HAS RERA, 2016 EFFECTIVELY PROTECTED HOMEBUYERS AGAINST BUILDER MALPRACTICES, OR HAS WEAK ENFORCEMENT DILUTED ITS IMPACT?

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I. Introduction

The urgent need to reform India's real estate industry, a major economic engine that had long required regulation, gave rise to the Real Estate (Regulation and Development) Act, 2016 (RERA). For far too long, the industry lacked a single set of rules that it could adhere to, which allowed for enduring problems like ongoing project delays, dishonest marketing, and general lack of accountability. After investing their entire life savings in real estate, homebuyers were left with little choice but to deal with uncertainty and significant legal obstacles.

The Indian Parliament legislated RERA as a law to regulate and promote the real estate industry, to rectify this inherent imbalance between consumers and developers. Its principal objective was, to infuse transparency, fiscal prudence, and a quick justice process, thus helping to restore consumer confidence in the housing market and aid the country's wider urban development and growth objectives.

2. The Pre-2016 Reality

Prior to RERA 2016, the real estate environment functioned with hardly any controls. The real estate business in India functioned under scattered regulatory approaches and without standard practices. Developers enjoyed more freedom in project planning, development, and selling, frequently resulting in delays, quality problems, and conflicts. Buyers encountered difficulties with regard to openness, lack of complete information on the projects, misleading advertisements, and poor grievance redressal systems.

In spite of the sector's massive economic significance, this regulatory lacuna provided fertile ground for exploitation. Misleading advertisements, arbitrary determination of size of property and prevalent opaque financial transactions were typical. With India's urban centres growing at a fast pace, the necessity to have a trusted and clear-cut mechanism to safeguard the homebuyers and to regularize market practices became inevitable.

3. Legislative Journey and Core Objectives

Realizing the seriousness of such market failures, the government-initiated preparation of a dedicated regulatory law as early as 2009. It entailed preparing draft proposals and holding widespread consultations with state governments, industry associations, and consumer organizations so that the final law would be equitable to all concerned. Following an exhaustive legislative procedure, the Bill was enacted by Parliament in 2016 and became fully functional on 01.05.2017.

The Act sets forth three non-negotiable core goals being: To serve as a buffer for homebuyers, ensuring transparency, to impose accountability on developers and brokers through compulsory registration and to establish a dedicated, effective, and time-bound dispute redressal mechanism specific to the real estate industry.

4. Key Provisions of the Act

RERA introduced several reforms aimed at ensuring fairness and accountability in the real estate market:

1. Registration of Real Estate Projects and Agents

- **Section 3 & 4:** Promoters must register all residential and commercial projects exceeding 500 sq. meters or with more than eight apartments inclusive of all phases before advertising or selling.
- **Section 9 & 10:** Real estate agents are required to register with the State Real Estate Regulatory Authority to conduct any real estate transaction legally.

2. Disclosure and Transparency

- **Section 3 & Section 11:** Promoters must disclose a detailed project information on the RERA portal, including: Layout plan, sanctioned approvals, and project status, Timeline for completion, Land title details, Details of contractors, architects, and structural engineers

3. Financial Discipline

- **Section 4(2)(l):** Promoters must deposit 70% of the amount received from buyers in a separate bank account for the specific project to be used only for land and construction costs.

4. Standardization of Definitions

- **Section 2(k):** Defines **'carpet area'** as the net usable floor area within the apartment, excluding walls, balconies, or common areas.
- Purpose: Reduces disputes and prevents misleading pricing based on "super builtup area."

5. Liability and Accountability of Promoters

- **Section 12:** Promoters must compensate the person who makes an advance or deposit if he sustains any loss or damage by reason of any incorrect, false statement included in the notice, advertisement or prospectus, or on the basis of any model apartment, plot or building.
- **Section 14:** Promoters are responsible for structural defects for five years after possession.
- **Section 18:** Developers cannot misrepresent or make false promises regarding the project.

6. Regulation of Advertising

- **Section 3:** No promoter can advertise or market a project without registering the real estate project with the Real Estate Regulatory Authority established under RERA.
- All advertisements must be accurate and match the approved project details.

7. Grievance Redressal Mechanism

- Establishes a **three-tier dispute resolution system**:

1. **Section (31) State Real Estate Regulatory Authority (RERA)** – aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder, against any promoter

2. **Section (71) Adjudicating Officer** – for monetary claims. Complaints are to be resolved within 60 days from the date of receipt of the application.

3. **Section (44) Appellate Tribunal** – The appropriate Government or the competent authority or any person aggrieved by any direction or order or decision of the Authority or the adjudicating officer may prefer an appeal to the Appellate Tribunal.

8. Penalties and Enforcement

- **Section (59)** Penalties for non-compliance: If a promoter fails to register a real estate project as required under the Act, they face a significant financial penalty. The Authority can impose a fine that may extend up to 10% of the estimated cost of the project. Furthermore, if the promoter ignores the Authority's orders or continues the violation, they can be punished with imprisonment up to three years, an additional fine up to another 10% of the project cost, or both.

III. Achievements and Positive Impact

RERA's early years saw significant progress in many states. By September 2025, over

1.48 lakh real estate projects and 1,04,864 agents had been registered nationwide. Total Number of Disposed consumer complaints stand at 1,44,405. Maharashtra being at the frontier having over 51,513 registered projects with Maha RERA providing a model of digital transparency. As of today, most major states, barring a few UTs and North Eastern states have notified RERA rules and established regulatory authorities.[1]

Private equity has thus far emerged as a significant capital source for the India's real estate sector over the past two decades. it has evolved from being a funding avenue to mainstream

[1] MoHUA Implementation progress Report on RERA as of 01st September 2025 Rera tracker_new.xlsx

driver of project development. Investments across office, retail, residential, and warehousing segments rose sharply following the implementation of RERA. Between 2017 and 2020, the sector attracted approximately USD 26 bn in cumulative PE inflows, substantially higher than the USD 17.5 bn recorded during 2011-2016 (preRERA).[2]

RERA has enhanced the transparency and enabled digitization while enhancing the dispute resolution efficiency, The number of cases resolved have also increased significantly YoY with a 7-year CAGR of 33% between 2018 and 2025. Maharashtra, Uttar Pradesh, Haryana, Karnataka and Gujarat emerged as leaders in resolution efficiency.

IV. Weak Enforcement and Implementation Challenges

RERA although improving real estate transparency, suffers from weak enforcement, data overload and uneven implementation across states have given rise to issues such as insufficient penalties for non- compliance, delayed project deliveries dilute its intended impact. It often fails to provide buyers with effective relief, as builders more often than not find ways to circumvent compliance with RERA's decisions.

In an interview to HT, Haryana Real Estate (Regulation and Development) Act (RERA) adjudicating officer, Rajender Kumar, has labelled the authority "toothless tiger," lamenting the lack of enforcement mechanisms under the 2016 Act saying 'Despite RERA being a complete law in itself it does not provide an effective mechanism to enforce the orders passed by the authority, the adjudicating officer, or the appellate tribunal. in the absence of such enforcement powers, the authority has become a "toothless tiger"'.[3]

V. Judicial Analysis

The judiciary has played an important role in shaping how the Real Estate (Regulation and Development) Act, 2016 (RERA) works in practice. Courts have generally interpreted the law in a way that supports its main purpose: protecting homebuyers and bringing greater fairness and transparency to the real estate sector. At the same time, judicial decisions have also shown that the success of RERA depends not only on the strength of the law itself but also on how effectively it is enforced.

[2] Knight Frank's Report RERA's Reign - August 2025.cdr
[3] Hindustan Times, October 2024, 'RERA 'toothless tiger' due to lack of enforcement powers'

A key decision in this area is **Pioneer Urban Land and Infrastructure Ltd. v. Union of India**[4], where the Supreme Court upheld the constitutional validity of RERA. The Court treated RERA as a welfare-oriented law introduced to address common problems in the housing sector, such as delay in possession, misuse of funds by developers and lack of clear information for buyers. It held that requirements like compulsory registration of projects, disclosure obligations and maintenance of separate escrow accounts were reasonable and necessary. In simple terms, the judgment made it clear that RERA is meant to place homebuyers at the heart of the legal framework and that the duties imposed on promoters are justified for that purpose.

The consumer-friendly approach of the courts can also be seen in **Mohd. Zain Khan v. MahaRERA**[5]. In this case, the Bombay High Court held that a RERA authority cannot refuse to hear a complaint only because the project was not registered. If such a view were accepted, a developer who had already violated the law by not registering the project would gain an unfair advantage. The Court therefore adopted a practical and purposive interpretation of the Act, ensuring that homebuyers are not left without a remedy merely because of the promoter's default.

Judicial concern has also extended to the functioning of RERA authorities themselves. In State of Himachal Pradesh v. Naresh Sharma[6], the Supreme Court considered the issue of shifting the office of the Himachal Pradesh RERA authority. Although the matter was administrative, the Court stressed that access to justice should not suffer and noted the importance of online filing and virtual hearings. The proceedings also reflected broader concern about delays and the difficulties faced by homebuyers in getting effective relief. This shows that even a strong legal framework can fall short if the institutions responsible for enforcing it do not function efficiently.

Taken together, these decisions show a clear judicial trend. Courts have supported RERA as a valid and necessary law, interpreted it in favour of protecting buyers, and recognised the need for effective regulatory institutions. The broader message is simple: RERA is a strong piece of legislation, but its real value depends on proper implementation, easy access to remedies and

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[4] Pioneer Urban Land and Infrastructure Ltd. v. Union of India, (2019) 8 SCC 416.
[5] Mohammed Zain Khan v. Maharashtra Real Estate Regulatory Authority, 2018 SCC OnLine Bom 7812.
[6] State of Himachal Pradesh v. Naresh Sharma, 2026 SCC OnLine SC 1156.

timely enforcement of rights.

VI. Towards Uniformity: Initiatives and Enforcement

Even as RERA holds out promise, its enforcement across India has been spotty, with wide disparities in the enforcement and openness from state to state. In response, the Ministry of Housing and Urban Affairs (MoHUA) has moved to enhance coordination and introduce greater consistency into the regulatory environment.

In a significant development, Union Minister Shri Manohar Lal inaugurated Unified RERA Portal (rera.mohua.gov.in) — a one-stop national portal that aims to consolidate information from all the State RERA sites at the 5th Meeting of the Central Advisory Council (CAC) in September 2025. As per the Press Release of the Ministry, 35 States/UTs have formed RERAs, 29 have formed Appellate Tribunals.[7] Further 1,151, 113 projects and 1. 06, 545 real estate agents were registered under RERA.

The prompt response from the Council also came on progress made by the Amitabh Kant Committee on recommendations for delayed projects. Among the other important recommendations, the most pressing was to create SoPs for the enforcement of RERA orders that would simplify and expedite the progress on delayed housing projects. The Unified Portal has much to contribute here — through AI-based analytics that would identify possible delays early on and aid more informed policy-making.

Cumulatively, these efforts portend a fresh effort to address long-standing enforcement issues and head towards a more standardized implementation of RERA across jurisdictions.

VII. Conclusion

In conclusion, the Real Estate (Regulation and Development) Act, 2016 (RERA) is still a revolutionary change for the Indian real estate industry. It was established in order to improve the previously delayed, financially opaque, and inadequately protected market by introducing transparency, accountability, and consumer protection.

Important components, such as escrow procedures, mandatory project registration, and default

[7] PIB, Ministry of Housing & Urban Affairs, Council reviews RERA implementation, stalled projects, homebuyers' grievances and developers' issues Press Release: Press Information Bureau

penalties, have given developers greater discipline and increased buyer confidence. However, RERA's effects are still not uniform. Procedural delays in dispute resolution continue, and some states have fallen behind in enforcing uniform regulations.

In order to strengthen RERA's framework, a multi-layered approach is presently the hour of need. This includes the creation of a centralized appeals mechanism for expeditious redressal of grievances, development of regulatory capacity through training, and utilizing digital platforms for real-time tracking. The creation of the Unified RERA Portal and greater emphasis on Online Dispute Resolution (ODR) are positive steps in this direction.

Lastly, RERA's success will depend on collaborative efforts between the regulators, developers, and homebuyers collectively creating a fair, efficient, and credible real estate ecosystem.

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