year:

SEC. 6 EXTENSION OF REGISTRATION

Provided further that no application for extension of registration shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

Explanation.— For the purpose of this section the expression "force majeure" shall mean a case of war, flood, drought, fire, cyclone earthquake or any other calamity caused by nature affecting the regular development of the real estate project.



SEC. 7 REVOCATION OF REGISTRATION

- (1) The Authority may, on receipt of a complaint or suo motu in this behalf or on the recommendation of the competent authority, revoke the registration granted under section 5, after being satisfied that—
- (a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder;
 - (b) the promoter violates any of the terms or conditions of the approval given by the competent authority;
 - (c) the promoter is involved in any kind of unfair practice or irregularities.

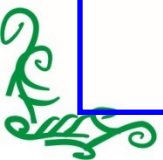




SEC. 7 REVOCATION OF REGISTRATION

Explanation:— For the purposes of this clause, the term "unfair practice means" a practice which, for the purpose of promoting the sale or development of any real estate 10 project adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—

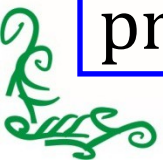
- (A) the practice of making any statement, whether in writing or the visible representation which;
 - (i) falsely represents that the services are of a particular standard or grade;
 - (ii) represents that the promoter has approval or affiliation which such promoter does not have;





SEC. 7 REVOCATION OF REGISTRATION

- (iii) makes a false or misleading representation concerning the services;
 - (B) the promoter permits the publication of any advertisement or prospectus whether in any newspaper or otherwise of services that are not intended to be offered;
 - (d) the promoter indulges in any fraudulent practice
- (2) The registration granted to the promoter under section 5 shall not be revoked unless the Authority has given to the promoter not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the registration, and has





SEC. 7 REVOCATION OF REGISTRATION

considered any cause shown by the promoter within the period of that notice against the proposed revocation.

(3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.

(4) The Authority upon the revocation of the registration





SEC. 7 REVOCATION OF REGISTRATION

- (a) shall debar the promoter from accessing its website in relation to that project and specify his name in the list of defaulters and display his photograph on its website and also inform the other Real Estate Regulatory Authority in other States and Union territories about such revocation or registration;
- (b) shall facilitate the remaining development works to be carried out in accordance with the provisions of section 8;
- (c) shall direct the bank holding the project back account, specified under sub- clause (D) of clause





SEC. 7 REVOCATION OF REGISTRATION

- (I) of sub-section (2) of section 4, to freeze the account and thereafter take such further necessary actions, including consequent de-freezing of the said account, towards facilitating the remaining development works in accordance with the provisions of section 8;
- (d) may, to protect the interest of allottees or in the public interest, issue such directions as it may deem necessary.





SEC. 8 OBLIGATION OF AUTHORITY CONSEQUENT UPON LAPSE OF OR ON REVOCAION OF REGISTRATION

Upon lapse of the registration or on revocation of the registration under this Act, the Authority, may consult the appropriate Government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any other manner, as may be determined by the Authority:

Provided that no direction, decision or order of the






SEC. 8 OBLIGATION OF AUTHORITY CONSEQUENT UPON LAPSE OF OR ON REVOCAION OF REGISTRATION

Authority under this section shall take effect until the expiry of the period of appeal provided under the provisions of this Act:

Provided further that in case of revocation of registration of a project under this Act, the association of allottees shall have the first right of refusal for carrying out of the remaining development works.





SEC. 9 REGISTRATION OF REAL ESTATE AGENTS.

(1) No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being the part of the real estate project registered under section 3, being sold by the promoter in any planning area, without obtaining registration under this section.

(2) Every real estate agent shall make an application to the Authority for registration in such form, manner,



SEC. 9 REGISTRATION OF REAL ESTATE AGENTS.

within such time and accompanied by such fee and documents as may be prescribed.

(3) The Authority shall, within such period, in such manner and upon satisfying itself of the fulfillment of such conditions, as may be prescribed—

- (a) grant a single registration to the real estate agent for the entire State of Union territory, as the case may be;
- (b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of the Act or the rules or



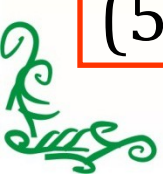
SEC. 9 REGISTRATION OF REAL ESTATE AGENTS.

regulations made thereunder:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(4) Whereon the completion of the period specified under sub-section (3), if the applicant does not receive any communication about the deficiencies in his application or the rejection of his application, he shall be deemed to have been registered.

(5) Every real estate agent who is registered as per



SEC. 9 REGISTRATION OF REAL ESTATE AGENTS.

granted registration under this Act commits breach of any of the conditions thereof or any other terms and conditions specified under this Act or any rules or regulations made thereunder, or where the Authority is satisfied that such registration has been secured by the real estate agent through misrepresentation or fraud, the Authority may, without prejudice to any other provisions under this Act, revoke the registration or suspend the same for such period as it thinks fit:

Provided that no such revocation or suspension shall be made by the Authority unless an opportunity of being heard has been given to the real estate agent.

SEC. 10 FUNCTIONS OF REAL ESTATE AGENTS.

Every real estate agent registered under section 9 shall—

(a) not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority;

(b) maintain and preserve such books of account, records and documents as may prescribed;

(c) not involve himself in any unfair trade practices, namely:—

SEC. 10 FUNCTIONS OF REAL ESTATE AGENTS.

- (i) the practice of making any statement, whether orally or in writing or by visible representation which—
 - (A) falsely represents that the services are of a particular standard or grade;
 - (B) represents that the promoter or himself has approval or affiliation which such promoter or himself does not have;
 - (C) makes a false or misleading representation concerning the services;
- (ii) permitting the publication of any advertisement

SEC. 10 FUNCTIONS OF REAL ESTATE AGENTS.

whether in any newspaper or otherwise of services that are not intended to be offered;

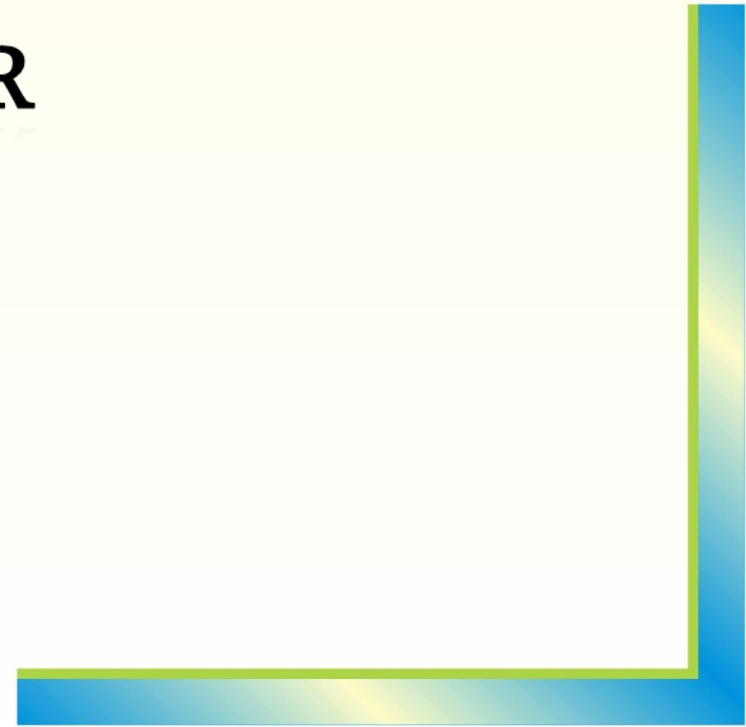
(d) facilitate the possession of all the information and documents, as the allottee, is entitled to, at the time of booking of any plot, apartment or building, as the case may be;

(e) discharge such other functions as may be prescribed.



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.

(2) The advertisement or prospectus issued or published by the promoter shall mention prominently

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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.

(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

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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.

(4) The promoter shall—

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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 or any other defect for such period as is referred to in sub-section (3) of section 14, shall

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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;

(c) be responsible to obtain the lease certificate,

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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;
- (e) enable the formation of an association or

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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;

(f) execute a registered conveyance deed of the apartment, plot or building as the case may be

SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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;


(5) The promoter may cancel the allotment only in terms of the agreement for sale: Provided that the



SEC. 11 FUNCTIONS AND DUTIES OF PROMOTER

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. 12 OBLIGATIONS OF PROMOTER REGARDING VERACITY OF THE ADVERTISEMENT OR PROSPECTUS


Where any person makes an advance or a deposit on the basis of the information contained in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as provided under this Act:





SEC. 12 OBLIGATIONS OF PROMOTER REGARDING VERACITY OF THE ADVERTISEMENT OR PROSPECTUS

Provided that if the person affected by such incorrect, false statement contained in the notice advertisement or prospectus, or the model apartment, plot or building as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under this Act.






SEC. 13 NO DEPOSIT OR ADVANCE TO BE TAKEN BY PROMOTER WITHOUT FIRST ENTERING INTO AGREEMENT FOR SALE.

(1) A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.


(2) The agreement for sale referred to in subsection (1) shall be in such form as may be prescribed and shall specify the particulars of development of the





SEC. 13 NO DEPOSIT OR ADVANCE TO BE TAKEN BY PROMOTER WITHOUT FIRST ENTERING INTO AGREEMENT FOR SALE.

project including the construction of building and apartments, along with specifications and internal development works and external development works, the dates and the manner by which payments towards the cost of the apartment, plot or building, as the case may be, are to be made by the allottees and the date on which the possession of the apartment, plot or building is to be handed over, the rates of interest payable by the promoter to the allottee and the allottee to the promoter in case of default, and such other particulars, as may be prescribed.



SEC. 14 ADHERENCE TO SANCTIONED PLANS AND PROJECT SPECIFICATIONS BY THE PROMOTER.


(1) The proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.

(2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the competent authority, are disclosed



SEC. 14 ADHERENCE TO SANCTIONED PLANS AND PROJECT SPECIFICATIONS BY THE PROMOTER.

furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the promoter shall not make—

- (i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:
- 



SEC. 14 ADHERENCE TO SANCTIONED PLANS AND PROJECT SPECIFICATIONS BY THE PROMOTER.

Provided that the promoter may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorised Architect or Engineer after proper declaration and intimation to the allottee.


Explanation.—For the purpose of this clause, "minor additions or alterations" excludes





SEC. 14 ADHERENCE TO SANCTIONED PLANS AND PROJECT SPECIFICATIONS BY THE PROMOTER.

structural change including an addition to the area or change in height, or the removal of part of a building or any change to the structure, such as the construction or removal or cutting into of any wall or a part of a wall, partition, column, beam, joist, floor including a mezzanine floor or other support, or a change to or closing of any required means of access ingress or egress or a change to the fixtures or equipment etc.



SEC. 14 ADHERENCE TO SANCTIONED PLANS AND PROJECT SPECIFICATIONS BY THE PROMOTER.

(ii) any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at-least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building.

Explanation.—For the purpose of this clause, the allottees, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or

SEC. 14 ADHERENCE TO SANCTIONED PLANS AND PROJECT SPECIFICATIONS BY THE PROMOTER.


the case of other persons such as companies or firms or any association of individuals etc. by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is



SEC. 14 ADHERENCE TO SANCTIONED PLANS AND PROJECT SPECIFICATIONS BY THE PROMOTER.

brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.






SEC. 15 OBLIGATIONS OF PROMOTER IN CASE OF TRANSFER OF A REAL ESTATE PROJECT TO A THIRD PARTY.

(1) The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from two-third allottees, except the promoter, and without the prior written approval of the Authority:

Provided that such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be, in the real estate project made by the erstwhile promoter.





SEC. 15 OBLIGATIONS OF PROMOTER IN CASE OF TRANSFER OF A REAL ESTATE PROJECT TO A THIRD PARTY.

Explanation.—For the purpose of this sub-section, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(2) On the transfer or assignment being permitted



SEC. 15 OBLIGATIONS OF PROMOTER IN CASE OF TRANSFER OF A REAL ESTATE PROJECT TO A THIRD PARTY.


by the allottees and the Authority under sub-section (1), the intending promoter shall be required to independently comply with all the pending obligations under the provisions of this Act or the rules and regulations made thereunder, and the pending obligations as per the agreement for sale entered into by the erstwhile promoter with the allottees:

Provided that any transfer or assignment permitted under provisions of this section shall not result in



SEC. 15 OBLIGATIONS OF PROMOTER IN CASE OF TRANSFER OF A REAL ESTATE PROJECT TO A THIRD PARTY.

extension of time to the intending promoter to complete the real estate project and he shall be required to comply with all the pending obligations of the erstwhile promoter, and in case of default, such intending promoter shall be liable to the consequences of breach or delay, as the case may be, as provided under this Act or the rules and regulations made thereunder.





SEC. 16 OBLIGATIONS OF PROMOTER REGARDING INSURANCE OF REAL ESTATE PROJECT

- (1) The promoter shall obtain all such insurances as may be notified by the appropriate Government, including but not limited to insurance in respect of —
- (i) title of the land and building as a part of the real estate project; and
 - (ii) construction of the real estate project.
- (2) The promoter shall be liable to pay the premium and charges in respect of the insurance specified in sub-section (1) and shall pay the same before transferring the insurance to the association of





SEC. 16 OBLIGATIONS OF PROMOTER REGARDING INSURANCE OF REAL ESTATE PROJECT

the allottees.

(3) The insurance as specified under sub-section (1) shall stand transferred to the benefit of the allottee or the association of allottees, as the case may be, at the time of promoter entering into an agreement for sale with the allottee.

(4) On formation of the association of the allottees, all documents relating to the insurance specified under sub-section (1) shall be handed over to the association of the allottees



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 of 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.

SEC. 18 RETURN OF AMOUNT AND COMPENSATION


- (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—
- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or
 - (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to



SEC. 18 RETURN OF AMOUNT AND COMPENSATION

return the amount received by him in respect of that apartment, plot, building as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.



SEC. 18 RETURN OF AMOUNT AND COMPENSATION

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in

SEC. 18 RETURN OF AMOUNT AND COMPENSATION

accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.



CHAPTER IV

RIGHTS AND DUTIES OF ALLOTTEES



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

SEC. 19 RIGHTS AND DUTIES OF ALLOTTEES

accordance with the terms and conditions of the agreement for sale.

(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 sub-section (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.



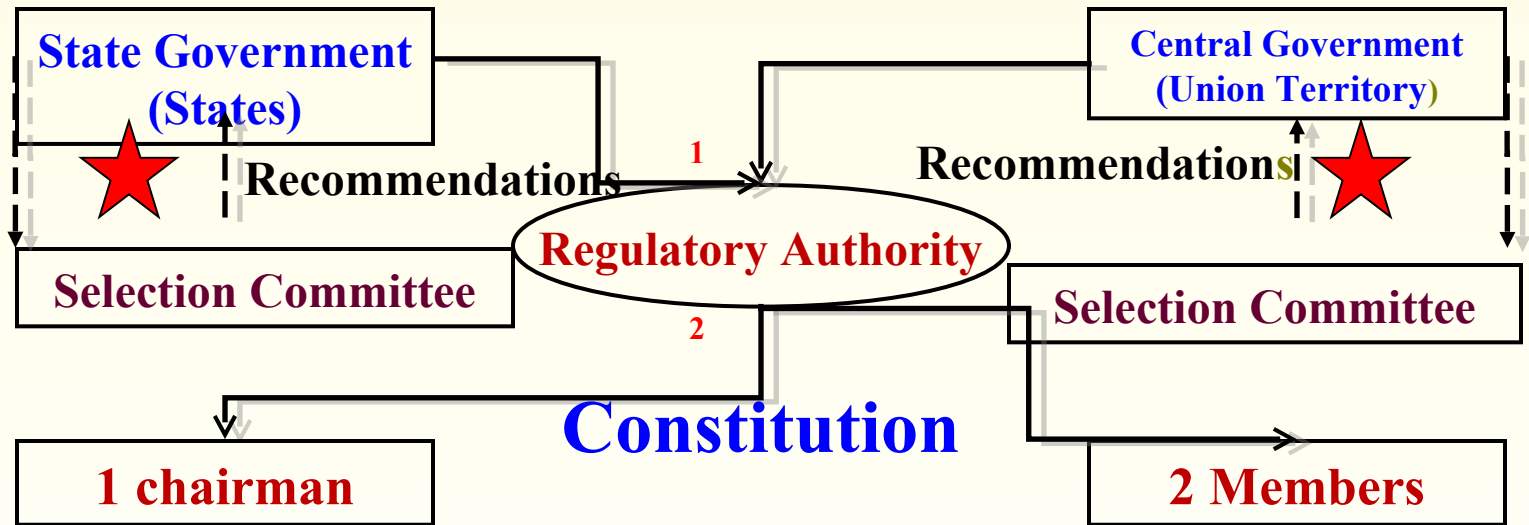
CHAPTER V

THE REAL ESTATE REGULATORY AUTHORITY



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

DEVELOPER

Granting Registration

Maintain Website

compliance of obligations

Enter names of Defaulter Developers on the website

Functions of RA

REGULATORY & RULE MAKING

Ensure compliance of Directions

Recommendations

Advise to Appropriate Govt.

Making Enquiries

CONSUMERS

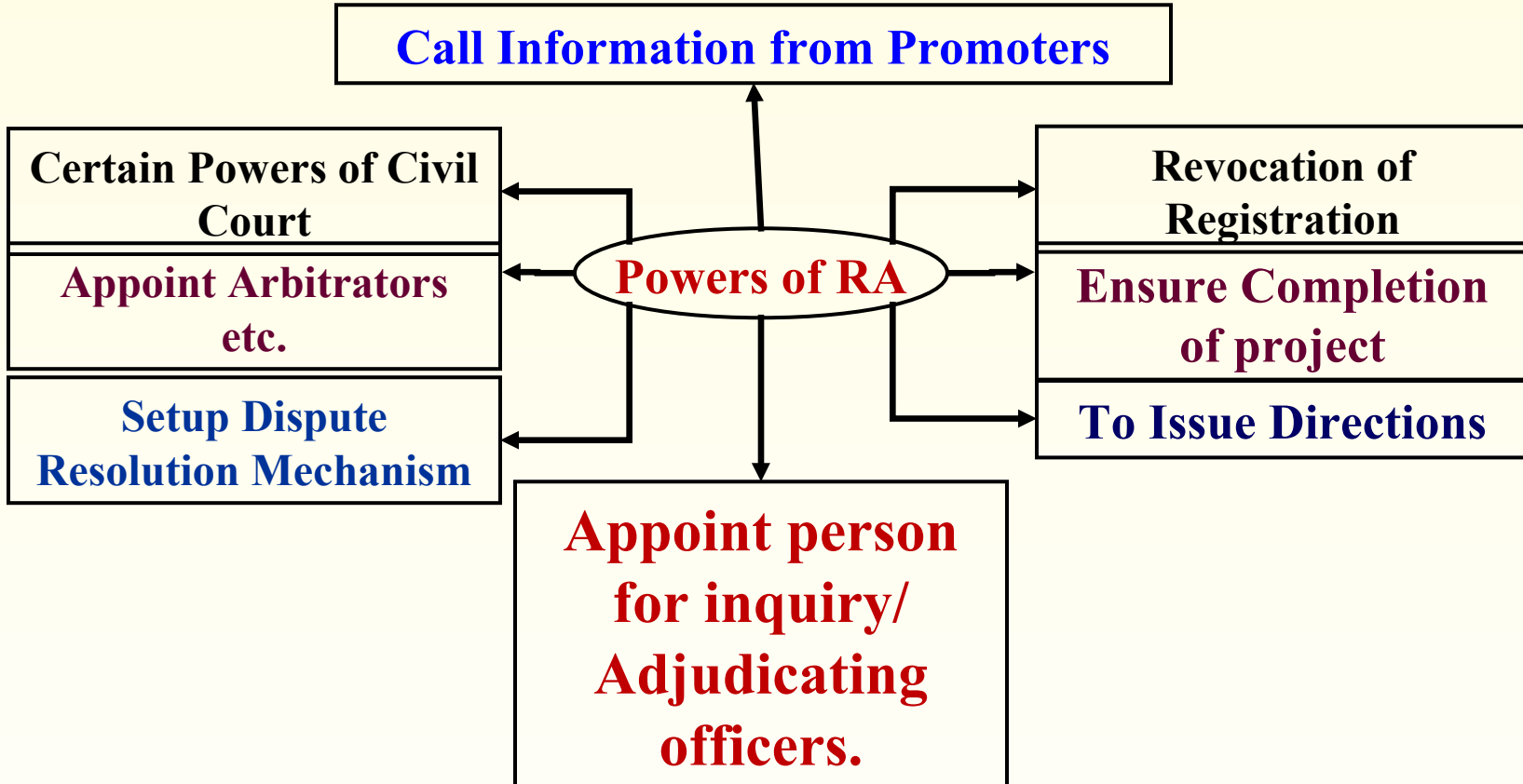
To fix charges levied on allottee



Ensure construction of Affordable Housing

Standardization of construction

Promote transparent, efficient & competitive real estate sector

Powers of Regulatory Authority



- 
1. RA may call for information from any promoter or appoint any person to make enquiry in relation to the affairs or any promoter, allottee or any authority concerned.
 2. RA may suo-moto or on complaint regarding (i) willful default by Promoter, unfair trade practice or on recommendation of competent authority revoke the registration.
 3. RA may through competent authority carry out balance construction of project.
 4. RA to have power to issue directions for discharge of its functions which is to be binding on all concern.
 5. RA may appoint person to make inquiry in relation to the affairs of promoters, allottee or any authority concerned.
 6. RA may setup a dispute resolution mechanism for amicable settlement of disputes between promoters and the allottee.
 7. RA to have the power to appoint arbitrators, mediators etc., for settlement of disputes.
 8. RA to have power of civil court.
- 



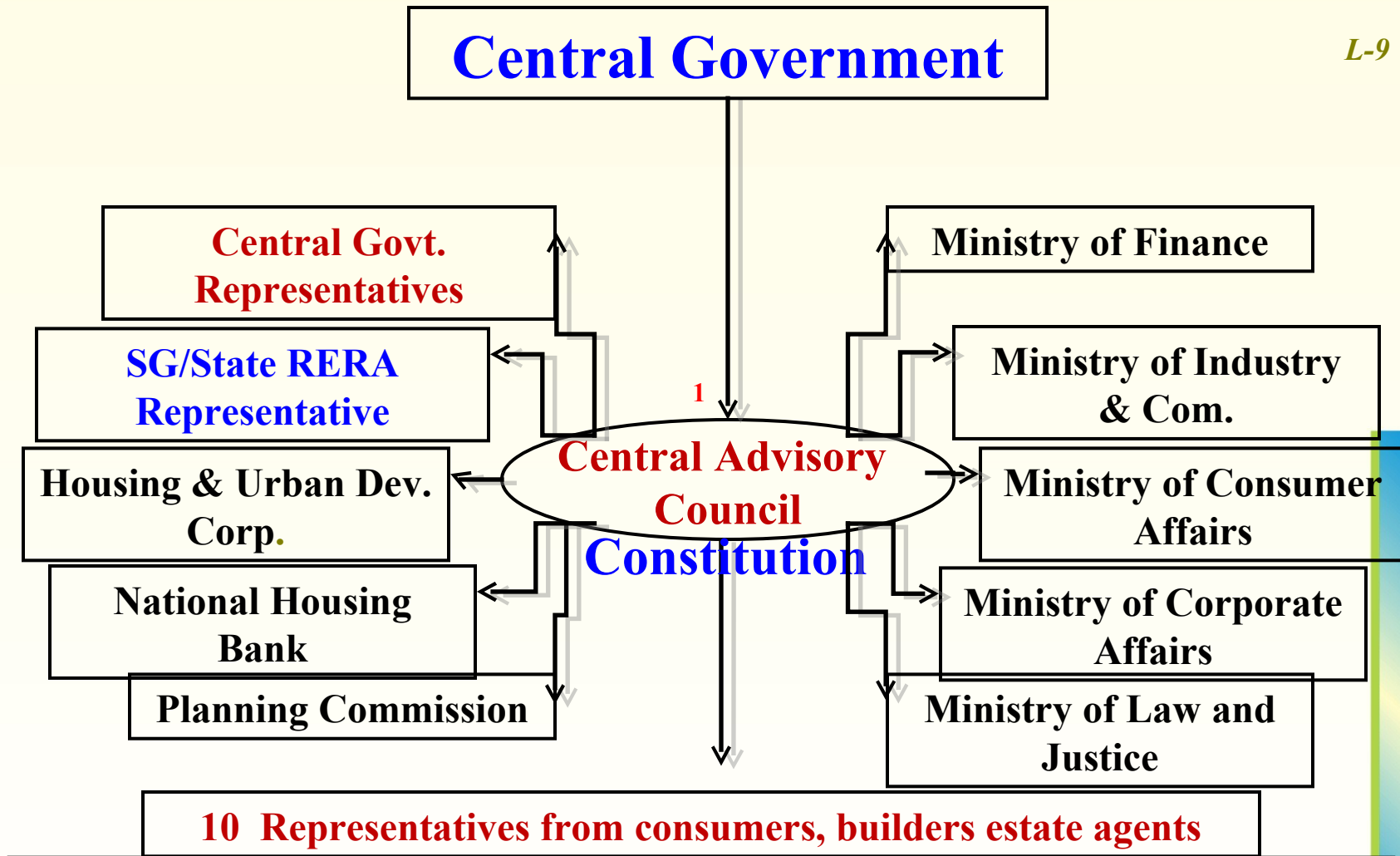
CHAPTER VI

CENTRAL ADVISORY COUNCIL





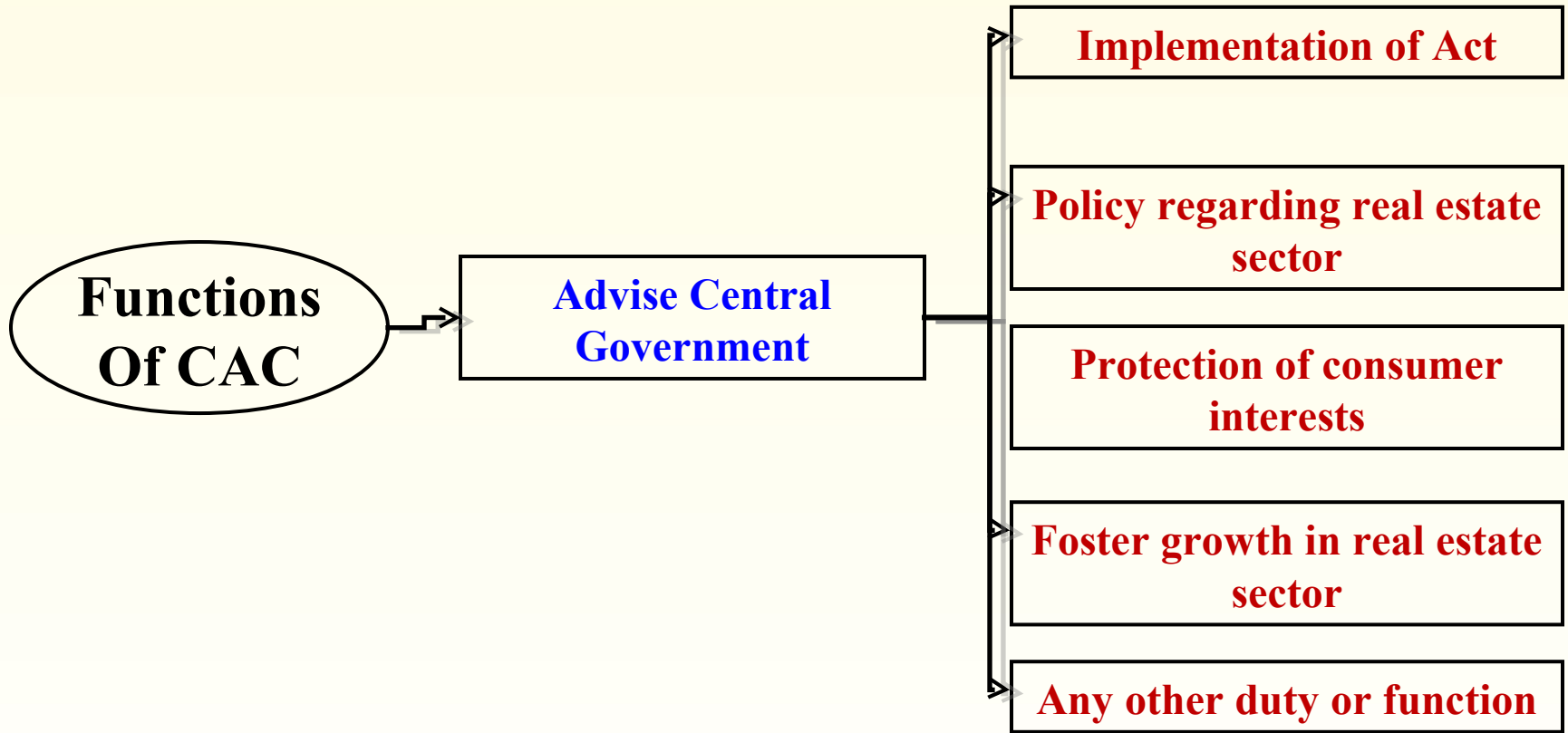
Establishment of Central Advisory Council



1. Central Government to appoint Central Advisory Council.



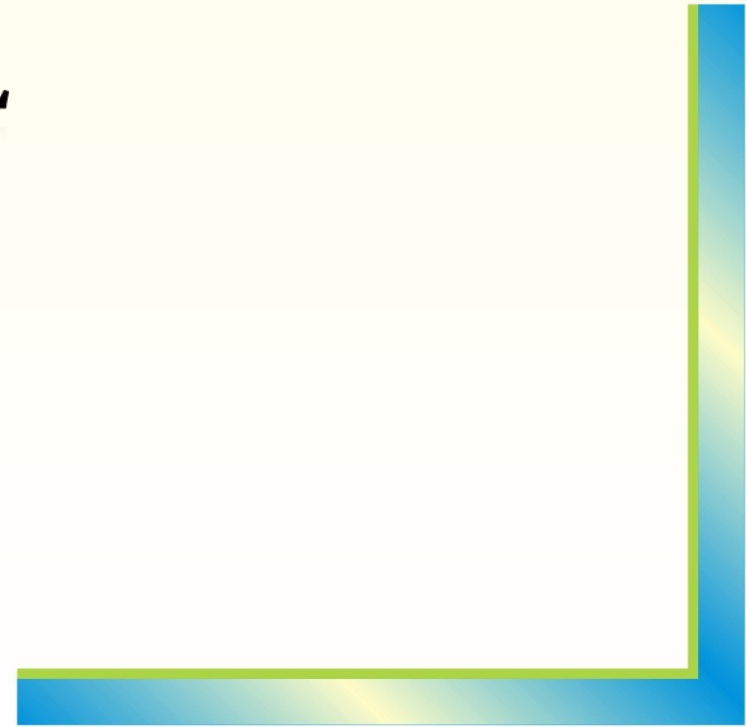
Functions of Central Advisory Council



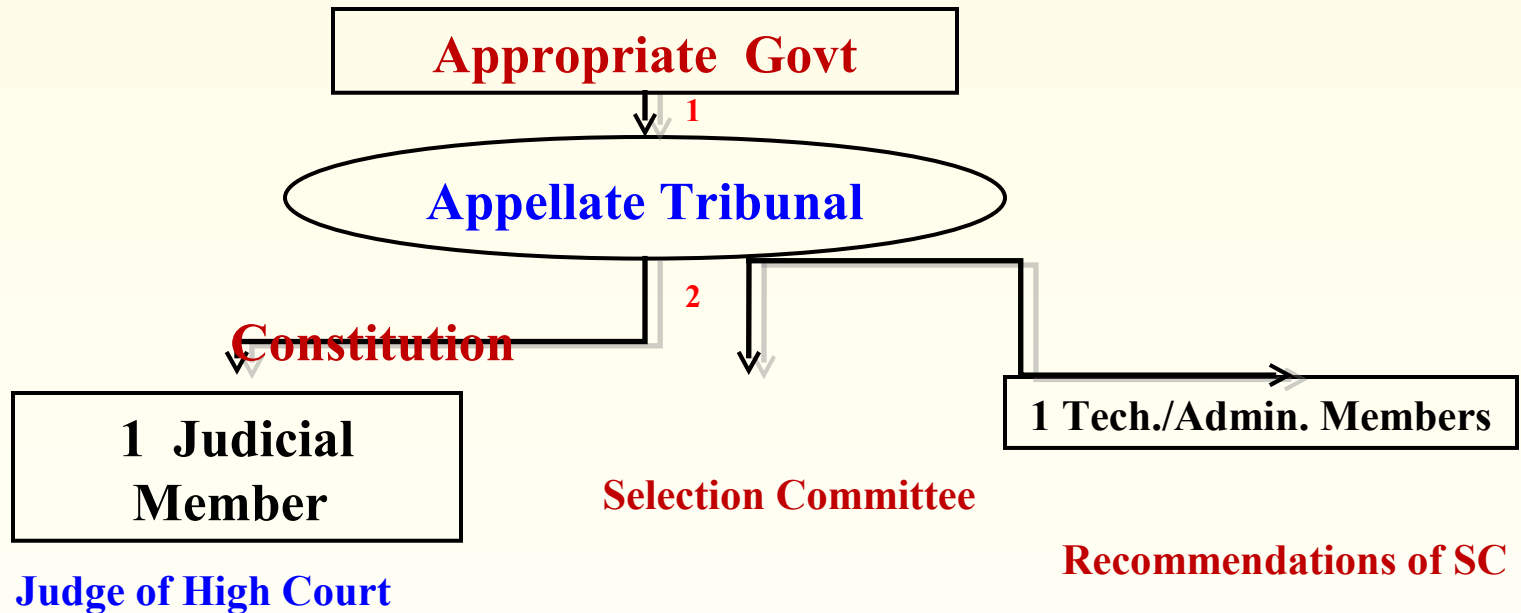


CHAPTER VII

THE REAL ESTATE APPELLATE TRIBUNAL



Establishment of Appellate Tribunal



Judge of High Court

Judge of Supreme Court

Or

Chief Justice of High Court

Recommendations of SC

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

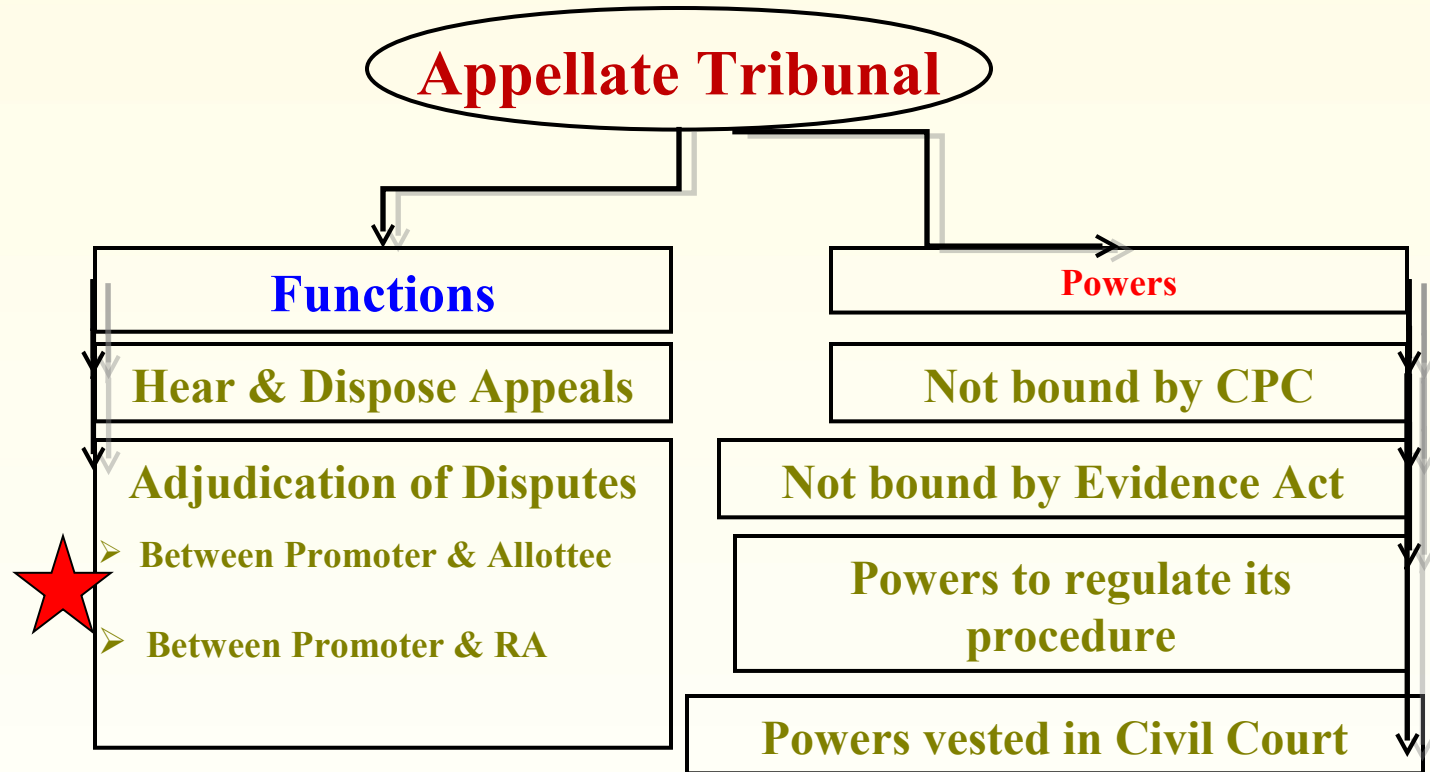
Or

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.



SEC. 56 RIGHT TO LEGAL REPRESENTATION

The applicant or appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal or the Regulatory Authority or the adjudicating officer, as the case may be.

Explanation.—For the purposes of this section,—

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 or any other law for the

SEC. 56 RIGHT TO LEGAL REPRESENTATION

time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;


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

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of

SEC. 56 RIGHT TO LEGAL REPRESENTATION

section 2 of the Cost and Works Accountants Act, 1959 or any other law for the time being in force and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;


(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.



SEC. 57 ORDERS PASSED BY APPELLATE TRIBUNAL TO BE EXECUTABLE AS A DECREE

(1) Every order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in subsection (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by the court.



SEC. 58 APPEAL TO HIGH COURT

(1) Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the High Court, within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908:

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

SEC. 58 APPEAL TO HIGH COURT

Explanation.— The expression "High Court" means the High Court of a State or Union territory where the real estate project is situated.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.



CHAPTER VIII

OFFENCES, PENALTIES AND ADJUDICATION





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

L-11

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 <i>L-11</i>
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 cummulatively 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 cummulatively upto 5% of cost of project.

Offences and Penalties

Section	Offence	Penalty <i>L-11</i>
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 cummulatively upto 5% of cost of plot/flat as the case may be for which sale /purchase done.

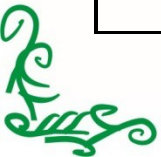
Offences and Penalties

Section	Offence	Penalty <i>L-11</i>
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



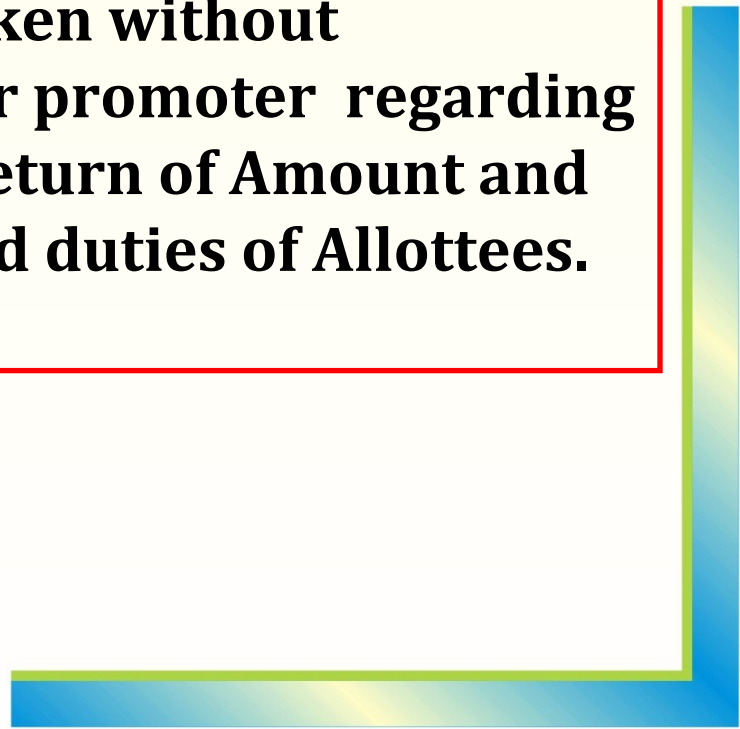
Section	Offence	Penalty <i>L-11</i>
68	Failure to Comply with the Orders of Appellate Tribunal by the allottee.	Punishable with imprisonment for a term which may extend upto 1 year or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost 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.**



SEC. 72 FACTORS TO BE TAKEN INTO ACCOUNT BY ADJUDICATING OFFICER

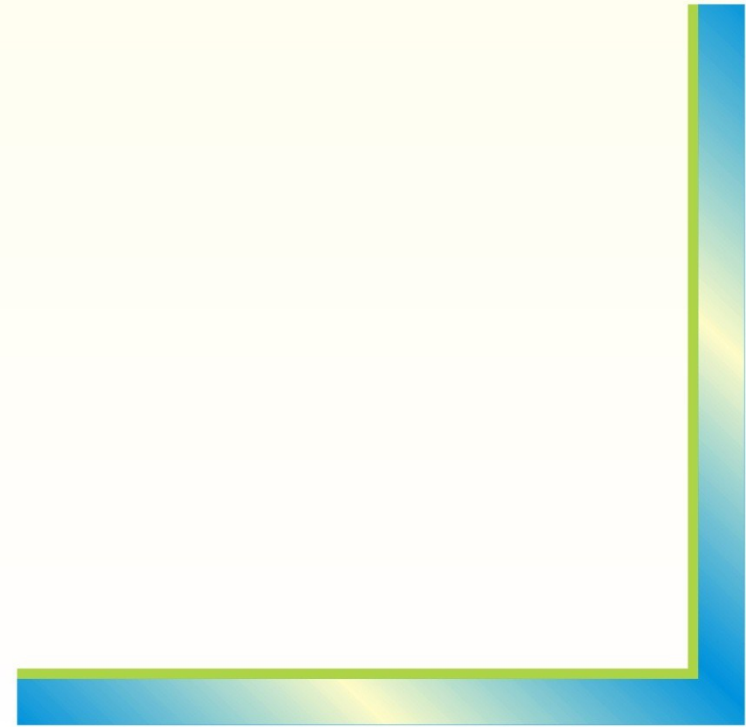
While adjudging the quantum of compensation or interest, as the case may be, under section 71, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.



CHAPTER IX

FINANCE, ACCOUNTS, AUDITS AND REPORTS



CHAPTER IX

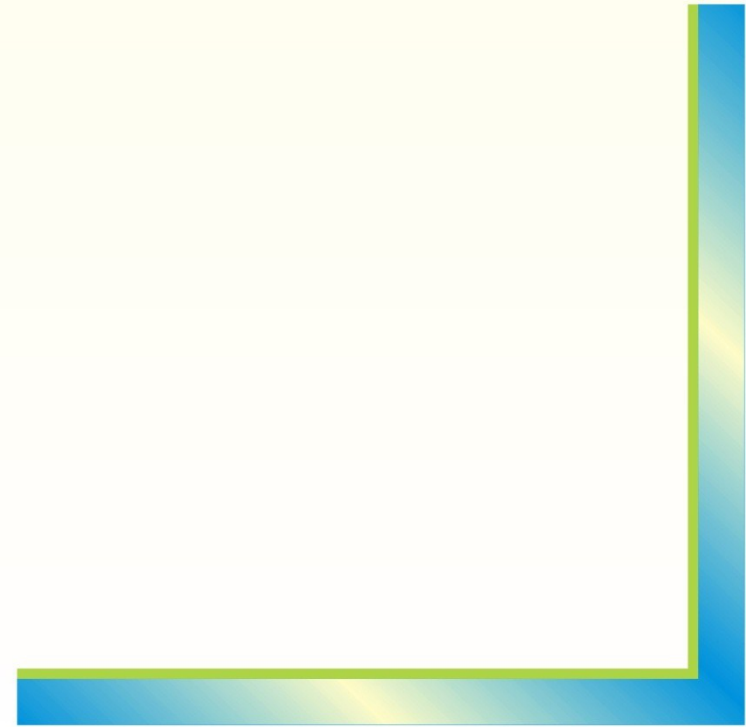
FINANCE, ACCOUNTS, AUDITS AND REPORTS

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.




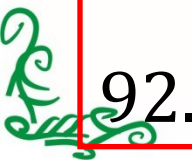
CHAPTER X

MISCELLANEOUS




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.

- 
- 
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



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**
- **BOMBAY STAMP ACT, 1958 – For Stamp Duty Verification and calculation**
- **M.C.S. ACT, 1960- under which society is registered**
- **INCOME TAX ACT, 1961 – To Verify Tax Liabilities of the Vendor**
- **MAH. OWNERSHIP FLATS ACT, 1963- Under which Flats are purchased**

ACTS & RULES APPLICABLE

- **ULC-** For verifying any violations under the Act
- **Criminal Procedure Code / Civil Procedure Code and Consumer Protection Act**– For proceeding against the builder
- **BMC – Development Control Rules, 1991-** 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.





What is all this empowering us to do? Innovate, Get involved & Solve social problems for financial inclusion and better India through Co-ops!

Thank you for Getting involved in the discussion!

**CA RAMESH PRABHU ,
- 09820106766**

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**CHAIRMAN
MAHARASHTRA SOCIETIES WELFARE ASSOCIATION, 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.**



MAHARASHTRA SOCIETIES WELFARE ASSOCIATION

A/1, R.No.207, Laram Center, Above Federal Bank,
Opp. Railway Station, Andheri (West), Mumbai 400058

Presented By :

CA. Ramesh S Prabhu

(Chairman) M S WA

Tel Nos : 26248565 / 26248589



**Thank
YOU!!**