

September-2017

## RERA IN MAHARASHTRA – WHERE ARE WE NOW?



On 25 March 2016, the Real Estate (Regulation and Development) Act, 2016 (RERA) received the assent of the President, and on 01 May 2017, the RERA came fully into force. The RERA created an entirely new regime for the registration and regulation of real estate projects in the country. The RERA required each State and Union Territory to adopt its own set of rules and designate its own Real Estate Regulation Authority (Authority).

### Maharashtra government and RERA

Maharashtra was an early mover on the RERA. The State government appointed an interim Maharashtra Authority as early as 26 December 2016. It subsequently established the Maharashtra Authority in March 2017 and appointed the Authority Chairperson and Members in May 2017. The Maharashtra State government also adopted State rules on the RERA in April 2017.

### Maharashtra RERA Authority

The Maharashtra Authority also immediately got into action upon appointment. The Maharashtra RERA regulations were notified in April 2017. The Maharashtra Authority's website (accessible at <https://maharera.mahaonline.gov.in>) was up and running by the end of April 2017.

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### Current status of RERA in Maharashtra

#### *RERA website*

The Maharashtra Authority's website can now be used to access the various RERA rules and regulations applicable to Maharashtra, as well as FAQs, clarifications and orders issued by the Maharashtra Authority.

The website also links to a platform for promoters and agents to submit online registration applications. In addition, details of and relevant documents relating to registered real estate projects and registered real estate agents can be accessed on the website. Complaints with respect to registered projects can also be filed through the website.

### ***Registration of ongoing projects in Maharashtra***

IT SEEMS THE RERA IS WELL ON ITS WAY TO CHANGING THE REAL ESTATE SECTOR IN MAHARASHTRA.

As on the date of this article, the Maharashtra Authority is still permitting promoters to register ongoing projects under the RERA,

although the deadline prescribed under the RERA for such registrations was 31 July 2017. The Authority has therefore prescribed a penalty for such late registration of ongoing projects – Rs. 2 lakhs or an amount equal to double the registration fee, whichever is higher, subject to a ceiling of Rs. 10 lakhs. Based on the latest notification issued by the Maharashtra Authority, promoters are permitted to file late applications for ongoing projects with this penalty only until 5 pm on 30 September 2017, after which no such registration applications will be accepted. Permitting promoters to register ongoing projects late for a standard penalty has prevented a bottleneck by obviating the need to adjudicate penalties for late filing for individual cases, and has encouraged promoters of ongoing projects to come forward and register their projects.

### ***Maharashtra RERA clarifications***

Since its establishment, the Maharashtra Authority has issued a number of clarifications with respect to the RERA in Maharashtra. These include clarifications about various definitions under the RERA (such as carpet area, land cost, cost of construction etc.) as well as procedural guidelines for filing applications and complaints under the RERA. For the most part, these clarifications are extremely useful as they provide a practical guide to project developers, property purchasers and real estate agents. However, at least one of these clarifications (which defines the liabilities of joint promoters or "co-promoters") is under challenge before the Bombay High Court.[\[1\]](#) It remains to be seen how the court treats the clarification.

### ***Complaints to Maharashtra Authority and adjudicating officer***

The Maharashtra Authority has begun to register and hear complaints against real estate projects from property buyers and developers. The Maharashtra Authority has also appointed an adjudicating officer to hear specific categories of complaints under the RERA. Both the Maharashtra Authority and the Maharashtra adjudicating officer have passed their first orders, which are also available on the Maharashtra Authority's website. The daily cause list of cases for hearing can also be viewed on the website.

### ***Designated Authority for Daman & Diu, Dadra & Nagar Haveli***

In August 2017, the Maharashtra Authority was also designated the Authority for the Union Territories of Daman & Diu and Dadra & Nagar Haveli. Registration of projects for these Union Territories has begun from 01 September 2017.

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## **Next steps for RERA in Maharashtra**

It seems the RERA is well on its way to changing the real estate sector in Maharashtra. The access to project and promoter information on the Maharashtra Authority's website and the ease of making and tracking RERA-related complaints, including with respect to pending ongoing projects, have provided much-needed protection to real estate purchasers. As time goes on, orders in complaints before the Maharashtra Authority should provide clarity on hard or fringe cases where uncertainties about the interpretation of RERA provisions still remain. One pending issue for the RERA in Maharashtra remains the appointment of a Real Estate Appellate Tribunal (Appellate Tribunal) to hear appeals from orders of the Maharashtra Authority and the Maharashtra adjudicating officer. At the time of writing this article, the Appellate Tribunal for Delhi has just recently been designated. It is hoped that the Maharashtra Appellate Tribunal will also be designated soon.

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[\[1\]](#) Ismail Ibrahim Patel & 6 Ors. v. State of Maharashtra & 3 Ors., Writ Petition (L) No. 2023/2017

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