



CONSUMER UPDATE

Real Estate (Regulation and Development) Act (Part - II)

Functions of the Authority

In order to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector, the Authority will make recommendations to the appropriate Government of the competent authority, as the case may be, on,

- protection of interest of the allottees, promoters and real estate agents
- creation of a single window system for ensuring time bound project approvals and clearances for timely completion of the project
- creation of a transparent and robust grievance redressal mechanism
- measures to encourage investment in the real estate sector including measures to increase financial assistance to affordable housing segment
- measures to encourage construction of environmentally sustainable and affordable housing, promoting standardisation and use of appropriate construction materials, fixtures, fittings and construction techniques
- measures to encourage grading of projects on various parameters of development
- measures to facilitate amicable conciliation of disputes between the promoters and the allottees through dispute settlement forums set up by the consumer or promoter associations

Powers of the Authority

- Call for information and conduct investigations
- Summoning and enforcing the attendance of persons and examining them on oath
- Issue interim orders
- Issue directions which shall be binding on all concerned
- Impose penalty or interest, in regard to any contravention of obligations cast upon the promoters, the allottees and the real estate agents, as the case may be
- Follow principles of natural justice
- Where an issue is raised relating to agreement, action, omission, practice or procedure that has an appreciable prevention, restriction or distortion of competition in connection with the development of a real estate project or has effect of market power of monopoly situation being abused for affecting interest of allottees adversely, then the Authority, may suo motu, make reference in respect of such issue to the Competition Commission of India
- Levy fee and prescribe advertisement charges and collect the same from developers and advertisers willing to advertise on the website of the authority

Escrow Account

The developer should deposit 70% of the amount, realized for the real estate project from the allottees, from time to time, in a separate account to be maintained in a scheduled bank, to cover the cost of construction and the land cost. The amount should be used only for that purpose and may be withdrawn, to cover the cost of the project, in proportion to the percentage of completion of the project.

Refund

Any refund of monies, along with the applicable interest and compensation, if any, payable by the promoter, due to failure to complete or inability to handover possession of an apartment, plot or building, should be paid by the promoter, to the allottee, within 90 days from the date on which such refund, along with applicable interest and compensation, if any, becomes due. The entitling allottee shall get full refund at any time if the builder has not followed the time schedule. The builder shall not keep 10% of the booked value of the property.

At the same time, if the allottee defaults in making timely payment as per terms of the agreement, the allottee shall not have the right of claiming any interest or compensation from the promoter.

In case of termination of the agreement as per the terms recorded therein, such refund and/or penalty and/or compensation shall be made by the party-in-breach to the other party simultaneous to the execution of appropriate cancellation agreement and registration, if required. If the defaulting party fails to come forward for execution of registration agreement, the Authority shall have the right to execute such agreement on behalf of the defaulting party.

Interest Payable by Promoter/Allottee in case of delay

The rate of interest payable by the promoter to the allottee or by the allottee to the promoter, as the case may be, shall be the State Bank of India highest Marginal Cost of Lending Rate plus two per cent; Provided that in case the State Bank of India Marginal Cost of Lending Rate is not in use it would be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

Formation of association

The association of allottees should be formed, registered and governed by the provisions contained in the Tamil Nadu Apartment Ownership Act, 1994 (Tamil Nadu Act 7 of 1995), and the applicable rules for the time being in force. The Association shall take over the maintenance of the project including the common areas and amenities provided in the project within 3 months from the date of intimation by the promoter upon completion of the project.

Adjudicating Officer

If the promoter puts out misleading advertisements or fails to adhere to the sanctioned plan and project specifications or fails to complete/unable to give possession of an apartment/plot/building or if the allottees rights, as defined under the law are violated in some way (Sections 12, 14, 18, 19), then, for the purpose of adjudging compensation for these violations, the Authority, in consultation with the State Government, should appoint an adjudicating officer (a judicial officer, who is or has been a District Judge), for holding inquiry in the prescribed manner.

(to be contd...)

Banks Have No Liability for Loss of Valuables in Lockers: RBI

Do not expect any compensation for theft or burglary of valuables in safe deposit boxes of public sector banks as the locker hiring agreement absolves them of all liability!

This bitter truth was disclosed in an RTI response by the Reserve Bank of India (RBI) and 19 PSU banks. Stung by the revelation, the lawyer who had sought information under the transparency law has now moved the Competition Commission of India (CCI) alleging "cartelisation" and "anti-competitive practices" by the banks in respect of the locker service.

He has informed the CCI that the RTI response from the RBI has said it has not issued any specific direction in this regard or prescribed any parameters to assess the loss suffered by a customer.

Even under the RTI response, all public sectors banks have washed their hands of any responsibility.

According to the information availed by the lawyer, the unanimous reason given by the 19 banks, including Bank of India, Oriental Bank of Commerce, Punjab National Bank, UCO and Canara, among others, is that "the relationship they have with customers with regard to lockers is that of lessee (landlord) and lessor (tenant)".

Source: The Economic Times

Law Of Limitation Gives No Extra Time To Govt Bodies: NCDRC

The law of limitation does not permit any extra time for government functionaries that must complete the administrative procedure of seeking approvals for legal matters within the limitation period, the National Consumer Disputes Redressal Commission has held.

The NCDRC said so while taking a strict view of the delay of over 233 days caused by Air India in filing appeal against ex parte interlocutory orders of the State Commission, where also it had failed to make an appearance, despite being duly served.

It is true that the appellant (Air India) is a huge organisation and may have to follow certain administrative procedures for obtaining approvals etc., but all this exercise has to be completed within the period of limitation prescribed in the Act, which does not permit any extra/additional time for the public authorities/corporations, like the appellant herein," said a bench of Justice DK Jain and M Shreesha while declining to condone the delay.

In the instant case, Air India had approached the NCDRC in appeal against the May 6, 2016, order of the State Commission by which Air India was decided to be proceeded against ex parte in a complaint filed by a former employee of the airliner.

For further details, [click here](#)

Customers Bleeding; RBI Offers Only Band-Aid

“The Reserve Bank of India (RBI) is slowly waking up to public anger about rising bank charges, rampant mis-selling of financial products, growing incidents of digital and cyber fraud and poor grievance redress. Customers are especially angry that banks are never penalised and compensation for harassment is very rare. Yet, RBI has responded merely with an expansion of the role of the banking ombudsman (BO) from 1st July. Under the amended scheme, the BO’s pecuniary jurisdiction has doubled from Rs10 lakh to Rs20 lakh. It is also allowed to pay a compensation of up to Rs1 lakh for harassment, mental anguish, loss of time and expenses. RBI has widened the scope of filing an appeal against the BO’s orders.

Unfortunately, this is like applying band-aid to a huge bleeding wound. It starts with RBI’s refusal to even acknowledge the problem or rampant mis-selling and unfair charges. RBI’s press release describes it as “deficiencies arising out of the sale” of mutual funds, insurance, third-party investment products and “non-adherence to RBI instructions with regard to mobile banking and electronic banking services.” As always, the media has lauded this as a step forward; but it is highly inadequate and incomplete. In fact, we would like to know why RBI has been dodging a far simpler solution for nearly three years”, says Sucheta Dalal, in her article in Moneylife.

For further info, [click here](#)



CAG

Citizen consumer and civic Action Group

CAG is a 32 year old non profit, non political, professional organization working towards protecting citizen’s rights in consumer and environmental issues and promoting good governance including transparency, accountability and participatory decision making.

The complaints cell at CAG addresses specific problems of consumers. Also CAG regularly conducts consumer awareness programmes for schools, colleges and special target groups.

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