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**“IS GOOD GOVERNANCE
A RIGHT OF THE CITIZEN
OR NOT”**



In Memory of Late
Shri. CA. H B M Muruges



By Hon'ble Justice
Shri. N Santosh Hegde

August 2022

**Allottees Under RERA
Rights And Duties of Allottees
(Part - 15 of RERA Series)**

CA. Vinay Thyagaraj

Senior Partner, Venu & Vinay,

Chartered Accountants

vinay@vnu.ca www.vnuca.com

+91-80-26606498, 26671433, 26676751



CA. Vinay Thyagaraj

ALLOTTEES UNDER RERA - RIGHTS AND DUTIES OF ALLOTTEES -

(PART - XV OF RERA SERIES)

Real Estate (Regulation and Development) Act 2016 (RERA Act) is a transformational statute with the objective to REGULATE and DEVELOP the real estate industry.

Friends, as we are all aware the Real Estate Sector is the second largest industry after agriculture. Real Estate contributes a considerable % to GDP of the country, Direct and Indirect Taxes, and Employment (skilled and unskilled), and the requirements and existence of this industry would be everlasting.

The RERA Act has an inbuilt provision/regulation/direction to the stakeholders with respect to action or activities of the real estate business viz. when to launch the project (on receipt of plan sanction and RERA Registration), financial management (money collection, deposit, withdrawal, and utilisation), quality and assurance on the product (defect liability and insurance), promotional activities (the veracity of advertisement), form and contents of legal documents (allotment, agreement, sale deed), delivery of the product (conveyance, handover), compensation (for delay of delivery and breach of agreement), alternative resolution, speedy dispute resolutions (timely disposal of complaints), penal provisions for non-compliance to the provisions of the statute.

The Stakeholders of the industry means and includes landowner, builder, developer, banker, financial institutions, lenders, customers, vendors, suppliers, service providers, professionals (engineer, architects, chartered accountants, advocates), etc

Each stakeholder plays a vital and important role under RERA. In this article, the importance of Customers/buyers of real estate is deliberated.

Under RERA, the customer/buyer/purchaser is collectively called an Allottee. Sec 2(d) of the RERA Act defines "Allottee" in relation to a real estate project, means the person to whom a plot, apartment, or building, 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, transfers or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent.

CHAPTER IV of the RERA Act provides for RIGHTS AND DUTIES OF ALLOTTEES in the project. The details of the same are summarised in a tabular manner -

Details	Rights of the Allottees
The allottee shall be entitled to obtain	the information relating <ol style="list-style-type: none"> 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
The allottee shall be entitled to know	the stage-wise time schedule <ol style="list-style-type: none"> 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 accordance with the terms and conditions of the agreement for sale
The allottee shall be entitled to claim	The allottee shall be entitled to <ol style="list-style-type: none"> claim the possession of the 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

Details	Rights of the Allottees
The allottee shall be entitled to claim the refund of the amount paid along with interest	<ol style="list-style-type: none"> 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 the agreement for sale or due to discontinuance of his business as a developer on account of suspension or revocation of his RERA registration
The allottee shall be entitled to have	<ol style="list-style-type: none"> the necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building

Details	Duties of the Allottees
Every allottee who has entered into an agreement for sale shall be responsible to	<ol style="list-style-type: none"> make necessary payments in the manner and within the time as specified in the agreement for sale and shall pay at the proper time and place - <ol style="list-style-type: none"> the share of the registration charges, municipal taxes, water charges, electricity charges, maintenance charges, ground rent, and other charges, if any
The allottee shall be liable to pay interest	<ol style="list-style-type: none"> at such rate as may be prescribed (maximum of SBI MCLR +2%) for any delay in payment towards any amount or charges to be paid as per the agreement for sale
Every allottee shall participate	<ol style="list-style-type: none"> towards the formation of an association or society or cooperative society of the allottees, or a federation of the same

Details	Duties of the Allottees
Every allottee shall take physical possession	<ol style="list-style-type: none"> within a period of two months of the occupancy certificate issued for the said apartment, plot, or building
Every allottee shall participate	<ol style="list-style-type: none"> towards the registration of the conveyance deed of the apartment, plot, or building

In case of a complaint filed by the promoter on the allottee for failure to perform their duties or as per terms of the agreement, the Authority or Appellate Tribunal may pass necessary orders based on the facts and merits of the case directing the Allottee to comply. If the Allottees fail to comply with such orders, then the punitive provisions under the Act are attracted.

RERA Act has a provision to penalise the Allottees if they fail to comply with the orders of the Authority or Appellate Tribunal. The details of the contravention and the quantum of penalty or imprisonment are summarised in the table below -

Reference in the Act	Provision	Contravention and Quantum of Penalty
Section 67	Penalty for failure to comply with orders of Authority by the allottee	<ol style="list-style-type: none"> If any allottee fails to comply with or contravenes any of the orders, decisions, or <u>directions of the Authority</u> shall be liable to a penalty for the period during which such default continues, may cumulatively extend up to <u>five percent</u> of the plot, apartment, or building cost, as the case may be, as determined by the Authority.
Section 68	Penalty for failure to comply with orders of Appellate Tribunal by the allottee	<ol style="list-style-type: none"> If any allottee, fails to comply with, or contravenes any of the orders or <u>directions of the Appellate Tribunal</u>, he shall be punishable

Reference in the Act	Provision	Contravention and Quantum of Penalty
		<p>with <u>imprisonment</u> for a term which may extend <u>up to one year</u> or</p> <p>3. with a fine for every day during which such default continues, which may cumulatively extend up to <u>ten percent of</u> the plot, apartment, or building cost, as the case may be, or</p> <p>4. <u>with both</u></p>

Few points based on the judicial pronouncement –

Details	Outcome and reference of Judgement
Will Lessee come under the definition of 'allottee'	<ol style="list-style-type: none"> 1. Yes, a lessee is an allottee. All provisions are applicable 2. Lavasa Corporation's Brookview project at Lavasa City

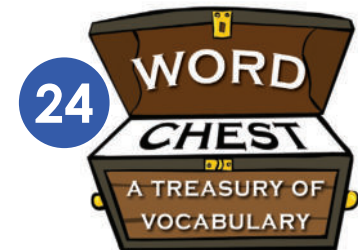
Conclusion - With the introduction of the RERA Act, the Act has given rights to the allottees and also the duty to perform in relation to the transaction with the promoter. This will enable the promoter to implement and allottees to follow the uniform, standard practices.

*Authors can be reached at :
vinay@vnm.ca*

Solution to Sudoku - 23

July 2022

2	5	3	4	6	8	9	1	7
9	7	4	3	5	1	2	6	8
6	1	8	9	2	7	5	4	3
1	8	9	5	7	4	6	3	2
7	3	6	1	9	2	8	5	4
5	4	2	6	8	3	1	7	9
8	2	1	7	3	6	4	9	5
3	6	5	8	4	9	7	2	1
4	9	7	2	1	5	3	8	6



RERA

Finance Tech Term of the Month:

Ripple

What is this?

Ripple is a technology that acts as both a cryptocurrency and a digital payment network for financial transactions. It was first released in 2012 and was co-founded by Chris Larsen and Jed McCaleb. Ripple's main process is a payment settlement asset exchange and remittance system, similar to the SWIFT system for international money and security transfers, which is used by banks and financial middlemen dealing across currencies.

Ripple transactions use less energy than bitcoin, are confirmed in seconds, and cost very little, whereas bitcoin transactions use more energy, take longer to confirm, and include higher transaction costs.

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