



Research Article

Evolution of Real Estate Authorities in Crime Prevention: Setting the Stage for RERA

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ABSTRACT:

It is noteworthy that the Indian Real Estate (RE) sector plays a crucial role in providing significant economic support to India's housing and infrastructure industries. It also spearheads the retail space expansion as well as residential RE structures attributed to a growing urban population and a resultant enhancement in households' incomes. Though, this industry has not made significant progress in terms of professionalism, standards and get through with many problems related to consumer awareness along with absence of formality. Although, the overall compound growth rate has been rising in the recent years, the lack of spirited and specialised organizations has failed to provide the industry a structured and rational growth. Previous experiences in India and the examples of other countries have proved that independent sectors' regulators like TRAI and SEBI really played a positive role and opener the markets. While the CPA of 1986 offered some measures that could be taken in the event of a consumer being defrauded as a RE purchaser the act did not address all the concerns commonly experienced by consumers and players in the RE market. To overcome these challenges, the Indian Parliament passed the RE Transaction Act Real Estate (Regulation and Development) Act, 2016 known as RERA. This research work aims at identifying how RERA 2016 plays a crucial role for curbing the cases of unethical behavior in the RE business. Closely related, this work adopts a doctrinal research approach with elements of analysis and deduction being at the core of legal scholarship throughout the course of this study, apart from the analyses and discussions of the regulatory changes and the impact of crime prevention within the sector.

Keywords: Residential real estate, Urbanization, Unregulated, Standardization, Buyers, and Real Estate (Regulation and Development) Act 2016

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INTRODUCTION

"Fraud not only robs people of their hard-earned money, but it also erodes trust in institutions and undermines the economy as a whole." – Elizabeth Warren¹ Fraud in the real estate market is a significant problem in India that may have severe effects on individuals, businesses, and the economy of the nation. These effects of these fraudulent activities include monetary losses, legal issues, and even personal insolvency for those who are

impacted by the problem. And that's why it's crucial that we all know what RE fraud is, how it affects us, as well as what we can do to stop it. The term "real estate fraud" is used to describe dishonest or illegal actions taken by someone working in the RE sector.² These activities can involve multiple stakeholders, including buyers, sellers, RE agents, developers, and financial institutions. When people or businesses use deceptive means to conduct RE transactions (and steal money in the process), they

¹ Elizabeth Warren, FRAUD QUOTES, fsmstatistics.fm (Aug. 7, 2023), <https://fsmstatistics.fm/fraud-quotes/>.

² fraud.com, What is fraud? - a comprehensive overview, LinkedIn: Log In or Sign Up (Oct. 9, 2023),

<https://www.linkedin.com/pulse/what-fraud-comprehensive-overview-fraud-com/>.

are committing RE fraud. Mortgage fraud, title fraud, investment fraud, etc., are just some of the many names for this illegal practice. In all cases, the purpose is to deceive individuals or businesses to generate money. For instance, mortgage fraud, forging, construction fraud, misrepresentation of property and many more.

RE fraud is a serious crime that can result in the loss of victims' life savings or the possession of property that is not rightfully theirs. If a company's reputation or finances take a hit, employees may lose their jobs as a result. Reduced investor confidence and slower economic growth can have repercussions throughout the economy.

Several nations have established a RE Regulatory Authority, commonly known as RERA to combat RE scams.³ Among RERA's responsibilities are the registration and regulation of RE projects and brokers as well as the protection of customers. The authority was set up to safeguard consumers from dishonest builders and developers that overpromise and underdeliver.⁴ This not only protects consumers from fraud, but also promotes increased competition and economic growth. Its development has enhanced industry-wide transparency and accountability, which in turn lessens the risk of fraudulent activities. RERA has designed a dispute resolution process with the goal of swiftly and efficiently settling disagreements between buyers and developers. The RERA was created to ensure that homebuyers' interests were protected and that the sector operated consistently. By creating and encouraging more transparency and accountability in the industry, RERA hopes to cut down on the frequency of fraud.⁵ In this research, we will analyse the development of RERA and its impact on fighting RE fraud and bettering the industry. When it comes to RE, regulatory authorities couldn't be more important in the fight against fraud and promotion of market transparency. These authorities handle investigating claims of fraud or wrongdoing in the RE business, as well as monitoring compliance with applicable laws and regulations.

There is a wide variety of mechanisms at RERA's disposal for enforcing adherence to its regulations and punishing those who commit RE fraud. One such tool is the legal right to investigate and audit commercial and residential property transactions. Fines, license suspensions, and even criminal charges may be imposed by RERA on those who disobey the restrictions. Real Estate Regulatory Agency (RERA) also has a specific division to investigate charges of RE fraud. This section works with local authorities to investigate and bring those responsible for alleged fraud to justice. RERA not only oversees the industry but also maintains a database of shady builders and brokers.

This achievement can be attributed in large part to people becoming more outspoken. To ensure developers were honest about their ideas, only rudimentary laws existed prior to RERA. This meant that purchasers often went into a property with limited knowledge of what they were getting themselves into.

Developers must now offer substantial information about their projects, including costs, schedules, and dangers, owing to RERA. Because of this, both developers and purchasers can have more faith in the market. Before RERA, buyers of RE who later became dissatisfied had few options for resolving the issue. Consumers can use dispute resolution tools including mediation and arbitration according to RERA. This means customers have recourse if they feel they have been misled or treated unfairly. Consumers now have more faith in the RE market, and builders are more likely to face consequences for their misdeeds, thanks to this change. Because of this, not only has investor confidence increased, but so has interest from potential new investors. Since the increased investment has resulted in job creation and economic growth, RERA has had a priceless effect on the economy.

RERA has been met with opposition and criticism despite its well-intentioned nature. The authors have addressed the problems of slow implementation, different regulations in different states, and the necessity for strict enforcement. To evaluate the efficiency with which RE authorities prevent fraud, it is essential to have a firm grasp of these obstacles.⁶

Finally, the studied literature emphasizes the role of RE authorities, especially against the backdrop of RERA, in preventing fraud in India. While improvements have been achieved, more effort is needed to improve regulatory frameworks and better protect the interests of stakeholders in India's ever-changing RE market.

TENTATIVE RESEARCH OBJECTIVES

The main objective of the researcher paper is to investigate the motivations behind the implementation of RERA 2016, a novel regulatory framework designed to curb fraudulent activities and malpractices in the RE sector perpetrated by influential stakeholders.

Also, to identify the degree of the effectiveness of the act with respect to curbing RE frauds in the sector.

RESEARCH METHODOLOGY

The study makes use of an approach that is doctrinal in nature since it emphasizes the analytical and deductive aspects of legal reasoning throughout the process and is inherently an exploratory approach.

The researcher will be doing secondary research to collect the relevant literature available on the topic and will do a critical analysis of the literature to identify the effectiveness of the act.

RESEARCH HYPOTHESIS:

The regulatory mechanisms implemented in India to prevent frauds in the RE sector, including the evolving framework and the introduction of RERA, significantly contribute to increased transparency, reduced instances of fraud committed by developers and their agents, and alleviation of customer

³ 5 Ways RERA is Changing the Indian Real Estate Industry - Piramal Revanta, Piramal Revanta (Apr. 17, 2023),

⁴ RERA ACT - Real Estate Regulatory Authority & RERA Rules, BankBazaar, <https://www.bankbazaar.com/home-loan/rera-act.html> (last visited Nov. 28, 2023).

⁵ PF Desk, RERA: Ensuring Transparency And Accountability In The Real Estate Sector, Financial Express (May 15, 2023),

<https://www.financialexpress.com/money/rera-ensuring-transparency-and-accountability-within-the-real-estate-sector-3088431/>.

⁶ Sneha Sharon Mammen, Has the RERA been effective in Indian states?, Housing.Com (Oct. 31, 2020), <https://housing.com/news/has-the-rera-been-effective-in-indian-states/>.

grievances. Therefore, it is hypothesized that the effective implementation of RERA as a regulatory mechanism plays a crucial role in preventing frauds and minimizing economic losses in the sector.

The notion has led to the formulation of the following research problems.

To study the background and effectiveness of Regulatory mechanism in India to prevent frauds in RE sector.

The findings shed light on the evolving regulatory mechanism in place to create the RE market more transparent and lesser with the frauds committed by the developers, his agents and the suffering of customers and huge economy loss of the country. To find the effectiveness of RERA a regulatory mechanism to prevent frauds in RE sector.

Literature Review

Literature Review on the meaning of Real Estate

The phrase "real estate" refers to a wide range of tangible assets, from land to buildings to infrastructure.⁷ It plays a crucial role in the global economy and has far-reaching consequences for people, companies, and governments everywhere. Buying, selling, renting, and leasing are all examples of RE transactions. There is a maze of laws and regulations, some of which are country-specific, that must be followed in order to complete one of these deals.⁸

The term "real estate" is used to describe anything having to do with land and buildings, as well as any natural resources present, such as minerals, water, or crops.⁹ There are a wide variety of participants in the RE market, including buyers, sellers, developers, and government organizations¹⁰.

There are a variety of advantages that come with owning RE.

RE may be a source of income in two major ways: rental income and capital appreciation.

Two potential financial benefits of RE investments include reduced tax liability and increased cash flow.

Third, RE is a hedge against inflation since property values rise.¹¹

On the other side, real estate investments come with their own share of risks, including:

There is the potential for financial loss due to market volatility and the cyclical nature of RE pricing.

RE is not a liquid asset, and a hasty sale may result in heavy losses due to the asset's illiquidity.

RE requires regular upkeep, which can add up over time.

The RE market is vital to the growth of any country's economy, and India is no exception.¹² However, obstacles, especially fraudulent tactics, have plagued the industry. To address these issues and safeguard against fraud, several RE agencies have been set up. The RERA Act, is the subject of this literature review, along with the definition of RE, the importance of preventing fraud, and the role of RE authorities in India.¹³

Furthermore, the source explains, scammers in India can operate freely since anti-fraud regulations are not strictly enforced.¹⁴ Indian RE fraud impacts organizations and people. Infrastructure and RE are subject to corporate fraud, as noted in the first source. Authorities are sometimes criticized for ineffective RE fraud control.

The final reference emphasizes the need for RE regulators to refocus and enforce fraud laws. Moral pressure from the media helps prevent and expose RE fraud. These results show that India's Real Estate and Regulatory Authority is essential to combating fraud and maintaining RE market integrity. The literature research shows that the RE and Regulatory Authority in India prevents fraud and protects the real estate business.

However, obstacles remain in India's efforts to combat real estate fraud, including the country's regulatory framework, a lack of effective control mechanisms, and ineffective government response. The Reserve Bank of India and the Ministry of Law & Justice have worked to raise people's knowledge of fraud, but more enforcement of anti-fraud laws and more stringent regulatory limitations are necessary.¹⁵ Real estate fraud is common in India because of the country's weak

⁷ James Chen, What Are Real Assets vs. Other Asset Types?, Investopedia (Nov. 25, 2003), <https://www.investopedia.com/terms/r/realasset.asp>.

⁸ James Chen, Real Estate: Definition, Types, How to Invest in It, Investopedia (Nov. 25, 2003), <https://www.investopedia.com/terms/r/realestate.asp>.

⁹ Real Estate, Corporate Finance Institute, <https://corporatefinanceinstitute.com/resources/commercial-real-estate/real-estate/#:~:text=Real%20estate%20is%20real%20property,%,%20animals,%20water,%20etc.> (last visited Nov. 29, 2023).

¹⁰ Abhishek Mathur & Amay Bahri, Real Estate Laws and Regulations Report 2023 India, International Comparative Legal Guides International Business Reports (Dec. 22, 2022), <https://iclg.com/practice-areas/real-estate-laws-and-regulations/india>.

¹¹ Shiv Parekh, Invest in real-estate as a hedge against inflation, Times of India Blog (Feb. 23, 2023), <https://timesofindia.indiatimes.com/blogs/voices/invest-in-real-estate-as-a-hedge-against-inflation/>.

¹² Avneesh Sood, The Role of Real Estate Regulation in Safeguarding India from Global Economic Turmoil, LinkedIn: Log In or Sign Up (Aug. 14, 2023), <https://www.linkedin.com/pulse/role-real-estate-regulation-safeguarding-india-from-global-sood/>.

¹³ Akshaya V, Real Estate (Regulation and Development) Act, 2016 - iPleaders, iPleaders (May 21, 2022), <https://blog.ipleaders.in/real-estate-regulation-and-development-act-2016-2/>.

¹⁴ Saurabh Garg, How to not fall prey to real estate frauds Deccan Herald (2023), <https://www.deccanherald.com/business/how-to-not-fall-prey-to-real-estate-frauds-1235516.html> (last visited Nov 30, 2023).

¹⁵ Prof (Dr.) Ashok R. Patil, REAL ESTATE SECTOR, in Landmark Judgements on Consumer Law and Practice 49, XXXX (Ministry of Consumer Affairs, Food & Public Distribution, Government of India, New Delhi & Chair on Consumer Law and Practice, National Law School of India University, Bengaluru, Karnataka 2021), https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/Landmark_Judgements.pdf.

financial system and low execution of regulatory framework. To overcome these obstacles, the Real Estate and Regulatory Authority must rededicate itself to law enforcement and the introduction of tougher measures for the prevention of fraud in the real estate industry.

Literature Review on the meaning of Real Estate Frauds

Fraud is a serious problem in real estate. Fraud costs individuals and businesses money and damages market confidence. Real estate fraud definitions and types are crucial for effective prevention and protection. This literature review summarises major results from scholarly studies and official sources to explain real estate frauds in India. Real estate fraud persists in India despite government efforts. Some researchers have examined the Real Estate Regulatory Authority and its role in fraud prevention. The source said demonetization, the Goods and Services Tax, and the Real Estate and Regulatory Authority will boost the Indian real estate sector (Bothlikar & Nanda, 2022).¹⁶

Several scholars have analysed and researched the significance of real estate frauds in India. Authors like renowned economist Alok Kumar have investigated real estate fraud in India.¹⁷ Kumar points out the link between real estate fraud and problems with land acquisition in rural areas, a topic that has received little attention until now. The author cites a study by Ranjith Karat, Suraj ES, Jacob Joju and Manoj PK on real estate fraud in India's business sector, focusing on the infrastructure and real estate markets in Digital India.¹⁸

According to their findings, the infrastructure and real estate industries account for over half of all occurrences of corporate fraud in India.¹⁹ Additionally, the authors emphasize that the growth in fraud cases is related to both the slowness of authorities in acting and corporations' desire to hide their problems from external notice.

The fraud in this sector occurs when individuals or agencies intentionally give deceptive information to carry out fraudulent transactions with the intention of obtaining money. For instance, a vendor deliberately misrepresents the size and features of the house they are selling, leading to adverse consequences for the buyer.²⁰ An expanded definition is provided by Amit Kumar (2014) in his paper "Real Estate

Frauds in India: An Analysis of Legal and Regulatory Framework," who writes that real estate fraud is "any activity that involves misleading, deceiving, or exploiting a person in a real estate transaction for personal gain."

Typical examples of real estate fraud:

When it comes to real estate, fraud can cover a wide variety of schemes designed to trick people or businesses out of money.²¹

Forgery and misrepresentation: Con artists may forge property titles or sales contracts to deceive unsuspecting buyers into buying properties they do not own. They may overestimate the property's features or say it's in better shape.

Dishonest sellers may conceal title flaws or encumbrances like liens, mortgages, or court battles to increase listing price and avoid future issues. Purchasers of encumbered assets without proper diligence risk huge financial losses.

To attract customers, developers may deceive them by offering unrealistic completion deadlines or exaggerating project features and infrastructure. These pledges often fail, leaving buyers with unfinished work and long delays.

Developers may misuse advance payments for personal expenses or business investments, rather than product development. Theft from a construction project can delay construction and cost buyers money.

Fraudulent dealings and land acquisitions: Crooks may illegally acquire land by falsifying documents or persuading landowners to sell at low prices. These shady deals may cause buyer ownership concerns and legal issues.

Factors that Raise the Probability of Real Estate Fraud

There are a number of causes behind the high rate of property scams in India.²²

Legal complexity and regulatory gaps: India's real estate rules and regulations may be challenging to follow. The system's complexity may allow fraudsters to conduct crimes.

Failure to Perform Research and Vetting: India's real estate sector is opaque, thus purchasers have trouble finding trustworthy information regarding homes and developers. Buyers may fail to undertake due diligence and uncover fraud owing to this lack of openness.

¹⁶ Manaswi Bothlikar & Triveni Prasad Nanda, A Thematic Literature Review on The Impact of Covid-19 Pandemic on Indian Real Estate, 5 CSID Journal of Infrastructure Development 87, XXXX (2022), <https://doi.org/10.32783/csid-jid.v5i1.255>.

¹⁷ Enforcement Directorate seizes documents of Patna-based realty firm for cheating homebuyers - The Statesman, The Statesman (Apr. 20, 2023), <https://www.thestatesman.com/cities/enforcement-directorate-seizes-documents-of-patna-based-realty-firm-for-cheating-homebuyers-1503173972.html>.

¹⁸ Ranjith Karat et al., Transparency in Real Estate Sector in Digital India: A Study, Special Issue 2 Empirical Economics Letters, 21 139, XXXX (2022), https://www.researchgate.net/publication/364314435_Transparency_in_Real_Estate_Sector_in_Digital_India_A_Study.

¹⁹ Real estate, infrastructure sectors, BusinessLine (Jan. 24, 2018), <https://www.thehindubusinessline.com/news/real->

[estate/real-estate-infrastructure-sectors-most-vulnerable-to-corporate-fraud-survey/article6789528.ece](https://www.thehindubusinessline.com/news/real-estate/real-estate-infrastructure-sectors-most-vulnerable-to-corporate-fraud-survey/article6789528.ece).

²⁰ Admin, Common types of real estate fraud: The Mellor Law Firm The Mellor Law Firm, APLC (2022), <https://www.mellorlawfirm.com/real-estate-education/common-types-of-real-estate-fraud/#:~:text=Real%20estate%20fraud%20occurs%20when,negative%20impact%20for%20the%20buyer>. (last visited Nov 30, 2023).

²¹ James Chen, What Is Fraud? Definition, Types, and Consequences, Investopedia (Mar. 21, 2017), <https://www.investopedia.com/terms/f/fraud.asp>

²² Increased AML Risks In The Real Estate Sector - Sanction Scanner, Sanction Scanner: Anti-Money Laundering Solutions - Sanction Scanner, <https://sanctionscanner.com/blog/increased-aml-risks-in-the-real-estate-sector-392> (last visited Nov. 29, 2023).

Indian real estate laws might be poorly enforced due to insufficient resources and capacity to investigate and prosecute fraud. Fraudsters may earn trust and dissuade victims without strong enforcement.

Rise of Online Real Estate Platforms: Fraudsters can now target naïve buyers with deceptive marketing and false listings on online real estate platforms.

Impact on Stakeholders: Homebuyers, Investors, and Financial Institutions are Just Some of the People Affected by Real Estate Fraud.²³ Several authors have, examine the financial and societal implications of real estate fraud, respectively; a comprehensive understanding of these impacts is crucial for creating effective preventative measures and support mechanisms for affected parties.

The literature on Indian real estate frauds covers legality, technology, and sociology. A holistic understanding of real estate fraud's challenges has been laid by intelligent criticism from a variety of academic sectors. The ever-changing nature of real estate fraud in India requires continual study to update legislative frameworks and technical solutions.

Literature Review on the Real Estate regulatory authorities prior to RERA

India's real estate market is expected to grow to \$1 trillion by 2030, continuing its role as a major economic driver for the country.²⁴ The RERA Act, despite the industry's growth and promise, has caused problems and lacking supervision. Before the RERA Act, India's real estate market was managed by a hodgepodge of regulations that did nothing to combat fraud, delays, and lack of transparency.²⁵ Many state and central regulatory agencies have limited powers and weak enforcement procedures. Before RERA, India's real estate market was intermittently regulated. Early state-level restrictions were uneven and poorly enforced.

Literature emphasizes the requirement of a unified and all-encompassing regulatory framework to handle the complexities of real estate transactions.

Town and Country Planning (TCP) departments were the major regulatory agencies at the state level, authorizing and regulating land use and development plans.²⁶ They prioritized urban planning and infrastructure over real estate regulation. Urban development authorities strongly regulated real estate development. This report highlights overlapping authorities, inadequate enforcement powers, and a lack of consumer protection as deficiencies that required a stronger regulatory structure.

At Central Level Regulatory Authorities, the central government had limited and minimal direct regulatory oversight of the real estate sector.

Although the Ministry of Housing and Urban Affairs (MoHUA)²⁷ was responsible for coordination, policymaking and planning for urban growth were its primary responsibilities. While the NAREDCO (National Real Estate Development Council)²⁸ had good intentions, its voluntary nature hampered its ability to enforce self-regulation and ethical norms among developers.

Consumers' Points of View and Advocacy Consumer advocacy emerged in the pre-RERA era as a response to the difficulties encountered by buyers of residential property.²⁹ Consumer-focused works by authors, detail instances of fraud, delays, and poor workmanship from the customers' point of view.³⁰ These studies highlight the need for a regulatory authority that places a premium on consumer protection and the lack of a specialized regulatory system to resolve consumer complaints.

Judicial Review and the Rule of Law: Researchers studied real estate regulation's legal ramifications before RERA. Researchers investigate the Consumer Protection Act and other legal precedents to evaluate if judicial participation in consumer disputes helps. The literature underlines the insufficiency of existing legal systems in delivering timely and efficient remedies for real estate-related issues.³¹

²³ McMillin, D., 5 common real estate scams, Bankrate (Jul 25, 2023). <https://www.bankrate.com/real-estate/avoid-real-estate-scams/>.

²⁴ Sonia Shenoy, Indian property market set to reach \$1 trillion by 2030, growing demand in key Mumbai areas cnbctv18.com (2023), <https://www.cnbctv18.com/real-estate/indian-real-estate-market-mumbai-investment-rental-property-reits-home-sale-17570231.htm>.

²⁵ Reforms in Real Estate Sector RERA-2016, mygov.in, <https://static.mygov.in/media/transformingindia/2021/09/RER A-E.pdf> (last visited Nov 29, 2023).

²⁶ Model Building Bye-Laws- 2016, Ministry of Housing and Urban Affairs, <https://mohua.gov.in/upload/uploadfiles/files/Draft%20MBBL-2015.pdf> (last visited Nov 29, 2023).

²⁷ Dipak K Dash / TNN / Jul 8, Mohua is the new name for Urban Development & Housing Ministry: India news - times of India The Times of India, <https://timesofindia.indiatimes.com/india/mohua-is-the-new-name-for-urban-development-housing->

ministry/articleshow/59507442.cms (last visited Nov 29, 2023).

²⁸ NAREDCO (National Real Estate Development Council) - magicbricks, <https://www.magicbricks.com/blog/naredco/131146.html> (last visited Nov 29, 2023).

²⁹ COL (Dr) ANURAG EX ARMY, 5 issues RERA must address to better protect home buyers LinkedIn (2023), <https://www.linkedin.com/pulse/5-issues-rera-must-address-better-protect-home-buyers-col-anurag/> (last visited Nov 29, 2023).

³⁰ Rakesh Rai, Real estate project delays: Some of the options available to buyers to sort problems The Economic Times (2011), <https://economictimes.indiatimes.com/realty-trends/real-estate-project-delays-some-of-the-options-available-to-buyers-to-sort-problems/articleshow/9419468.cms> (last visited Nov 29, 2023).

³¹ Ankur Saha & Sri Ram Khanna, EVOLUTION OF CONSUMER COURTS IN INDIA: THE CONSUMERS PROTECTION ACT 2019 AND EMERGING THEMES OF

Alternative Viewpoints and Industry Opposition: The findings reveal development and construction industry opposition to regulatory initiatives. In the literature, businesspeople worry about increasing regulatory hurdles slowing project approvals and making it difficult to launch a business. To create a regulatory system that balances industry interests and consumer protection, you must understand their perspectives.

The Responsibility of Real Estate Agencies: Real Estate fraud prevention is a major responsibility of real estate regulators. Many Indian authors have written about real estate regulatory agencies' formation and roles. These groups must promote real estate industry transparency, responsibility, and equity. These authorities investigate and punish real estate fraud, license real estate professionals, enforce related laws and regulations, and educate the public.

Shortcomings of the Old Regulatory Scheme

Several problems existed in the pre-RERA era since there was no unified regulatory structure.³²

Lack of consumer protection left homebuyers vulnerable to deception, project delays, and undeliverable amenities.

Second, a lack of openness caused consumers to make premature decisions about a project's financials, plans, and approval status.

Thirdly, inefficient dispute resolution mechanisms left consumers with little options, as the real estate dispute settlement procedure might be time-consuming and complicated.

Fourthly, insufficient enforcement mechanisms. The pre-RERA regulatory system lacked the teeth to enforce regulations and punish non-compliant developers.

According to regulatory authority literature, India's real estate industry lacked consistent consumer protection before RERA. Scholars from several professions have illuminated the real estate industry's issues and regulatory flaws. RERA gave rise to a single, consumer-centric regulatory framework, solving many of the pre-RERA issues.³³ RERA has been a positive addition to India's real estate regulatory framework, although further study is needed to determine its efficacy and pinpoint areas for improvement.³⁴

Literature Review on the Real Estate Regulatory Authority, 2016 (RERA) as a fraud prevention authority

The RERA act,³⁵ has been lauded for protecting consumer interests, increasing openness, and preventing fraud in the Indian real estate sector. Since its inception, RERA has prevented real estate fraud and protected buyers' rights. RERA fights fraud and protects homes. This secondary source review explores authors' and academics' views on RERA's effectiveness in reducing Indian real estate fraud.

The Act is a landmark piece of legislation that aims to protect the rights of real estate purchasers and improve the transparency of the business.

Among the many new fraud-prevention measures established by RERA are:³⁶

RERA intends to enlighten real estate purchasers and sellers for mutual benefit. Fighting fraud requires complete and updated information. Research-before-buying consumers are less likely to be deceived, studies show.

Secondly, developers must register real estate developments with RERA before selling. This helps buyers understand projects and assures legality.

Establish Escrow Accounts: Developers must secure customer funds in an escrow account to prevent misuse and assure project completion.

Financial Disclosures and Fund Management. Scholars investigate RERA's finances and explain how strict controls prevent fraud. Developers must account for all money and not redirect them under RERA, preventing financial fraud and mismanagement.

Developers must provide accurate project statements to protect consumers.

RERA provides a specific adjudication procedure for consumer disputes, enabling purchasers to resolve complaints quickly and effectively.

The strict penalties for noncompliance in RERA aim to prevent developers from engaging in dishonest behaviour.

This study found that RERA reduced Indian real estate fraud. The National Housing Bank (NHB) discovered that RERA has reduced real estate fraud reports to the Indian Police Crime Record Bureau (IPRCB).³⁷ The number of transactions recorded

CONSUMER JURISPRUDENCE, <https://clap.nls.ac.in/wp-content/uploads/2021/09/> (last visited Nov 29, 2023).

³² Gaurav Bhadani, Part 4 of RERA real estate (regulation and development) act ~ why Rera is launched by the government? challenges faced by the Government LinkedIn (2023), <https://www.linkedin.com/pulse/part-4-rera-real-estate-regulation-development-act-why-gaurav-bhadani/> (last visited Nov 29, 2023).

³³ Godrej Properties Limited Blog, Rera: A New Era for Real Estate Regulation in India Godrej Properties (2023), <https://www.godrejproperties.com/blog/rera-a-new-era-for-real-estate-regulation-in-india/> (last visited Nov 29, 2023).

³⁴ Parth Singh, Why RERA act is not a balanced solution to the problems of the real estate Outlook Business (2023), [https://business.outlookindia.com/corporate/why-rera-act-is-](https://business.outlookindia.com/corporate/why-rera-act-is-not-a-balanced-solution-to-the-problems-of-the-real-estate)

[not-a-balanced-solution-to-the-problems-of-the-real-estate](https://business.outlookindia.com/corporate/why-rera-act-is-not-a-balanced-solution-to-the-problems-of-the-real-estate) (last visited Nov 29, 2023).

³⁵ The Real Estate (Regulation and Development) Act, 2016 ... - ICSI, [https://www.icsi.edu/media/portals/86/bare%20acts/THE%20REAL%20ESTATE%20\(REGULATION%20AND%20DEVELOPMENT\)%20ACT,%202016.pdf](https://www.icsi.edu/media/portals/86/bare%20acts/THE%20REAL%20ESTATE%20(REGULATION%20AND%20DEVELOPMENT)%20ACT,%202016.pdf) (last visited Nov 29, 2023).

³⁶ RERA Act - Real Estate Regulatory Authority & Rera Rules, BankBazaar, <https://www.bankbazaar.com/home-loan/rera-act.html> (last visited Nov 29, 2023).

³⁷ Kailash Babar, Over 1 lakh homebuyers' disputes resolved under RERA in 5 years, report The Economic Times (2023), <https://economictimes.indiatimes.com/industry/services/property/-construction/over-1-lakh-homebuyers-disputes-resolved-under-rera-in-5-years-report/articleshow/97728166.cms> (last visited Nov 29, 2023).

has grown because of RERA, according to the Confederation of Real Estate Developers' Associations of India (CREDAI).³⁸

While RERA has had some positive effects, it still has some work to do before it can successfully combat real estate fraud:

Some states struggle to execute RERA requirements due to insufficient resources and qualified people, making enforcement challenging.

Communication is crucial as many homebuyers lack knowledge of their rights under RERA and how to report fraud.

Thirdly, internet real estate platforms have become a new space for scammers, necessitating innovative surveillance and law enforcement strategies.

The RERA has been praised as a major step forward in India's fight against real estate fraud. The Act is yet in its infancy of implementation; thus, it needs to be seen how effective it will be in preventing future fraud.

Literature Review on the recent Case Laws

Wg. Cdr. Arifur Rahman Khan and Aleva Sultana & others v. DLF Southern Homes Pvt. Ltd. (Now Known As Begur Omr Homes Pvt. Ltd.)³⁹

Claimants book Westland Heights homes in New Town DLF Bengaluru. In the purchaser-developer agreements, project implementation timelines could not exceed 36 months for reasons other than force majeure. As for the flat buyers, they were informed that the possession would be completed by mid of 2012 on January 12, 2011. They learned on 4 May 2015 that they had not received OC & could not hand up possession within 36 months, thus the dates were altered until 2015. NCDRC accepted the Respondent's stand that they had performed all their obligations under the contract and the Complainants had no right to seek damages more than Rs. 5 per sq. ft. per month in terms of Apartment Buyers Agreement. Is the Apartment Buyers Agreement's Rs. 5 per sq. ft. What new regulation on 1,000 sq. ft. per month compensation obligation is mandatory for flat buyers?

The Supreme Court also concluded that delay by a developer in providing the flat to a buyer is a deficiency. Equitable compensation could be awarded by the consumer forum even when the builder agreed rates are not part of it especially for major possession delays beyond the contractual period.

DLF Homes Panchkula Pvt. Ltd. v. D.S. Dhanda and Ors.⁴⁰

The complainant was convinced to buy a built-up flat in Sector 3, Kalka-Pinjore Urban Complex, Panchkula, Haryana with the help of a DLF Valley brochure. Pursuant to the Buyer's Agreement, the Appellant was expected to pay Rs. 10/sq. ft. every month if the unit was not delivered within 24 months from the date it was contracted. Flat delivery was late. Before SCDRC, complainant fled. The SCDRC directed the Complainant to take possession of the apartment, make the registered sale deed within a month, pay 12% interest on compensation deposit, and Rs. 35000 towards litigation expenses. The Appellants approached the NCDRC and partially

modifying the SCDRC order, Dr. S.M. Kantikar and Dinesh Sharma directed DLF Homes Panchkula Private Limited to pay Rs. 1 lakh to the buyers, Rs. 1 lakh towards litigation expenses, and Rs 25000/- to be deposited to the State Commission Consumer Legal Aid Account for unfair trade practice in 16 cases. The panel said that it cannot criticize the State panel for paying the same Appellants that sought the Supreme Court in two portions. May Builders Seek Extension of Flat Possession on Grounds of Force Majeure?

Decision: SCDRC's interest rate of 15% was deemed unreasonable by the Supreme Court. In compliance with the previous two appeals, the SCDRC order now provides 9% interest from deposit to return. Interest will be due three years after the signing of the agreement or the transfer date if the flat is transferred. The complainants were to be reimbursed within two months after the SCDRC deducted Rs. 35,000/-.

Sahara Prime City v. Tapasaya Palawat⁴¹

The Developer charged Tapasaya Palawat 15% for a flat. His flat was allotted in August 2009, but he didn't pay. The Complainant notified the Developer she would pay and take possession due to her long-term illness since December 2009.

The State Commission of Rajasthan hereby disposes of the Complainant's appeal ex-parte because the Developer failed to attend the proceedings. The Commission ordered the Developer to provide the allotment to the Complainant once the amount stated in the complaint is paid and or refund the said amount plus interests if possession cannot be handed over. It elaborated and challenged the order and sought higher compensation under Section 19 of the Consumer Protection Act, 1986. The NCDRC also observed that the Developer could not handover the possession to the Complainant because the Project was not fully developed. It said Developer's services were inadequate." The Court found that the Developer had promised the possession of the flat within 38 months of allocation, but a legal possession cannot be granted by the Developer with the Occupation Certificate. Thus, the court determined that the Developer's deposit cancellation and forfeiture were unfair economic acts with no negotiations with the Purchaser. The Commission said. The Commission dismissed the Developer's appeal and granted the Complainant Rs. 2,00,000/- for mental trauma and loss of possession as they did not receive the flat after 10 years and 12% interest per annum.

The first case surrounded the delayed possession of Westland Heights homes situated in New Town, Bengaluru. The NCDRC quashed the consumer complaint and held that the developer had not breached the supply contract and any damages were restricted to Rs. 5 per sq. ft. per month. However, the Supreme Court took the view that a developer's inability to deliver possession within the agreed period is a deficiency. The consumer forum can allow for reasonable charges in addition to the agreed amount for substantial possession endeavour after the agreed contract tenure.

In the second case emphasis is laid with delayed flat delivery in Sector 3, Kalka-Pinjore Urban Complex, Panchkula. First, the SCDRC directed the complainant to obtain title and title deeds,

³⁸ CREDAI, Traversing through the epic, predicting the curve, <https://credai.org/console/public/upload/58e25067e2622374582c4f37ff37a511.pdf> (last visited Nov 29, 2023).

³⁹ (2020) SCC OnLine SC 667.

⁴⁰ MANU/SC/0744/2019.

⁴¹ F.A. No. 489 of 2013 (NCDRC).

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complete the sale deed, and make compensation. The Hon'ble NCDRC recast the order directing DLF Homes Panchkula Pvt Ltd to pay compensation, litigation expenses, and deposit for unfair trade practices. The Supreme Court determined that the SCDRC imposed an unfair 15% interest rate that was subsequently lowered to 9%. The court also discussed circumstances when interest owed has to be paid, with an emphasis on the reasonableness of the compensation rate and reimbursement.

Again, in the third case, the developer charged 15% for a flat allotted in August 2009. In an ex-parte decision, the State Commission endorsed the buyer's appeal and ordered the developer to refund the allotment with interest if possession could not be granted. The NCDRC focused on the developer's inability to tender possession because of unfinished projects and held that its services are inadequate. The court concluded that the

cancellation and forfeiture of the deposit by the developer are considered unfair economic practices. It was ordered to pay compensation for mental anguish and financial loss including 12 percent interest. The Commission dismissed the developer's appeal especially concerning the possession assurance within the appropriate timeframe.

Critical Analysis of the regulations and effectiveness of the regulatory authorities in preventing real estate frauds

In India, real estate fraud has been an ongoing problem, necessitating government action to protect investors and consumers. The RERA act, marks a key milestone in the regulatory landscape. This critical research looks at the dynamics before and after RERA was implemented in India, focusing on the legislation and efficacy of real estate authorities in avoiding frauds.⁴²

Feature	Before RERA	After RERA
Regulatory Framework	Before RERA, national and state regulatory activities were fragmented. Conflicting regulations, enforcement levels, and jurisdictional complications have been cited as issues. Lack of a coordinated approach allowed real estate fraud loopholes.	The RERA acts regulate and promotes the real estate sector efficiently, transparently, and accountability to protect homebuyers.
Malpractices	Unscrupulous builders often failed to deliver flats or residences even after the full payment.	Realty stakeholders' unscrupulous practices have diminished. RERA empowers homebuyers by quickly adjudicating disputes to address fair transactions, timely delivery, and quality building.
Diversions of Funds	There were some impediments that arose from diversion of funds that were collected from home buyers regarding the construction and handover within the agreed time frame.	RERA mandates that not less than 70 percent of homebuyer payments for a specific project be placed in a separate escrow account which can be spent only on construction or land expenses. Less money of homebuyers is now diverted.
Misrepresentation and False Promises	Developers used to lie to homebuyers about project features, layout, and amenities but then recanted.	Developers are now required to provide projects for potential buyers in an open, accountable, and timely manner. Developers must have 2/3rds of allottees/homebuyers' consent to change the layout.
Lopsided Agreements	Developers benefited from lopsided agreements, forcing homebuyers to pay extra costs and cost escalation, but developers were not held accountable for any deliveries not met. Promoters and buyers paid different interest rates in case of default or delays, causing inequality and injustice in operations.	After RERA, a 'Agreement to sale' must be provided at registration. Only registered developments can be launched, protecting homebuyers. RERA is giving the real estate sector much-needed enthusiasm, openness, and accountability. RERA treats builders and homebuyers equally for interests and penalties.
Legal Framework and Enforcement	According to the literature, the justice system was often inefficient, slowing the legal process and not discouraging fraud. Lack of enforcement allowed unscrupulous builders and developers to exploit regulatory loopholes.	When stakeholders violate legal responsibilities, the law allows for refunds, interest, compensation, and penalties.
Consumer Protection	Pre-RERA consumer protection was a priority. Due to inadequate grievance redressal, homebuyers are especially vulnerable to deception. Lack of a consumer-protecting regulatory authority contributes to real estate business irresponsibility.	Homebuyers are protected by mandatory registration, escrow accounts, and strong fines for noncompliance.

⁴² Reforms in Real Estate Sector RERA-2016, Mygov.in, <https://static.mygov.in/media/transformingindia/2021/09/RERA-E.pdf> (last visited Nov 29, 2023).

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Transparency	Untransparent project and developer practices.	Mandatory disclosures and project information access increase transparency.
Dispute Resolution	Long and complicated conflict resolution.	Speedy and dedicated consumer dispute adjudication.
Regulations of Real Estate Agents	Real estate agents, who are crucial, were unregulated.	The developments' real estate agents must register with their state regulatory bodies.
Fraud Prevention	Weak regulatory control and enforcement cause widespread fraud.	Reduced fraud due to strict legislation and strong enforcement.
Homebuyer Confidence	Low homebuyer confidence owing to fraud and consumer protection issues.	Improved openness, accountability, and recourse processes boost homebuyer confidence.
Real Estate Sector Stability	Unstable real estate sector due to fraud and investor scepticism.	Stabilized real estate sector with investor confidence and stronger regulations.
Stalled Projects	Developers' noncompliance with deliverables stalled initiatives.	RERA requires developers to deliver projects to homebuyers transparently, accountability, and on time.

As can be seen from the table, RERA has changed the Indian real estate sector. RERA improves consumer protection, openness, and dispute resolution. Fraud has decreased, homebuyer confidence has increased, and the real estate market is solid.⁴³

RERA's success hasn't been without hurdles. RERA guidelines are difficult to apply. States that are failing to enforce the law need more training and resources. RERA rights education for homebuyers is another issue. Many homebuyers don't know their rights, making them easy prey for scammers. RERA is a major advance in India's fight against real estate fraud, notwithstanding these obstacles. The regulation makes scammers harder to operate and protects homebuyers. RERA's impact on India's real estate market would expand with adoption and enforcement.

A country's economic growth is directly tied to the strength of its real estate market. Therefore, it is vital to have efficient regulations and regulatory institutions in place to avoid frauds and promote transparency in the real estate market. "Analysis of the Real Estate Authorities present in India: Before and After RERA",⁴⁴ reveals that the implementation of RERA has made significant improvements in the regulatory framework of the real estate sector in India. The regulatory changes introduced by RERA have addressed many long-standing issues and have brought much-needed transparency and accountability in the real estate market.

India's economy and individuals' and businesses' security are challenged by real estate fraud. Effective prevention and mitigation approaches require a thorough research of real estate fraud types and causes. Indian real estate fraud involves deception and profiting from others. Better laws, openness, and enforcement are needed to protect the real estate business and its customers from fraud.

has reduced fraud by increasing openness, accountability, and buyer protection. The Real Estate Appellate Tribunal ensures real estate fraud victims are treated properly and disputes are resolved expeditiously. RERA's regulatory reforms have also

increased homebuyer confidence in the real estate market, boosting investments. This research examines the Real Estate Regulatory Authority and its effects on the Indian real estate market, assessing the legislation and regulatory agencies' ability to prevent real estate frauds.

This study reveals that RERA impacted Indian real estate regulation. A study of Indian real estate authorities before and after RERA shows that RERA's regulatory improvements have helped prevent real estate fraud. The move from a fragmented and ineffectual system to a consumer-centric, organized system after RERA improved fraud prevention. If India fixed its real estate regulatory system and studied implementation difficulties, it could be able to fight fraud.

Conclusion and suggestions

The economics and safety of businesses and individuals in India are threatened by real estate fraud. Understanding the many types of real estate fraud and its causes is essential to developing effective prevention and mitigation techniques. In real estate, fraud can take many forms. Indian real estate fraud involves dishonesty and financial abuse. Better regulation, openness, and enforcement are needed to safeguard real estate investors and customers from fraud. Losses from real estate fraud can be devastating personally and professionally. For consumer protection and corporate regulation, real estate authorities must fight fraud. The historic Indian Real Estate Act, 2016 (RERA) protects prospective homeowners and increases market transparency. The Act's effectiveness in preventing fraud is unknown.

Research shows that the Indian real estate sector was poorly regulated before the Real Estate Regulatory Authority. Current regulations have fuelled the unpredictable real estate market. The report also implies that the government's role in real estate moved from provider to enabler, allowing builders to lead the housing market. This new approach demands robust regulatory organizations to protect consumers and encourage real estate market transparency and accountability.

⁴³ Gaurav Bhadani, Rera Real Estate (Regulation and Development) Act Part 1 ~ A complete guide for builders , contractors and real estate developers LinkedIn (2023), <https://www.linkedin.com/pulse/rera-real-estate-regulation-development-act-part-1-complete-bhadani/> (last visited Nov 29, 2023).

⁴⁴ Harsh Bhushan, Impact of rera in real estate sector in India: An analysis IJPIEL (2022), <https://ijpiel.com/index.php/2022/01/03/4488/> (last visited Nov 29, 2023).

In 2016, the Real Estate Regulatory Authority (RERA) in India became an effective instrument for fighting real estate fraud. Consumer protection and transparency have been greatly enhanced because to its all-encompassing structure and ongoing enforcement and public awareness campaigns. While there are still certain obstacles to overcome, RERA has laid a solid groundwork on which to construct a real estate ecosystem in India that is resilient to fraud.

Despite the success of RERA, it still suffers from shortfalls like lack of enforcement and standardisation. The author suggests following possible initiatives to increase the efficiency of the act:

To Strengthen Enforcement Mechanisms: Allocate necessary resources and train staff to appropriately monitor and enforce RERA compliance. This will be accomplished by strengthening enforcement mechanisms.

The second step is for public campaigns to educate customers about the safeguards they have under RERA and encourage them to report unethical behaviour.

The third suggestion, in order to safeguard property purchasers and tenants from false listings, it is essential to regulate online real estate marketplaces. Because of this, it is necessary to set norms and regulations that are open and accessible.

The relevance of RERA in putting a halt to misleading marketing is something that can be administered by the RERA regulators.

To strive, to prohibited developers from making false promises or misleading statements. As a result, it is said that this minimizes the likelihood of consumers falling for counterfeit scams.

In conclusion, research comparing India's real estate regulators before and after RERA reveals that the new rules put in place by RERA have significantly helped cut down on real estate scams in the country. Improvements in openness, accountability, and protection for homebuyers have resulted from RERA's implementation in India's real estate market effectively.

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