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WELCOME TO

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

On 30th Dec, 2017

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WHY THIS ACT IS REQUIRED..??

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

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

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

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

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

Confidence Boost

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

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

Housing ministry will make the rules for Union Territories

Ministry of Urban Development will make rules for Delhi

Real Estate Regulatory Authorities and Appellate Tribunals will be set up



Experts say

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



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

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

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

and developers in 60 days.

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

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

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

APPOINTMENT

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

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



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 17]

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

No. 17]

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

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

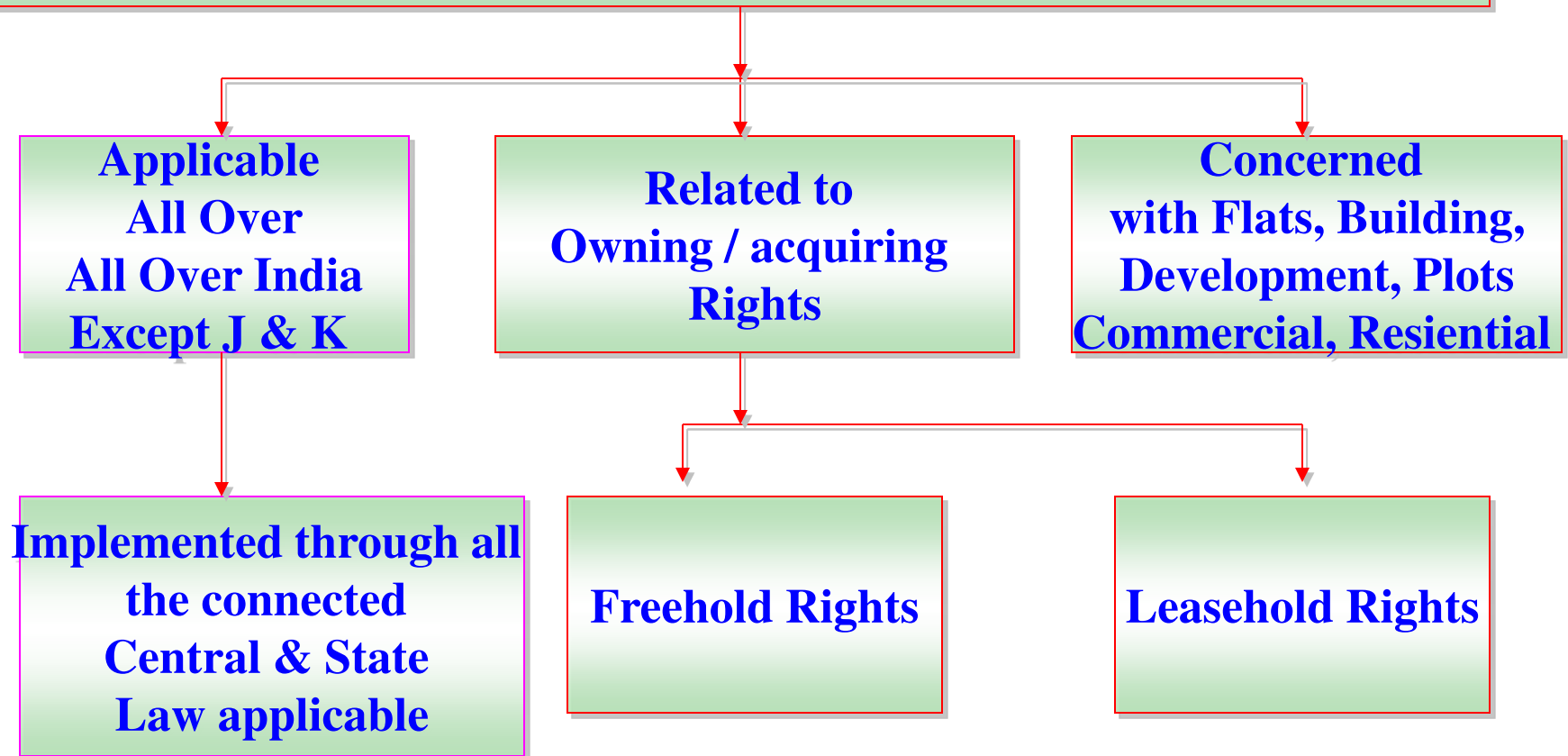
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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

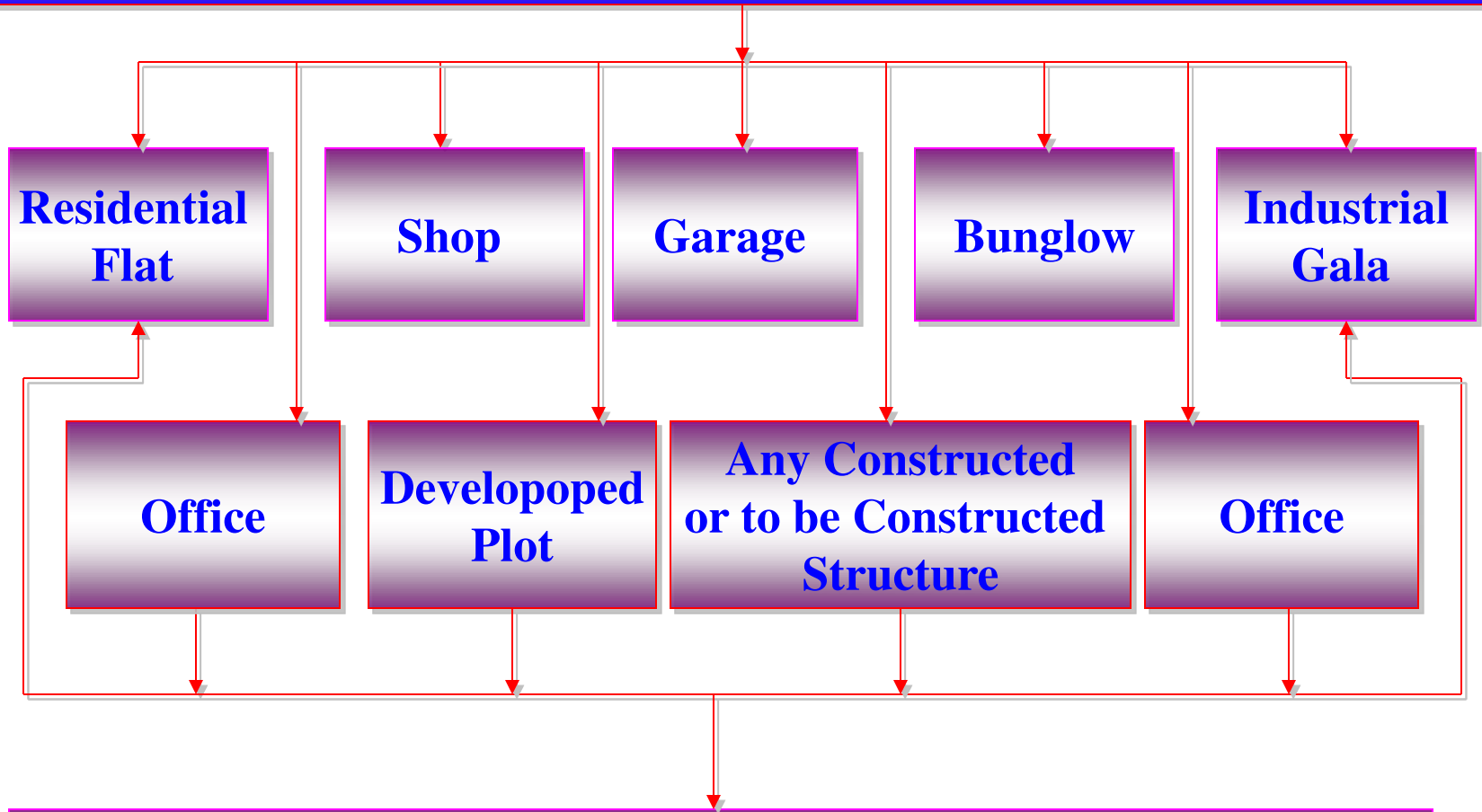
- RERDA-2016 is an Act of the Parliament of India Applicable to whole of India except Jammu and Kashmir
- The bill was passed by the Rajya Sabha on 10th March, 2016, by the Lok Sabha on 15-03-2016 & Notified on 26-03-2016
- Came into force :1 May 2016 with 69 of 92 sections notified.
- The Central and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

MOTHER OF REAL ESTATE DEVELOPMENT LAW -

Real Estate (Regulation & Development) Act, 2016

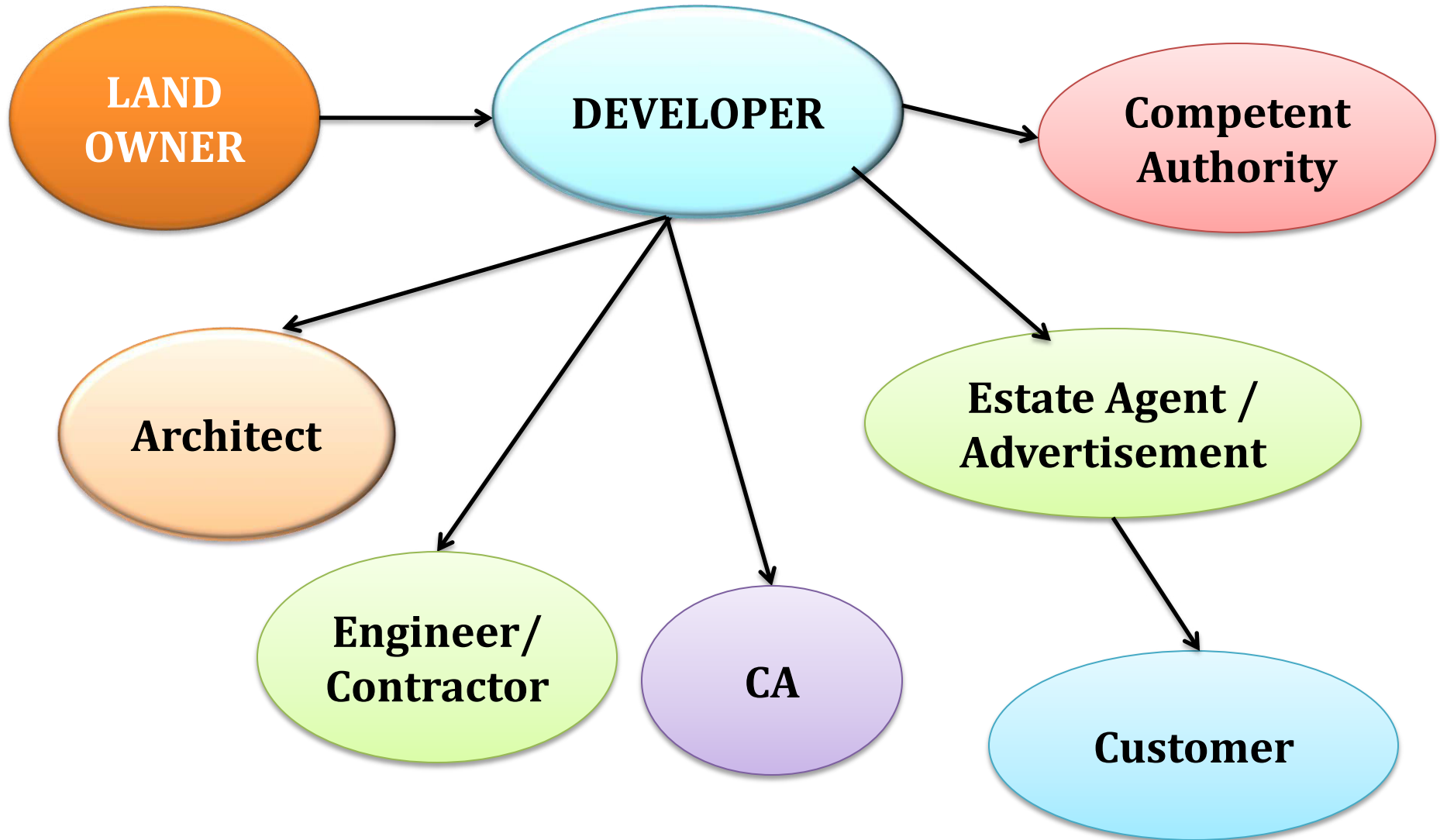


APARTMENTS = INDEPENDENT UNIT/PLOT

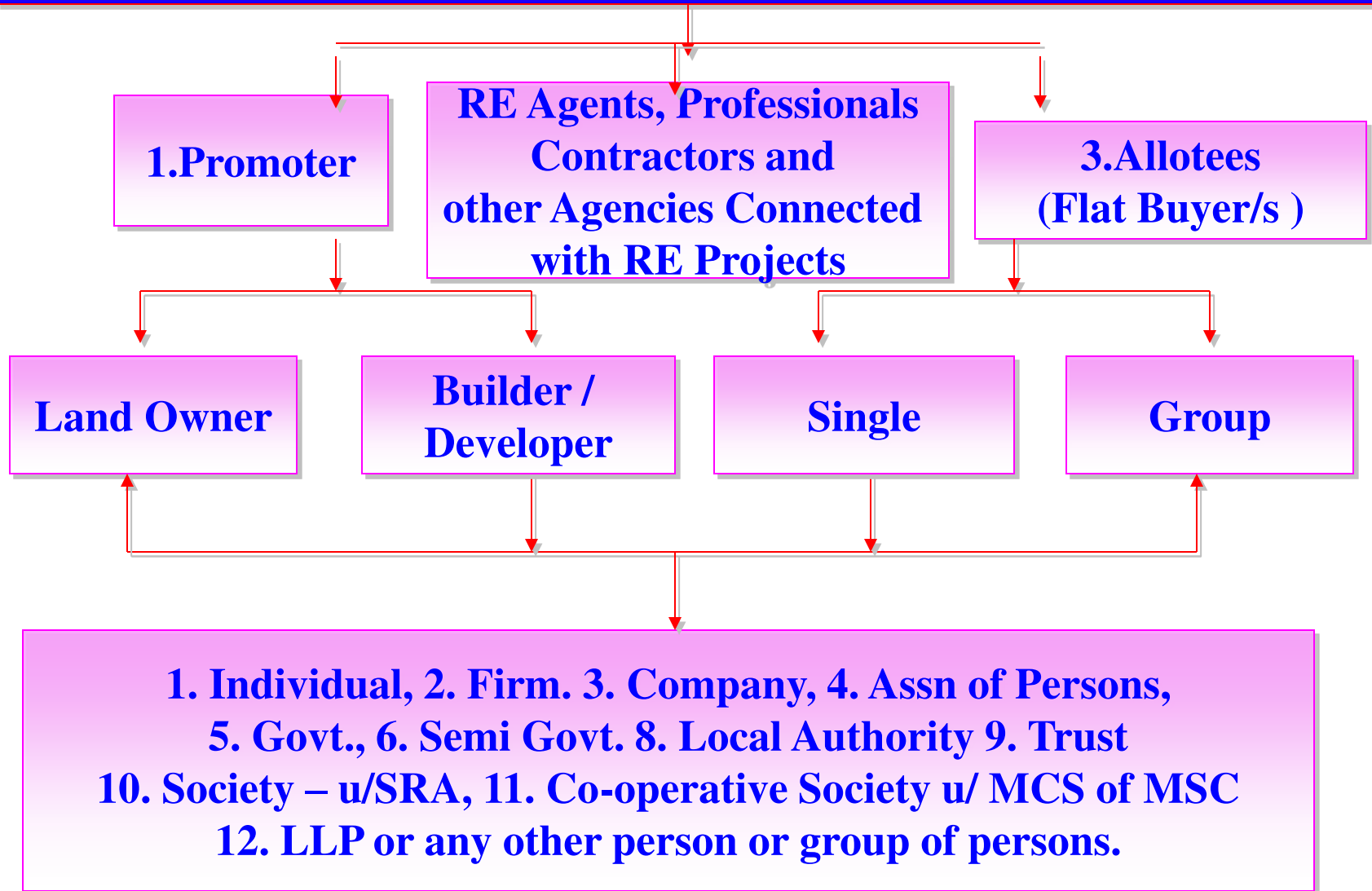


**Provided or agreed to be provided by the Promoter
To the Purchaser for a Consideration**

PARTIES ACCOUNTABLE UNDER RERA



PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE under RERA



WORKING OF MOFA 1963

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



**Court Orders
or Punishment**

**State Government
Direction or Action**



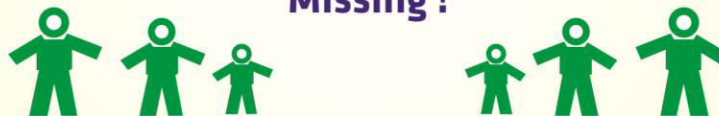
सत्यमेव जयते

1

**Enforcement & Delivery Mechanisms
are Missing !**

2

**Compliance is
Missing !**



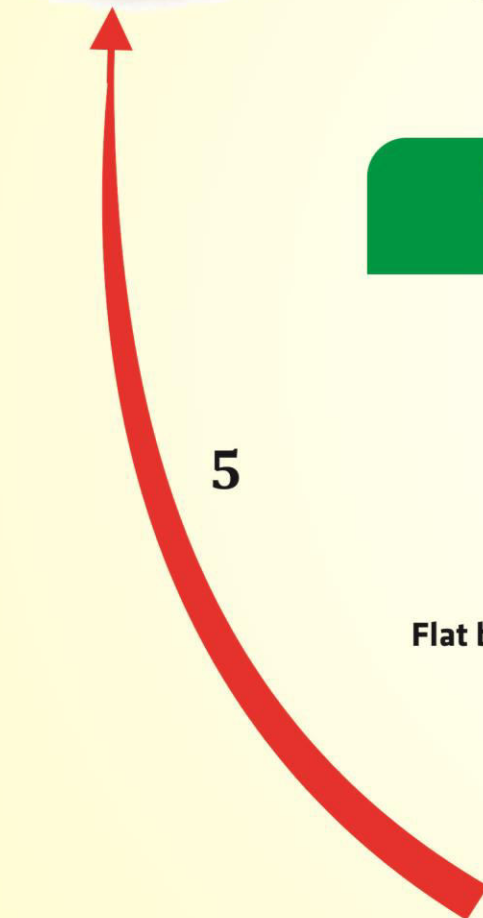
Flat buyer, RTI activist & common man may file RTI applications
& write complaints to **GOVERNMENT**,
and struggles to get orders passed against builder.

and / or

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

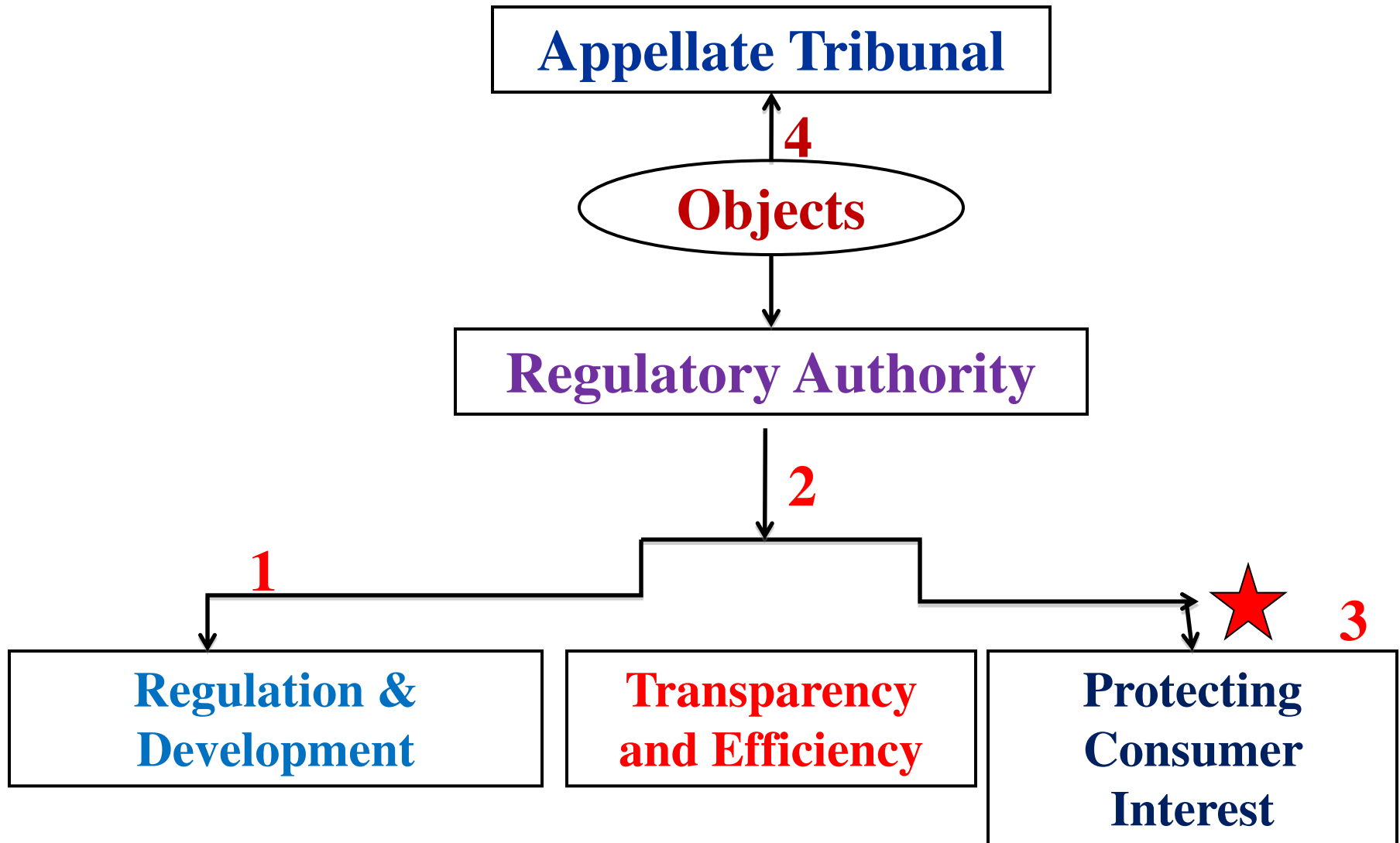
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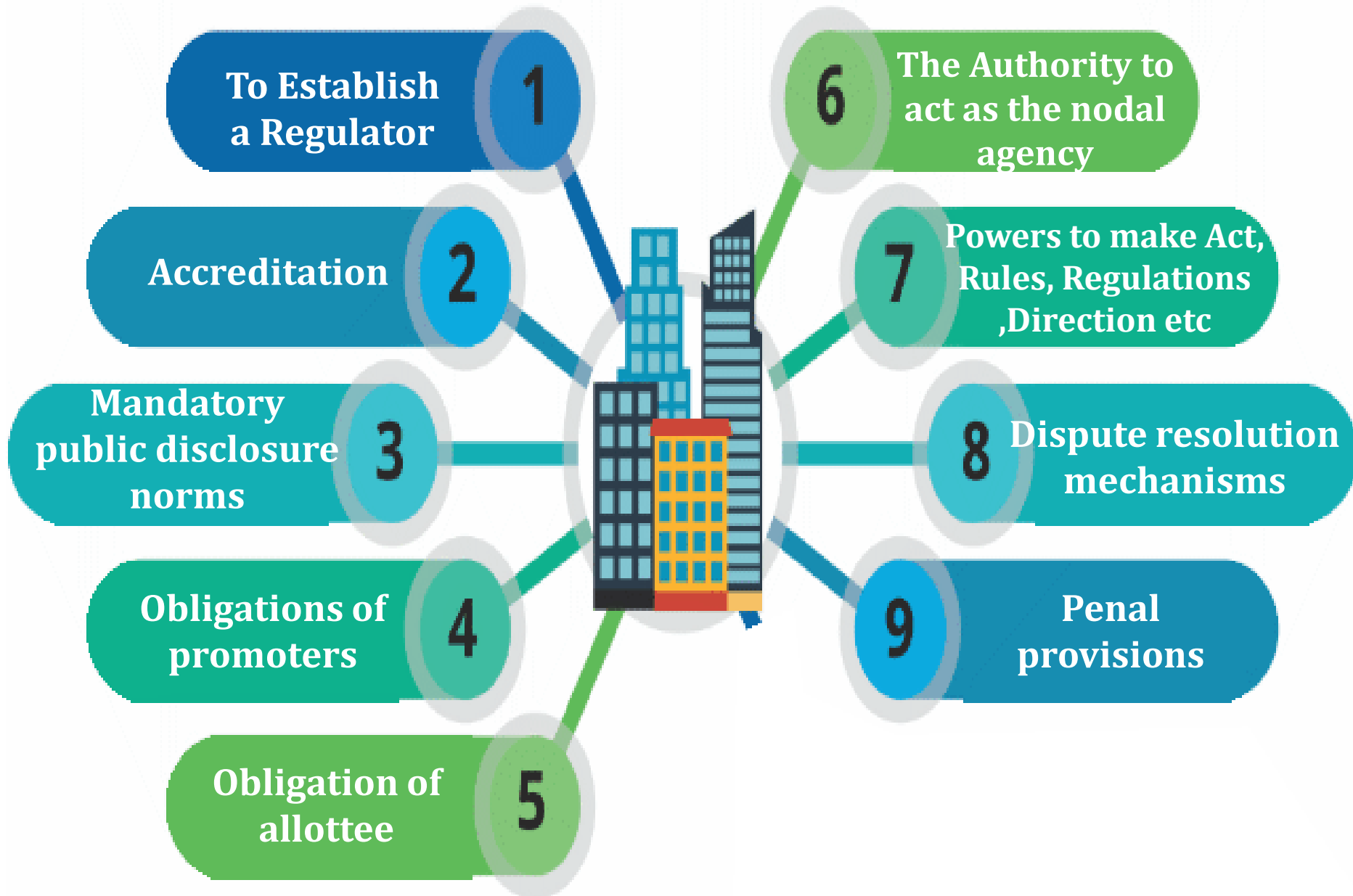


THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT , 2016

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



THE SALIENT FEATURES OF THE RERDA-2016



Salient Features of the Act



Real Estate Project Registration



Real Estate Agent Registration



Filing of Complaints

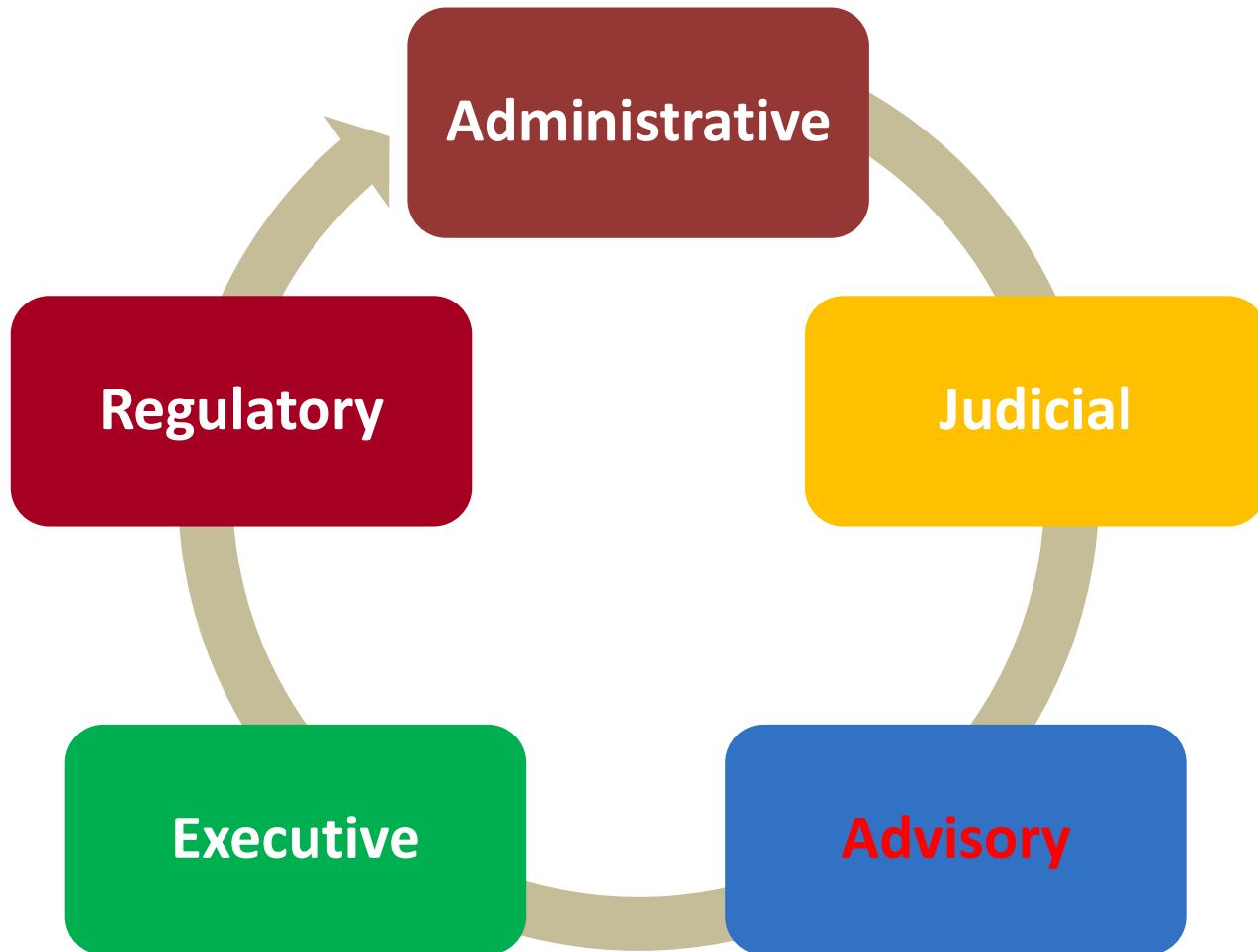


Financial Discipline



Transparent & Consumer-oriented

Functions of RERA



Responsibilities of Promoter



REGISTRATION

Registration
of project
with RERA



Declaration
by promoter



70% amount
to be
deposited in
bank A/C



No ads
without
registration



Obligations
of promoter
for veracity
of ads

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

Obligations of promoters :

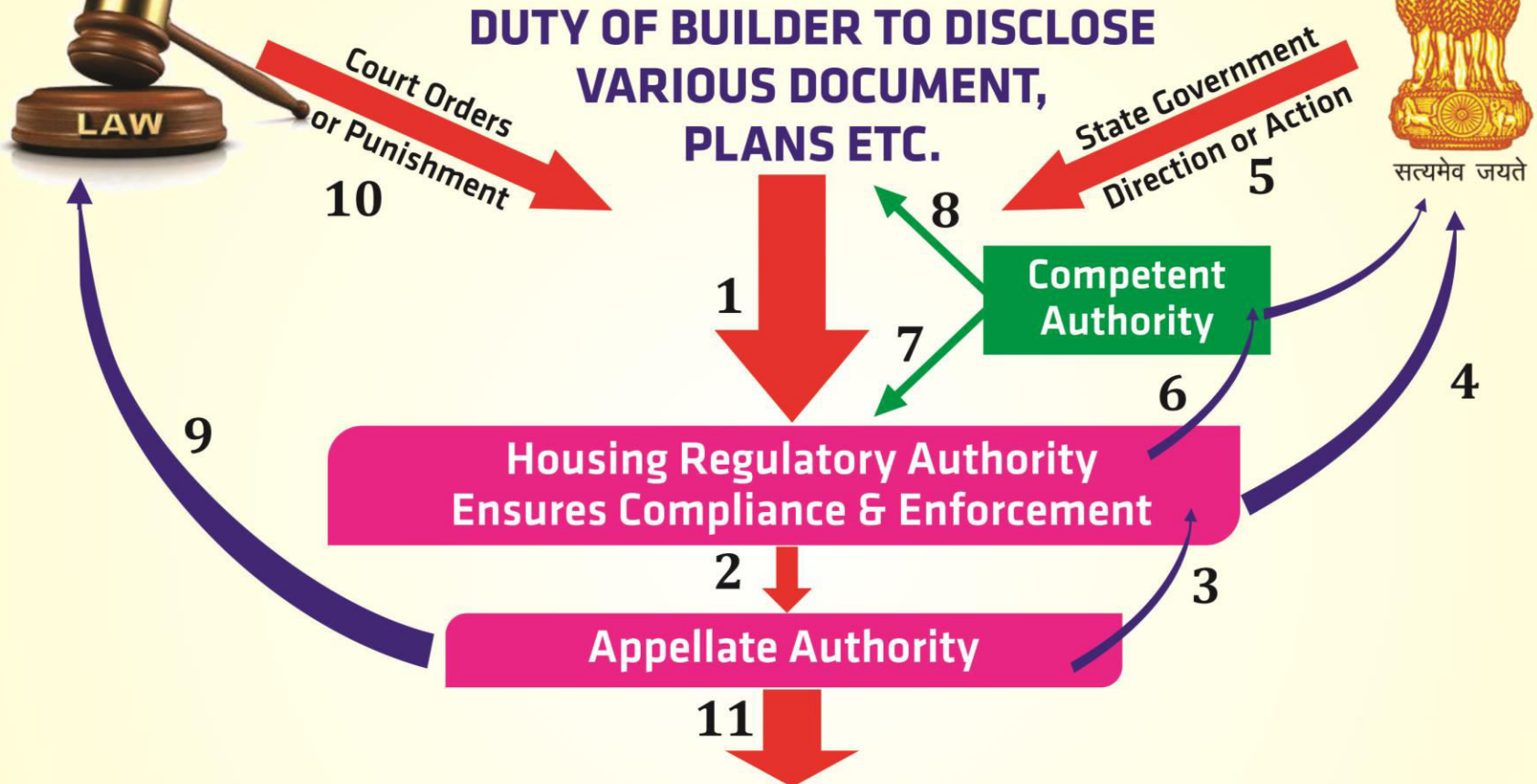
- - Sec-3 :Register the project with the authority before offer to sell.
- Sec- 4 : Upload 5 yrs track record and project details on website.
- Sec 4 : deposit 70% of buyers in a separate scheduled bank account, to be used for land cost and construction after certified by Architect , Engineer and Chartered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

WORKING OF RERA 2016

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



सत्यमेव जयते



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



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

THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT , 2016

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

2

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

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

3

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

REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS



U/S. 3 COMPULSORY REGISTRATION OF REAL ESTATE PROJECT



U/S. 4 DISCLOSURE OF INFORMATION BY THE PROMOTER

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



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

**On complaint
by
any Stakeholders**

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

U/s8 :Consequence of Revocation or Lapse

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

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

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

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

RERDA- 2016

Chapter I : Preliminary : Sec 1 and 2

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

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

Chapter IV : Rights And Duties Of Allottees - Sec 19

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

Chapter VI : Central Advisory Council - Sec 41 and 42

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

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

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

Chapter X : Miscellaneous : Sec 79 to 92

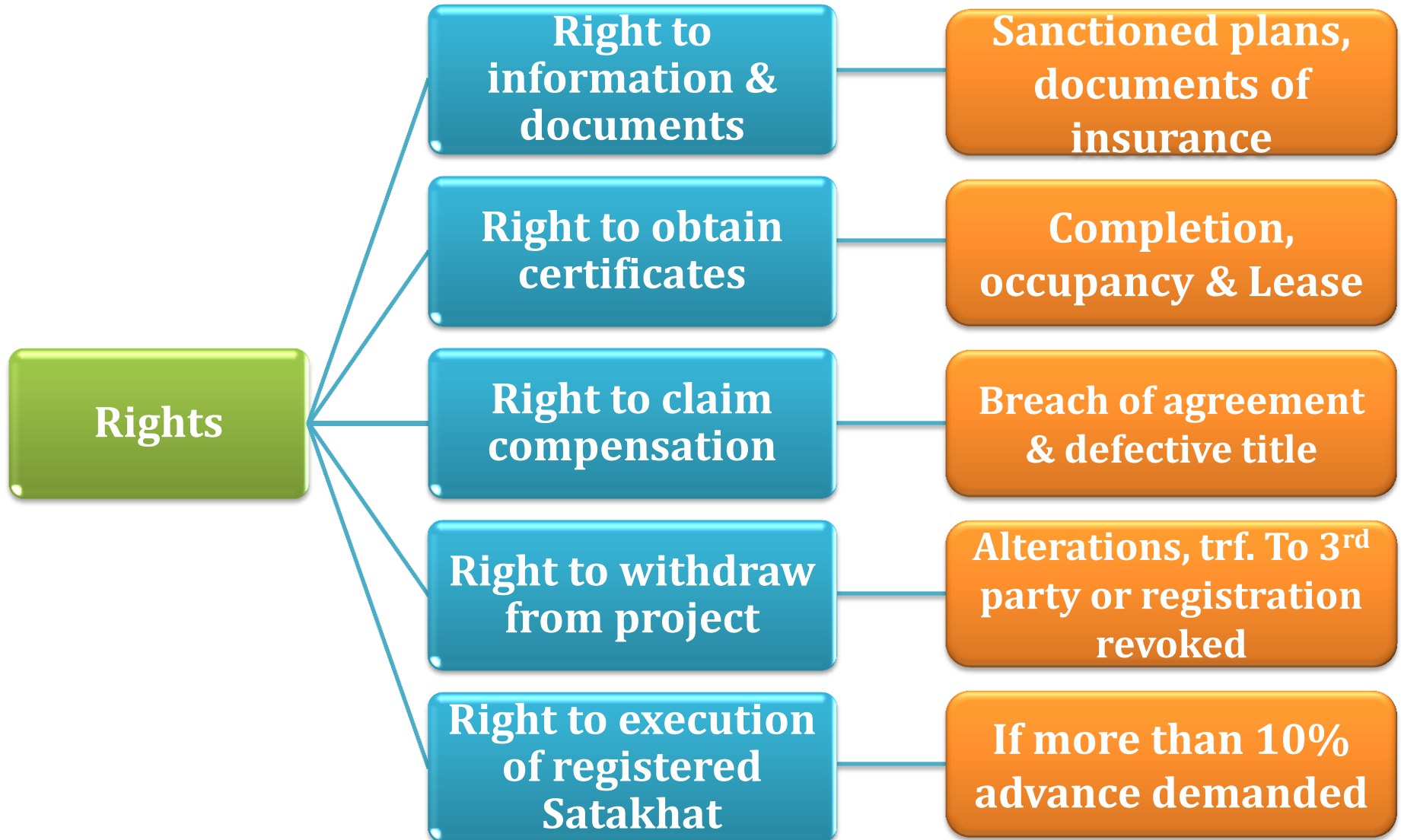
AS PER SECTION 84 RERDA –RULES BY MAH. GOVT.

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

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

4. The Maharashtra Real Estate Appellate Tribunal, Officers and Employees (Appointment and Service Conditions) Rules, 2016
5. Rules regarding budget and keeping of records

RIGHTS OF ALLOTTEES



DUTIES OF ALLOTTEES

Before booking, verify builder's registration

Not to buy apartment in unregistered projects

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

DUTIES OF ALLOTTEES

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

To participate in formation of association

To participate in registration of conveyance deed

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

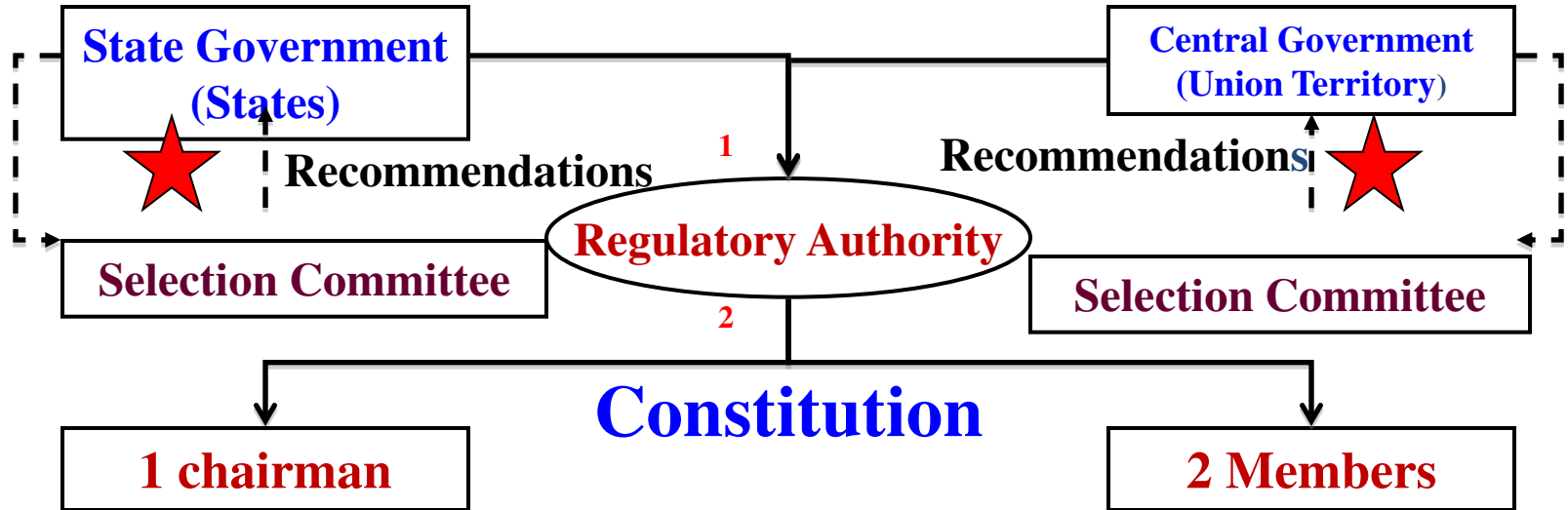
AUTHORTIES UNDER RERA



High court and Supreme court

CH-V Establishment of Regulatory Authority

Appropriate Government



A person with at least 20 yrs of experience

Or

Secretary to CG or any equivalent post in CG or SG

A person with at least 15 yrs of experience

Or

Secretary to SG or any equivalent post in CG or SG

Functions of Regulatory Authority

ADJUDICATION

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

PROMOTER

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

Functions of RA

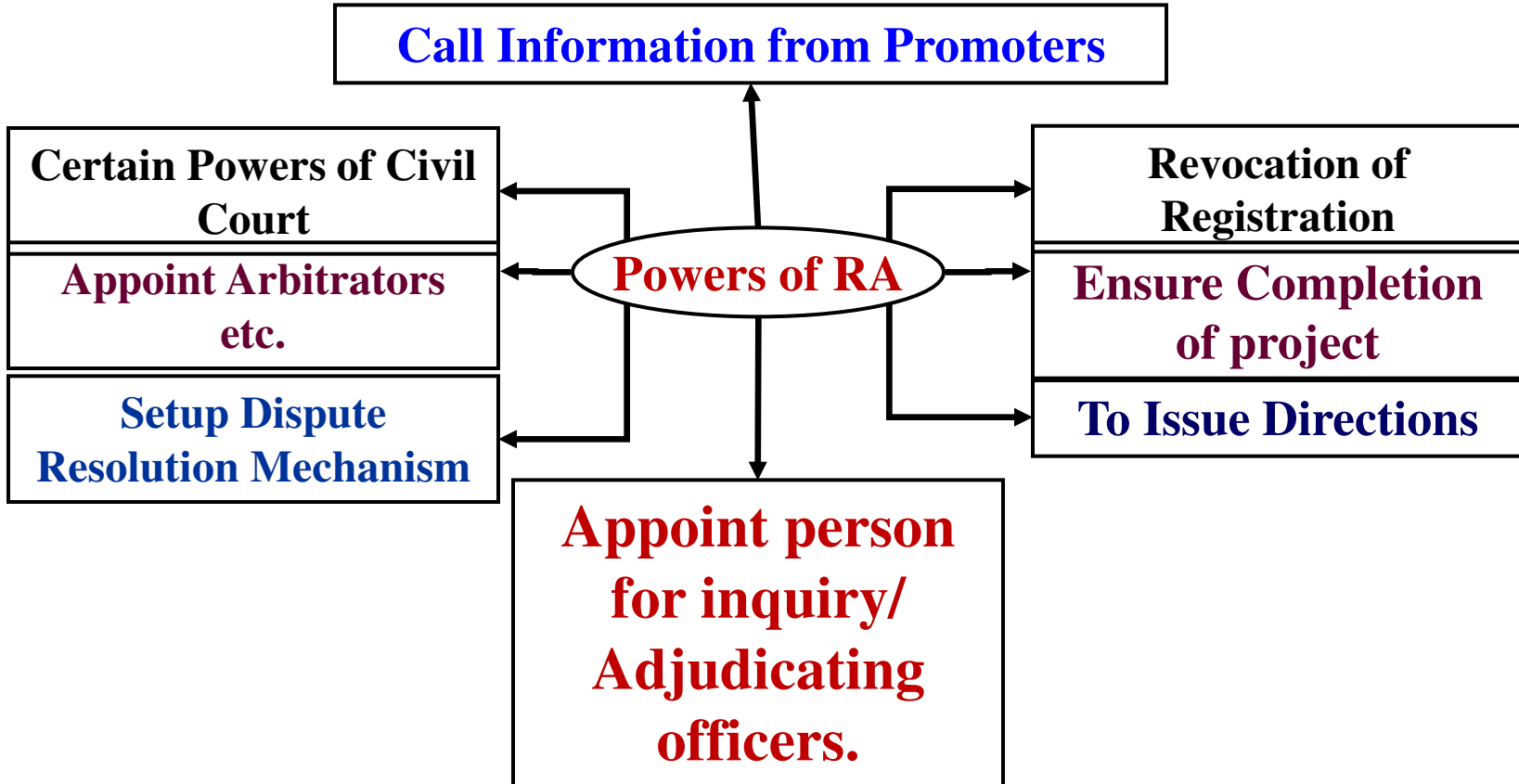
REGULATORY & RULE MAKING

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

CONSUMERS

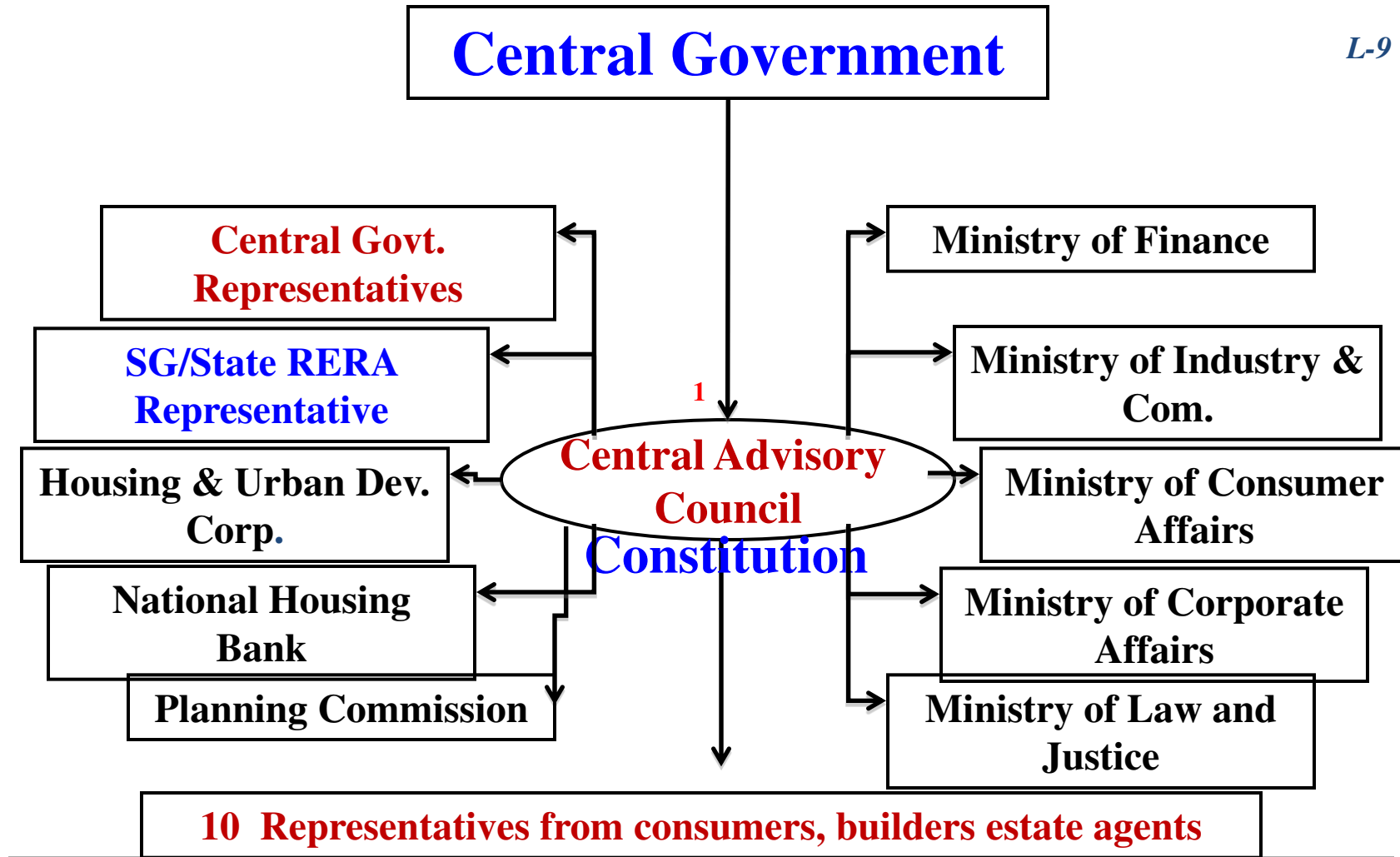
- To fix charges levied on allottee
- Ensure construction of Affordable Housing
- Standardization of construction
- Promote transparent, efficient & competitive real estate sector

Powers of Regulatory Authority



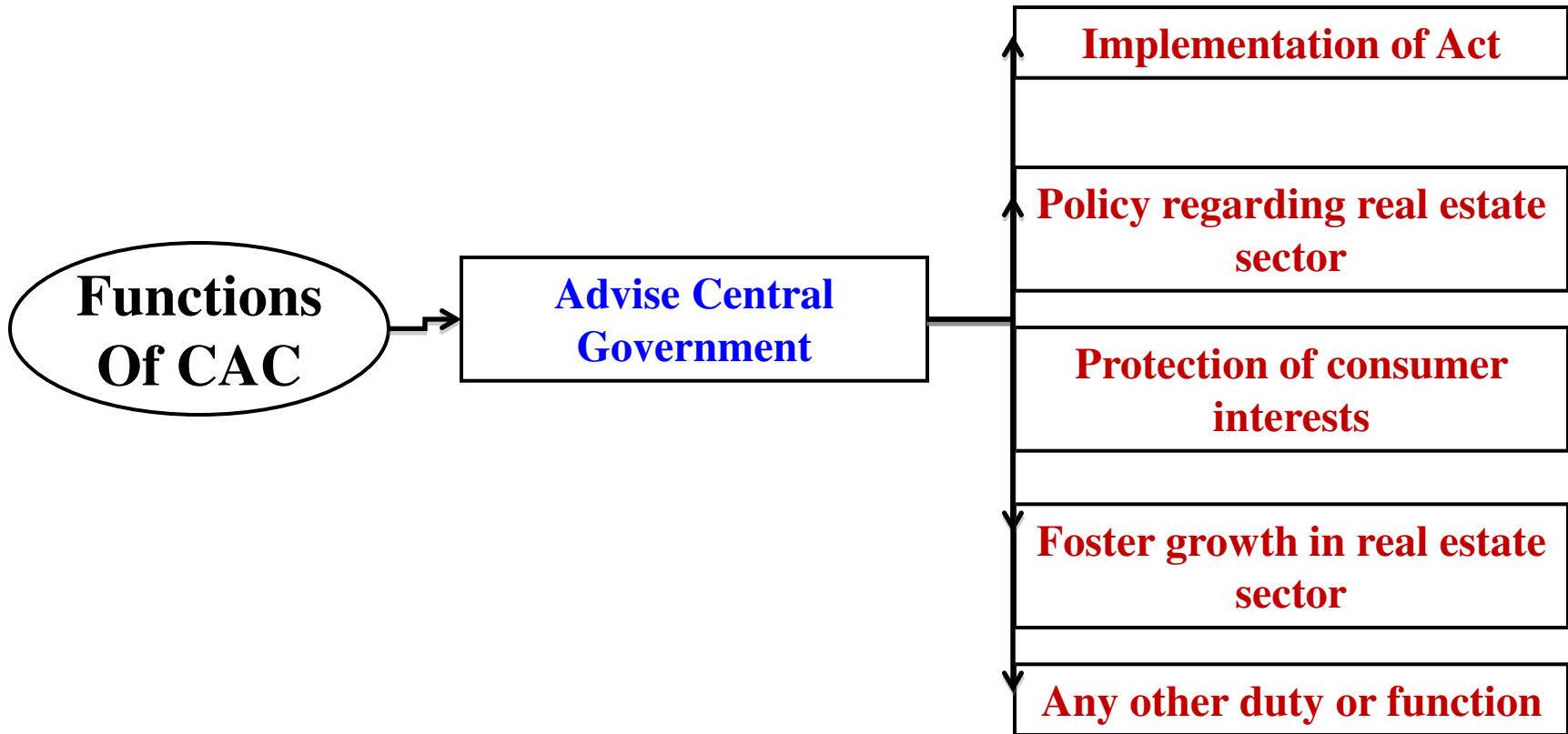
Establishment of Central Advisory Council

L-9

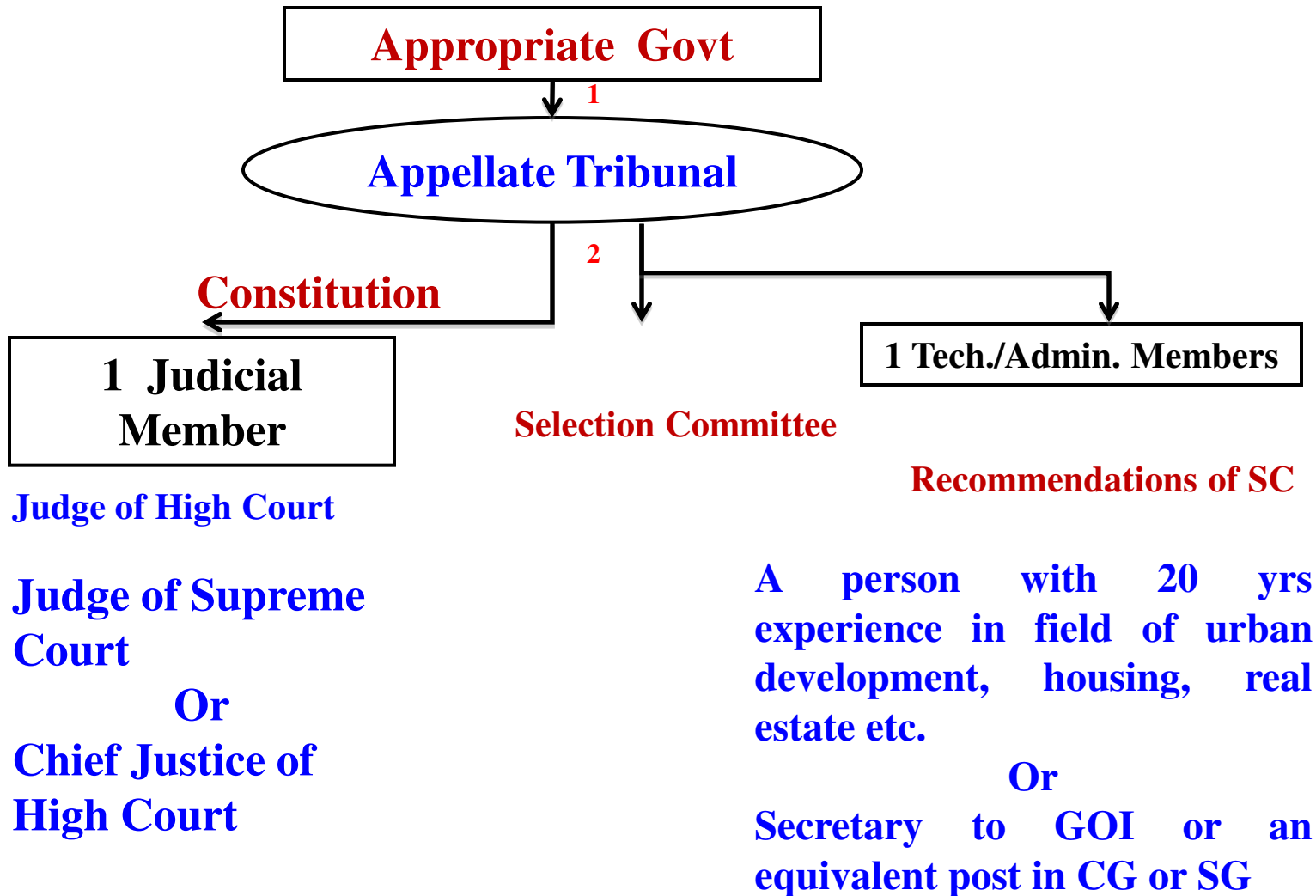


1. Central Government to appoint Central Advisory Council.

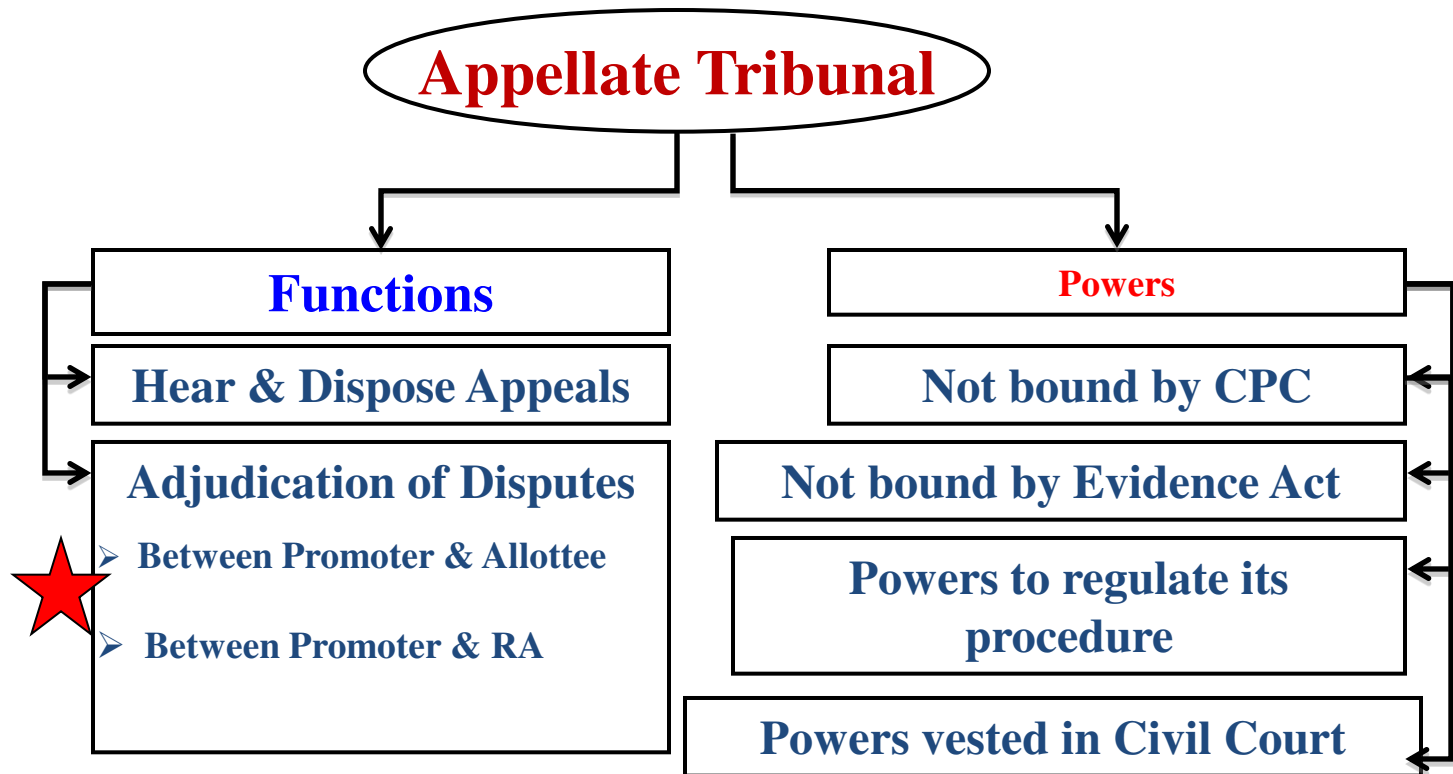
Functions of Central Advisory Council ^{L-1}



Establishment of Appellate Tribunal



Powers & Functions of Appellate Tribunal



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

Appeal to be decided by AT within 60 days.

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

RIGHT TO LEGAL REPRESENTATION

➤ As per Section 56 of the Act:

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

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

Thus only above professionals are authorised under the Act to :

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

OFFENCES AND PENALTIES

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

OFFENCES AND PENALTIES

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

OFFENCES AND PENALTIES

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

OFFENCES AND PENALTIES

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

OFFENCES AND PENALTIES

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

OFFENCES AND PENALTIES

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

Disclaimer

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

CA. Ramesh S. Prabhu

Presented By :

CA. Ramesh S Prabhu

(Chairman) M S WA