

**THE JUSTICE PROCESS IN RERA SECTION 31, 43(5), 58
AND ARTICLE 32,136 226 OF THE CONSTITUTION OF INDIA**

&

**COMPARISON OF RERA VS CONSUMER PROTECTION ACT 2019 VS
IBC, and WHAT PERSON SHOULD KNOW BEFORE INITIATING A
LITIGATION?**

By

CA. (Dr.) Rajkumar Adukia
Author of more than 300 books,
Business Growth and Motivational Coach,
Member IFRS SMEIG London 2018-2020
Ex director - SBI mutual fund, BOI mutual fund
Ph. D , LL.B, LLM (Constitution), FCA,FCS, MBA, MBF , FCMA, Dip Criminology, Dip in
IFR(UK) Justice (Harvard) , CSR, Dip IPR, Dip Criminology ,dip in CG , Dip Cyber, dip
data privacy B. Com , M. Com., Dip LL & LW
Student of – MA (psychology), MA (Economics), IGNOU PGDCR, PGCAP etc
Chairman western region ICAI 1997, Council Member ICAI 1998-2016

INTRODUCTION:

The object of enactment of every legislation is concentrated at “JUSTICE” and the same can be achieved by providing a set of remedies that may be effectuated the person aggrieved under it.

The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as “Act”) in commencement since 1st May 2017, is one such few legislation that have achieved effective implementation and make its enacting objective a reality in a span of just four years.

In exercise of the power granted under section 20 of the act, so far there are twenty-one out of twenty-eight states and three Union Territories such as Delhi, Chandigarh, Pondecherry have set up fully functioning Real Estate Regulatory Authority (RERA) to govern their respective territories.

ART OF JUSTICE IS “SPEEDY JUSTICE”:

The Article 21 of the constitution is considered to provision of paramount importance titled as “Protection of life and personal liberty”. The provision of the same reiterated below:

“No person shall be deprived of his life or personal liberty except according to procedure established by law”

This one-line article provision certainly has a wider meaning recognized by the judiciary from time to time. It also includes Access to speedy justice and trial. The enactment of RERA is motivated by fast track dispute resolution mechanism.

In *Tamilnad Mercantile Bank Shareholders Welfare Assn. 2 Vs. S. C. Sekar*, 2009 2 SCC 784 it was emphasized that the aggrieved person cannot be left without a remedy, further such access to justice is a human right.

The apex court in the matter of *Anita Kushwaha v Pushap Sudan* (2016) 8 SCC 509, recognized four main aspects of access to justice that are certainly considered as the essence of Justice:

- a. the State must provide an effective adjudicatory mechanism;
- b. the mechanism so provided must be reasonably accessible in terms of distance;
- c. the process of adjudication must be speedy;
- d. the litigant's access to the adjudicatory process must be affordable

in the detailed discussion of access to justice and essential elements constituting the same, the judiciary even asserted that in the absence of speedy justice, the access to Justice as a constitutional value will be merely an illusion.

OPTING FOR LITIGATION TO ENFORCE LEGAL REMEDY:

It is a general perception that the litigation process is often viewed as rigid, lengthy, time-consuming, well this occurs because many from the non-law background lack even the basic procedural knowledge. Opting for litigation is a very crucial decision that the affected parties should make and this requires sound knowledge of litigation right from filing of cases in the court to the conduct of the hearing. It is a settled position of law, that a Natural person may appear in person and argue in his case as a matter of right. Ofcourse, the person may always engage a legal professional or take their assistance. Section 32 of the Advocates Act, 1961 permits a person who is not enrolled as an advocate under the act to appear before any court, authority, etc. certainly the wider interpretation of freedoms guaranteed under article 19 of the constitution particularly Article 19 (1) (g) stating the freedom to practice any profession, or to carry on any occupation, trade or business naturally follows a right practice law.

COST OF LITIGATION:

The process of starting litigation is certainly not a matter of one day and in this, the crucial stage is calculating the probable cost of litigation. Well, this need not necessarily should only involve the cost of hiring a lawyer, but the person also requires necessary platforms to find supporting evidence, collecting material which would help in strengthening the claims, filing cost, procedural cost, etc. Although it is as much true not everyone can afford top-level of excellent professionals, one must be very certain should go for quality in service.

What a person should know before initiating litigation?

Since it is absolutely clear that appearing in person before the court of law is a matter of right and freedom, sufficient procedural knowledge is beneficial for the long run, however, due diligence in prior proceeding litigation and throughout the process even if you hire a legal professional is certainly essential.

The first step first is of collecting evidence, relevant documents and preparing a checklist that essentially required to be attached with complaint/petition/plaint as supporting evidence, supporting your claim. The supposed complaint/petition must include the name of the court, authority, etc, nature of complaint/suit/petition, the detailed address of all the involved parties, brief statements of facts, relief, prayer/claim, etc and should include verification stating that the content in the complaint/petition/suit/plaint is true and correct.

The vakalatnama is to be prepared in case the person engages a lawyer. On General Terms, a Vakalatnama may contain the below terms:

- The client will not hold the Advocate responsible for any decision
- The client will bear all the costs and/expenses incurred during the proceedings
- The advocate will have the right to retain the documents unless complete fees are paid
- The client is free to disengage the Advocate at any stage of the Proceedings
- The Advocate shall have all the right to make decisions on his own in the court of law, during the hearing, in the best interest of the client

The next step is filling with the case, generally, it is filed before the shirestedar- court officer and the person required to pay appropriate court fees, different amount is to be a charge depending upon the forum and nature of the case. Once the case is registered in the respective, an official acknowledgment is sent from the court containing the case no. and hearing date. The person may either deliver the copies of complaint to the opponent wait for court to send summons. It is advisable to opt for self serving of complaint since, unnecessary time can be avoided.

On the date of hearing the court may think whether the case contains merits, and accordingly send a notice to the opposite party ordering their presence in the next hearing and submitting their arguments/submission.

Generally, the opponent in the written submission denies the allegation, well the catch here is that the allegation requires to deny point-wise, and any allegation not denied specifically is deemed to be admitted. The complainant must be vigilant in filling reply to the written statement/submission and specifically counter the submissions. This is followed by framing of issues which the court prepares after examining the arguments and evidence, it may also allow witnesses if any. At the stage final hearing, final arguments may take place, it is to be noted that the party cannot make changes in the pleadings, at the stage of the final hearing. Finally, the court will pass an appropriate order either on the day of hearing or it may reserve the order.

The person right to appeal is a matter of general importance, therefore if any person aggrieved with the order passed by the concerned court may certainly file an appeal to the superior court.

MAIN PLAYERS UNDER RERA:

The main players under the act being the Allottees, Promoters, and Real Estate Agents have benefitted in terms of transparency of real estate transactions, smooth functioning, and recourse to their disputes/complaints. The crucial component of the act which is the complaint mechanism and the remedy under it, allows these players to have a fair and effective redressal of their queries, complaint, and difficulties. Any aggrieved person may file a complaint before the concerned State RERA against the violation/ contravention of the provision of the act, rules, or regulations made thereunder against the Allottee, Promoter, or Real Estate Agent as the case may be.

In this article, we attempt to provide a thorough process and due diligence when filing a complaint before RERA.

Since the Act recognized various functions, duties, and rights of real estate agents, promoters and allottees it cast an obligation upon them to perform and follow the same. In the event when non-performance of function duties, violates the right of others under the act the concerned person always approaches RERA by following certain complaint procedural rules. However, before filing a formal complaint with RERA, it is wise to seek other options to settle conflict amicably since it can save time, money, and stress of the legal procedure.

IMPRESS UPON AN AMICABLE SOLUTION:

In the context of allottees right been violated for instance if compensation is to be asked for the delay in handing of over possession on the part of the promoter, the aggrieved person first may approach the concerned opposite party, with a comprehensive letter including all the facts and the kind of solution they expect. The person should know the detailed procedure of real estate projects such as

- a. the obtainment of necessary approval from the local authority. For instance, Commencement certificate prior starting construct, IOD, occupancy certificate (whether in part or full), completion certificate
- b. Local authorities granting respective approvals
- c. Verifying the title, registration details of the property
- d. Project registration details, details displayed by the promoter on websites
- e. significance of allotment letter, etc.

knowing the procedure in detail makes it possible what the other party violated and what they were obligated to do. Certainly helps to frame claims and reliefs.

Since the construction of a real estate project involves a stage-wise process numerous mandatory permission that certainly not possible through a single-window clearance mechanism, the aggrieved person for want of details of the respective project may approach such multiple authorities and gather information.

The aggrieved for a want of knowing the thorough details concerning the project may make individual inquiry either by addressing a letter or by filing RTI before the below-listed government authorities:

List of documents	List of Authorities
1. ownership certificate/Extract 2. Non-agriculture permission	a. The Revenue Department https://rfd.maharashtra.gov.in/en
3. Building layout approval document (the person may seek information regarding the site inspection from the Building Proposal Office of Municipal Corporation) 4. structural engineer approved structural plans submitted by the promoter 5. Occupancy certificate/ Building Completion Certificate	b. The Development Authority/ or the local Municipal Authority (in case of Mumbai district this may be obtained from Bombay Municipal Corporation https://portal.mcgm.gov.in/irj/portal/anonymous)
c. intimation of disapproval" (building permit)- the IOD requires NOCs from various government authorities and the Final clearance to build (Commencement Certificate) will only be given once the company obtains all NOCs and meet all IOD conditions. d. Commencement certificate	e. The Building Proposal Office https://autodcr.mcgm.gov.in/bpamsclient2/Login.aspx
6. NOC from Tree Authority	f. Tree Authority Committee/ Water and Drain Department/ Sewage Department/ Electrical Department/ Traffic and Co-ordination department/ Chief

	<p>Fire Officer under Municipal Corporation</p> <p>https://portal.mcgm.gov.in/irj/portal/anonymous</p>
7. The Environmental clearance	<p>g. The Ministry of Environment, Forest and Climate Change / the State Environment Impact Assessment Authority (SEIAA)/ State level expert Appraisal Committeehttp://environmentclearance.nic.in/</p>
8. The Ancient Monument Approval	<p>h. The Archeological survey of Indiahttp://asiegov.gov.in/</p>
9. The Establishment consent	<p>i. The Pollution control board https://mpcb.gov.in/node</p>
10. NOC by Airport Authority of India	<p>j. The Civil Aviation Departmenthttps://www.civilaviation.gov.in/</p>
11. Borewell registration certificate	<p>k. The Central Ground Water Authorityhttp://cgwa-noc.gov.in/LandingPage/index.htm</p>
12. NOC if project near the costal area	<p>l. The Coastal Zone Management Authorityhttps://mczma.gov.in/</p>
13. The Lift Escalator Installation Approval	<p>14. The Public Work Departmenthttps://pwd.maharashtra.gov.in/</p>

Further in case if allottee does not fulfill their obligation under the act and registered sale agreement for instance,

failure to take physical possession of the apartment even after the OC is obtained, or not paying the full consideration of apartment, the aggrieved promoter prior initiating formal complaint before RERA, may approach for a peaceful talk by addressing letter containing all the facts, statements, and solutions.

If the concerned party doesn't respond favorably one can always go for mediation, a legal professional can be assisted in this process.

The whole intent of this process is to try out every possible way of peaceful settlement of the conflict.

Even the act recognizes the significance of resolving conflict amicably. There are Conciliation and Dispute Resolution Forums set up by respective state RERA where the disputes/ conflicts between allottees and promoters can be resolved. To have a fair resolution the panel of conciliators includes members from the Consumer Organisations, Developers Associations. The party may also have a choice of representing through certain professionals such as chartered accountants, company secretaries, cost accountants or legal professionals, etc.

In the event of unsuccessful conciliation, there is always a recourse of complaint before RERA. In certain conciliation cases, the authority after considering an issue of general importance treats the matter as a *sou moto* complaint.

THE PROCESS OF CONCILIATION:

- a. A conciliation request can be made by either party
- b. An online portal of state RERA contain a separate icon for Conciliation where an application can be made after registering for the same
- c. A concise statement of facts and grounds for a case should be given
- d. Subsequently respective reliefs, claims can be made

Benefits of conciliation before going for complaint:

- The facility of platforms where concerned parties- allottees, promoters talk openly and honestly, express their concerns, doubts, and desires to each other
- Since sessions are held in private and details of grievances and mutually agreed on terms for settlement are confidential
- far lower cost in terms of time and money that required before formal complaint under RERA

Making a formal complaint:

When Complaint is made by Allottees:

An allottee may file a complaint against the Promoter for any of the following matters:

- contravention on part of promoter affecting the rights of an allottee
- for Refund of amount paid by them towards consideration of apartment/s in the real estate project
- Illegal termination of sale agreement
- Compensatory relief for the delay in handing over possession
- Defective service by the promoter
- Non-execution of registered sale agreement on part of the promoter
- Irregular cancellation of allotment
- Legal enforcement of rights contained under section 19 of the act
- Promoter selling or mortgaging the apartment executive agreement with allottee, or allottee making the booking payment

- Promoter failure to obtain necessary approvals required for the real estate project
- Promoter making the change in sanctioned plan and layout plans, and not providing allottee the information of the same
- One-sided sale agreement
- Structural defects
- Advance payment more than the limit prescribed under the act i.e. 10% of the total consideration
- No details of the project
- Transfer of ownership
- Misleading information, cheating, misrepresentation cause to act on such misrepresentation
- Unfair practice by the promoter

An allottee may file a complaint against real estate agents for any of the following reasons:

- Contravention on part of the Real estate agent certainly affecting the right of the allottee
- Real estate agents facilitating the sale of an apartment without registering themselves under the act
- Real Estate Agents facilitating sale although his registration expires
- Real estate agent persuading to purchase of apartment of the unregistered real estate project
- Real estate agents indulge in unethical practice making false statements regarding quality, grade, registration, approval status, advertisements, and other misleading information or service and making allottee act upon it
- Other violations of obligation on part of Real estate agent under section 10 of the act

When a complaint is made by the Promoter against Allottee

- Failure of Allottee for paying the full consideration
- Allottee not obligating the terms and conditions of registered sale agreement

- Contravention on part of the allottee certainly affecting the rights of the promoter
- Allottee refusing to take possession after 2 months of the grant of OC [section 19(10) of the act]

When a complaint is made by Real Estate Agent

- Non-performance of function and duty levied upon promoter or allottee that substantially affect the rights of real estate agent

ONLINE PROCEDURE TO MAKE COMPLAINT BEFORE RERA:

since the outbreak of covid-19, the gathering of people has been certainly impossible, however, the legal system has made full use of technology to cope up with the new normal. Consequently, RERA also provides online filing of a complaint, appeal, and other applications, etc.

The prescribed method of filing/standard of procedure may be provided by the state RERA through the circulars and orders published from time to time and can be accessed at the online website maintained by such state authorities. The general procedure and necessary information that required while filing the complaint, which is common to all state RERA is as below:

- a. The complainant is required to visit the online portal of the concerned RERA where they could see the icon of the online complaint/ application. For instance <https://maharera.it.mahaonline.gov.in/>
- b. The complaint then required to make new registration by putting user name and password and shall provide the E-mail and Mobile No. (creating a new email only for complaint may be useful as certain important notice may not miss out)
- c. After successful registration, the complainant need to login by putting username and password
- d. Afterward, certain information needs to fill in “My profile”. Information such as Full Name, detailed address for official communication, contact details, etc.
- e. this is followed by filling in complaint details, for this complainant should keep information such as the division where the project is situated, project registration no. etc
- f. later the complainant may fill in the information in the “Add Complaint” icon such as the name of complainant, type- whether by Promoter/Real Estate Agent/Allottee, etc, describe the nature of interest in the project, residence of the complainant, contact number, etc.
- g. next, the respondent details may be added such as name, types, office/residential address

- h. the further step is of uploading documents- the complainant needs to fill in Fact of the case column- wherein the ground of complaint be given in not more than 250 words, the relief sought in view of the fact should write not more than 100 words, and interim order if prayed for be explained in not more than 100 words.
- i. Later the complainant may upload the necessary documents
- j. subsequently a declaration is to be made stating that information is true and is not pending before any court of law or any other Authority or any other Tribunal(s).
- k. this is followed by the payment of fees, in the case of MahaRERA Rs. 5000/- have to be paid as a Registration fee and then the complainant may successfully submit the complaint

Once the complaint has registered an acknowledgment will be received by RERA, and the complainant may serve the copies of the complaint to the respondents.

There is no prescribed timeframe to file a complaint before RERA however the sooner the complaint is filed, the better. A complaint before RERA can be filed under section 31 of the act, the rules by the respective State government provide a complaint should be made in the prescribed form before the authority for seeking relief and refund and before the adjudicating authority to seek compensation.

In case the complaint application is coupled with refund, interest, and compensation, the authority may first adjudge the claim of refund & interest, later on when the complainant succeeds the entitlement of the same, the authority refers the matter to Adjudicating officer for adjudging compensation.

The complainant should possess relevant knowledge of the act, rules, and regulations made thereunder, further they should understand the relevant circulars, an order made by respective State RERA and Housing Department. This will helps in understanding the deficiency on part of the other party, which can certainly assist in pressing upon

the relief. The complainant will attentive throughout the proceedings, so the crucial point won't miss out.

PREPARE A LIST OF RELEVANT DOCUMENTS:

A complete list of documents that are to be enclosed with the complaint be made. List of documents should include such relevant information supporting the facts and statements, although such may differ from case to case certain documents as given below may be attached:

- a. Advertisement of the Real estate project
- b. Booking form Allotment letter bearing possession date of apartment
- c. Relevant details of Real estate project such as registration no. date of completion, registration certificate and its validity,
- d. Registered Agreement of sale
- e. All correspondence between parties
- f. Home loans sanctions (if any)
- g. Receipt of all payments related to real estate project including registration fee, booking/token amount, etc and other transactions related to the subject matter
- h. Commencement certificate for construction of building/project
- i. Completion certificate by an architect
- j. Occupancy certificate by the relevant authority
- k. Letter intimating grant of occupancy certificate (OC)
- l. Letter address to the promoter in case of incomplete construction and his response to the same
- m. Compensation demand letter (in case of delayed possession) if made by allottee
- n. Notice of non-payment of consideration (if any)
- o. Notice of termination of sale agreement (if any)
- p. Possession letter (if any)
- q. Other correspondence between parties that supports the facts

LEGAL REPRESENTATION BEFORE RERA:

The act under section 56 empowers the complaint to appear before the authority either in person or authorized one or more professionals such as

- a. Chartered Accountant
- b. Company Secretary
- c. Cost Accountant
- d. Legal Professional

This is perhaps the best part of RERA where the complaint need not compulsorily engaged lawyers and are permitted to seek professional assistance from other mentioned professionals. It certainly helps in bringing about a straightforward solution.

Role of Legal Representative:

The professionals engaged as legal representatives by the parties to the complaint should make aware of all their rights and duties throughout the proceedings. To expedite the proceedings, an urgent precipe may be moved, also producing all the relevant documentation may avoid the unnecessary postponing of the hearing for reason want of production of same.

The representative should responsibly serve necessary documents upon the other and take acknowledgment without fail so the practice of seeking additional time for serving the necessary copies be prevented, which can certainly fasten the hearing process.

The legal representative along with the complainant should take an active role in convincing the presiding members of facts and claim completely, certain landmark judgments may be taken as support to strengthen the relief ask for.

This appointed legal representative is permitted to appear before all of the below-listed forums as consented by the concerned party:

- a. before the Adjudicating Authorities under RERA in the process of complaint
- b. before the Real Estate Appellate Tribunal

- c. before the Conciliation and Dispute Resolution Forum
- d. before any other competent authority for any other purpose under the Real Estate (Regulation and Development) Act, 2016.

When representative the party in court or any quasi judicial forum every person whether or not from a legal professional background must pledge to their client the following:

- a. that he shall protect client's confidentiality
- b. that he will conduct proper study of law and provide expert advice
- c. protecting the best interest of their client and not conduct or do any act that will certainly jeopardize his client interest
- d. follow the procedural rules, maintain discipline and adhere to the law, ethics etc.
- e. to approach appropriate method that will help in deciding their client matter on merits

Since the process of seeking relief may involve a lot of stages and approaching different forums, it is advisable to keep the constant representatives like the person who has witnessed the matter from the very start is well familiar with the in and out of the matter, therefore it certainly helps in better representation before further forums.

The representative should always seek the best interest of the party they are appearing for. Since the act permits several non-legal professionals to appear in proceedings, such a legal representative can inculcate the art of advocacy. There is always a chance of improvisation. The legal representative must be polite, non-insultive and most importantly they should be prepared with facts, active in filing replies, submission, should possess the knowledge of relevant decisions favoring their clients' case, and lastly, they should focus on how the proceeding be concluded without seeking less adjournment at the same time they should be attentive that the opponent or their representative may not seek unnecessary adjournments.

The complainant has a right to ask for interim relief pending the final adjudication of the matter for instance if the complaint involves the compensation for delay in delivery of possession on part of the promoter, then the allottee may seek an interim

relief of immediate possession of concerning apartments. The power of issuing interim orders is given under section 36 of the act.

Further, the rules enacted by the respective state RERA contained the whole procedure of deciding the complaint by the authority. For instance MahaRERA under rule 6 of the Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2017 provides a detailed procedure and manner to be effectuated when deciding a complaint by authority.

A detailed description of such a procedure is provided below:

- a. RERA upon receipt of complaint application issues notices to the concerned opposite party (respondent) along with the detailed particulars of the alleged contravention and documents. Such notice has contained the details of the time and date of hearing fixed by the authority.
- b. On the day of hearing the authority introduced the respondent with the alleged contravention made under the act, rules, and regulations made thereunder.

Certain possibilities may occur

1. Either the respondent plead guilty – in such case the authority passed the necessary order after recording the plea and imposed relevant penalty
 2. Or the respondent does not plead guilty- in such case the authority demand explanation from the respondent and hearing may continued for the purpose adjudication
- c. Upon the justification by the respondent the authority is of the view that no inquiry into the facts required it altogether dismiss the complaint
 - d. However if in view of authority inquiry is to be made, the next hearing is to arrange wherein demand of production of documents and necessary evidence be made
 - e. After a thorough analysis of facts, submissions, rejoinders, supporting evidence, the authority come to conclusion and either find the respondent

guilty or not guilty under the alleged contravention, and pass the final order accordingly

- f. The authority even have the power to make ex parte order in the event when respondent absent in the proceedings
- g. The same procedure is to follow by the Adjudicating officer in deciding the application for claim of compensation
- h. Since the act under section 29 cast an obligation on part of the authority to dispose of the question come up before it in an expeditious manner that is within sixty days of the complaint, it certainly motivates for the fast track redressal of dispute.

PROCESS OF APPEAL:

The Real Estate Appellate Tribunal established Chapter VII of RERA particularly section 43(1) are conferred with power decide an appeal against the order passed by RERA or an Adjudicating Authority. Sub section 5 of section 43 mandate that such appeal must be made within 60 days from the receipt of impugned order, however in the event when the appeal is moved by the promoter, it is an obligation upon him to deposit at least 30% of the penalty including compensation that were imposed upon him. The process of filing an appeal is almost same to the filing of original complaint, since by that time the concerned is well knowledgeable with the practical conduct of the forum, he may make best possible use of it. The aggrieved party must enclose the impugned order which is to be challenged in the appeal with a precise point contesting the order/decision of the authority and stating why it is not justified.

However if the person is not satisfied with the order of appellate tribunal he may proceed with another appeal in next higher authority which is the High Court under section 58 of RERA. Such appeal has to be made within 60 days.

EXECUTION OF RERA ORDER:

Even though the RERA Authority and Adjudicating Authorities have been proactive in deciding matters in fast track manner since inception, the actual enforcement of the concerned order is the major issue. Therefore even after getting favorable order, Justice is merely on paper. For the effective implementation of the decision passed by the authority, and execution procedure may be applied, the provision concerning the execution of the authority's decision is given under section 40, the rules of the execution process differ from state to state.

Normally the opposite party has a period of sixty days to comply with the order, but the execution application may be filed even during this period, the person need not wait for the completion of sixty days.

It is advisable to send legal notice before proceeding with the execution application as this can certainly be used as proof of the opponent party not complying with the order. While knowledge on the matter helps to fight a situation, it is necessary to consult an expert for matters requiring legal intervention.

In the context of MahaRERA, the person in receipt of favoring order may file an execution application before the MahaRERA Secretary, under section 40 of the act. The power of execution of an order to the secretary is delegated via Resolution No. 17/L dated 23-11-2020 and order dated 24-11-2020.

Cases under which execution application may be filed before MahaRERA:

- a. When the sale agreement or the sale deed not getting executed by the promoter
- b. When the order direct the possession of the subject matter and levy interest or compensation upon it, and the promoter failed to comply with the same
- c. Refund order favoring the allottee and the promoter not complying with it

Once the execution application under section 40 is made, the Authority then issues a recovery certificate to the jurisdictional district or revenue collector or magistrate (the manner of recovery by revenue collector is provided under the Maharashtra Land Revenue Code, 1966, same explained in next chapter). This certificate is further

forwarded to the jurisdictional tehsildar or related officer. If defaulting party fails to pay the dues his assets can be attached by the authority to recover the money and pay the aggrieved homebuyers. Later if both the Rera and the magistrate fail to recover the money, an aggrieved person can approach the high courts or Supreme Court to get relief.

MANNER OF RECOVERY

Since the provision of the Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2017 under Rule 3 provides that the recovery under section 40 of the RERA shall be done in respect of land revenue as provided in the Maharashtra Land Revenue Code, 1966. The procedure laid down under code is explained below:

Section 176 of the Maharashtra Land Revenue Code, 1966 provides the process of recovery of arrears as:

- (a) by serving a written notice of demand on the defaulter under section 178 (the commissioner appointed under code has the power to do so)
- (b) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 179 ;
- (c) by distraint and sale of the defaulter's movable property under section 180 ; - (the collector has the power under code to do so)
- (d) by attachment and sale of the defaulter's immovable property under section 181 ;
- (e) by attachment of the defaulter's immovable property under section 18
- (f) by arrest and imprisonment of the defaulter under sections 183 and 184; - detained in custody for ten days in the office of the Collector or of a Tahsildar

Penalty for non-execution of order: section 63 of RERA provides a Penalty for failure to comply with orders of Authority by the promoter. It maintained that the promoter failing compliance or is a contravention of the orders/direction passed by the authority, is liable to the penalty of every day during the default continues and such may extend up to five percent of the cost of the real estate project.

BEST EXECUTION PRACTICE IMPLEMENTED BY UP RERA:

The rules formed by Uttar Pradesh(UP) RERA mandated that the order of refund, interest, and compensation by the promoter is to be complied with within forty-five days (Rule 16 under the Uttar Pradesh Real Estate (Regulation and Development) Rules, 2016)

The promoter's failure to comply with such order within prescribed forty-five days the aggrieved party may make an execution request that can be found on UP RERA online portal https://www.up-rera.in/frm_OrderExecution.aspx. upon receiving such request the UP RERA issues a notice to the concerned promoter to comply with the order within thirty days or else a recovery order is issued against it. Either the promoter deposits the amount within thirty days or the authority will issue a Recovery Certificate against the promoter that is to be executed by the collector where the property of the promoter is situated.

The collector then proceeds with issuing the recovery citation and he even has the power to seize the bank accounts of the promoter further auction the properties of the promoter by issuing a public notice. The process of recovery is conducted as the U.P. Revenue Code 2006 and rules made thereunder. In case the Collector is not exercising its powers and is delay dallying the process of recovery then the aggrieved person has the remedy to approach the Hon'ble High Court for a writ of mandamus against the Collector praying for order within a limited period.

CONCURRENT REMEDIES IN ADDITION TO RERA:

Although RERA provides a full set of remedies, one must experiment and explore other options simultaneously. In certain cases involving a serious crime, for instance, cheating, defrauding, etc the aggrieved may take recourse of the other remedies such as a complaint to the police station, approaching sessions court. In criminal cases filed before the sessions court, the aggrieved person who is considered as the victim may be called upon as witnesses, and the responsibility to prove the crime would lie with the state prosecutor.

Further, a remedy under civil court may be approached for instance in the event of a breach of contract, many RERA disputes involve the non-execution/non-performance of the registered sale agreement between allottee and promoters. Section 2(h) of the Indian Contract Act, 1872 defines a contract as “An agreement which is enforceable by law”. The aggrieved person due to the breach of agreement/contract on part of defaulter may approach the civil court to enforce their right.

If in case the decision of the lower court is not satisfying the aggrieved may always approach the higher courts such as High Court and Supreme court.

RERA VS. CONSUMER COURT:

The Consumer Protection Act, 2019 effective from 20th July 2020 that repealed the earlier legislation namely the Consumer Protection Act, 1986, provides a redress mechanism to the consumer-defined under section 2(7) of the act before the District/State/National Consumer Dispute Redressal Commission as the case may be. The defined “Consumer” is a person who buys any goods or hires/avails any service for consideration that may be paid, partly paid, or promised to pay.

The term goods as provided under section 2(7) of the Sale of Goods Act, 1930 certainly implies that any kind of moveable property other than actionable claims and money shall mean goods.

From the above, it is clear that Real Estate by its very nature of immovable property could not be categorized as goods however it can certainly find a place in the categories of service, since construction is also a service. Applying this interpretation the real estate buyer/home buyers/ allottees as defined under RERA can approach the remedy provided under consumer act, this has also been confirmed by various landmark decision of apex court and certainly a well settled position of law.

The supreme court in the matter of M/s Imperia Structures Pvt. Ltd. Vs Anil Patani & Anr (Civil Appeal No. 3590 of 2020) which was finalized on 2nd November 2020 in detail discusses whether the remedy available to allotter as a consumer under consumer are in addition to recourse provided under RERA. Answering in affirmative the apex court held that remedy available under RERA is without prejudice to other remedies available by interpreting section 18 of RERA.

The right of allottees to approach consumer court instead of RERA is also saved by section 88 of the act which declared that the remedy/provision under RERA are in addition and not in derogation to the provision of any other law in force. The proviso of Section 71 of the RERA provides that the complainant who proceeded complaint in the matter covered under sections 12, 14, 18, and 19 which is pending before the District/State/National Consumer Dispute Redressal Forum to withdraw the same and file an application before adjudicating authority under RERA. However, the plain

reading of proviso would imply that there is no statutory obligation forcing to compulsorily file a fresh application before authority under RERA. This certainly adds to the favoring interpretation that the remedy of RERA is completely at discretion.

As observed by the supreme court in M/s Imperia Structures Pvt. Ltd. Vs Anil Patani & Anr supra “the parliamentary intent is clear that a choice or discretion is given to the allottee whether he wishes to initiate appropriate proceedings under the CP Act or file an application under the RERA Act”.

Additionally in the judgment passed by the High Court of Punjab and Haryana in CWP No. 38144 of 2018 in the matter of Experion Developers Pvt. Ltd. Vs. The state of Haryana and others ruled that the home buyers/allottee can pursue remedies under RERA and Consumer forum simultaneously.

However, it should be noted that one cannot approach both the forums for the same relief this is because Article 20(2) of the Constitution provides that a can be prosecuted and punished for the same offense twice or more times. The provision of the article enshrined the principle rule against double jeopardy according to a person cannot be put in peril twice for the same offense. This is further supported given the principle of res judicata which prohibits pursuing matter already adjudicated by the competent court by the same parties involving the same relief. However, when different reliefs are sought from both RERA and Consumer Court filing of different complaints in both institutions is maintainable. Therefore the complainant may simultaneously complain to RERA Authority to blacklist a developer and get other reliefs.

Under what circumstance Consumer Forum is better than RERA:

While most of the cases filed before RERA involve the matter of refund/compensation for the delayed possession, defect in the structure, etc. Section 39 of the consumer protection act 2019 empowers the district commission to issue direction/order in the complaint/matter to remove deficiencies in the services [section 39(1) (f)]. Although the consumer act put pecuniary restrictions on the respected forums that are to say:

Sr. no.	Consumer forum	Pecuniary limit	Provision under the consumer act	Webiste
1	The District Consumer Dispute Redressal Forum	Not exceeding Rs. One crore	Section 34(1)	https://confonet.nic.in/
2	The State consumer Dispute Redressal Forum	Exceeding one crore but not exceeding Ten Crore	Section 47(1)(a)(i)	https://grahak.maharashtra.gov.in/
3	The National Consumer dispute Redressal Forum (NCDRC)	Exceeding Ten crore	Section 58(1)(a)(i)	http://ncdrc.nic.in/default.html

So on the off chance that if the estimation of the property exceeds 10 core the aggrieved allottee may approach NCDRC, whereas there are no pecuniary limits under RERA. However, the one benefit of filing a complaint before NCDRC is that the next court for filing an appeal is the supreme court under section 67 of the consumer protection act, 2019. Unlike RERA where the aggrieved person to reach the supreme court for the final say, have to pass through not one but two- two forums such as the first appeal under section 43 (5) before the Real Estate Appellate Tribunal (REAT) within sixty days and the appeal against the order of REAT may be filed before the high court under section 58 within sixty days.

Since the complaint before consumer court, mainly involves the compensation claims, the matter involving under sections 12, 14, 18 and 19 under RERA can be filed before

such court. The claim of compensation has a better chance of succeeding and executing when the promoter is financially sound.

In the context of imposition of penalties for contravention of provisions and non-compliance of order passed underact, the Authorities may award fine and imprisonment both, however the consumer court which even though has the power to impose penalty in terms of fine and jail term it certainly less than the one imposed by RERA.

Sr. no.	Consumer court	RERA
1	<p>A person within the meaning definition of Complainant under section 2(5) of the consumer protection act 2019 can approach consumer court.</p> <p>For instance:</p> <ul style="list-style-type: none"> (i) a consumer; or (ii) any voluntary consumer association registered under any law for the time being in force; or (iii) the Central Government or any State Government; or (iv) the Central Authority; or (v) one or more consumers, where numerous consumers are having the same interest; or (vi) in case of death of a consumer, his legal heir or legal representative; or 	<p>Any Aggrieved person may file a complaint under section 31(1) of the RERA 2016</p> <p>The explanation provided under section provides that the term:</p> <p>"person" shall include</p> <ul style="list-style-type: none"> (i) the association of allottees or (ii) any voluntary consumer association registered under any law for the time being in force.

	(vii) in case of a consumer being a minor, his parent or legal guardian;	
2	Pecuniary limit is provided to the consumer commission/forum	There no such pecuniary limit
3	The central consumer protection authority may take suo moto actions, cancel license and file class suits if complaint affect more than one individual	Section 35(1) of the RERA 2016 can take suo moto actions or on complaint initiate inquiry and investigation into allegation into a promoter.
4	<p>An Appeal under district commission may file before the state commission under section 41 within 45 days</p> <p>An appeal against the order state commission may be filed before the national commission under section 51 within 30 days</p> <p>An appeal against an order of national commission may be filed before the supreme court under section 67 within 30 days</p>	<p>An appeal against the order of Authority and Adjudicating Authority may be filed before the Real Estate Appellate Tribunal within 60 days under section 43(5) of the act</p> <p>Further, an appeal under section 58 may be filed against the order of the Real Estate Appellate Tribunal before the High Court within 60 days</p>
5	A complaint before consumer court may be filed online the portal named E-daakhil https://edaakhil.nic.in/edaakhil/faces/index.xhtml	A complaint under RERA may be filed through an online portal maintained by State RERA https://maharera.mahaonline.gov.in/
6	An allottee within the meaning of consumer may file a case before the consumer court	Any aggrieved person like allottee, promoter or real estate agent, other person having an interest in the

		project may file a complaint before RERA
7	All the orders passed by district/state/national consumer dispute redressal commission shall be enforced as a decree of civil court by virtue of section 71 of the act and the provisions of order XXI of the First schedule of CPC 1908 be applied.	Execution applications may be filed under section 40. In the context of MahaRERA, the person in receipt of favoring order may file an execution application before the MahaRERA Secretary

WHEN CONSUMER FORUMS ARE BETTER OPTION THAN RERA:

- a. when the complainant is the consumer who have purchase an apartment from promtoer therefore is within the meaning of allottee, and if promoter is financially sound then approaching consumer forum is benefitted
- b. the complainant may simultaneously complain for blacklisting the promoter to RERA and get other reliefs before consumer forum provided the provision of section 71 (1) are complied with which states that person can have only one of two remedies and one cannot pursue both platforms for the same relief. Since
- c. construction is one of the services within the meaning of the consumer protection act 2019, the consumer forum may certainly issue such direction to remove defects or deficiencies in the services
- d. however RERA though it is an “Administrative Authority” established to perform- quasi Judicial and quasi legislation function it certainly can only impose monetary penalty and relief like monetary interest

The Order/judgments by NCDRC favoring home buyers:

- 1. Parsvnath Exotica Ghaziabad Residents Association Vs Parsvnath Buildwell Pvt. Ltd. And Anr in consumer case no. 45/2015**

The consumer complaint was filed against the two projects of the developer namely the Parsvnath Privilege, Greater Noida for the delay in possession and Parsvanth Exotica, Ghaziabad for delay completion of construction. Rejecting the contention of promoter justifying the delay in the possession the commission directed to repay to the home buyers Rs. 47.5 lakhs along with interest at 18% per annum where the flat was booked by buyers in the year 2007. Whereas in the context of delay in completion of construction the commission directed refund entire amount to the buyers with the interest at 12% per annum.

Later when the aggrieved promoter filed an appeal before the supreme court vides civil appeal no. 5335/ 2016 the court confirm the order of the commission.

2. Dr. Naren P. Sheth & Anr. vs M/S. Lodha Group & Anr. In the consumer case. No. 198/2011

The prime issue involved in the complaint were the non-execution of the sale agreement, failure to deliver the apartment, sell to a third party. The commission directed to pay the interest at the rate of 18% per annum on Rs.2,67,750/- from the date of its respective deposit till the date of realization with further direction to refund the amount of Rs.3,937/- in addition to this the respondent was directed to pay a further sum of Rs.50,000/- as compensation for deficiency in service on their part and sum of Rs.20,000/- towards the cost of the litigation incurred by the complainant.

3. Amal Ganguli & Anr. v. M/s. Unitech Limited consumer case no. 2712/2017

Wherein the flat was booked by complainants in promoter project namely the “Exquisite”, which was supposed to deliver in 2017 within 36 months since the sale agreement was executed in 2014, after examining the fact the commission order the refund of the principal consideration along with compensation with simple interest @ 10% per annum, it also awards to pay rs. 25, 000/- to the defaulting builder to the complainant as a cost of litigation.

RERA Vs. IBC:

The landmark decision of the apex court in the matter of Pioneer Urban Land and Infrastructure Ltd & Anr vs. Union of India & Ors passed on 9th August 2019 upheld status of Allottees as a financial creditors under the code. It held that saving provision of section 88 of RERA implies that remedies under it to allottees are additional and not exclusive remedies. Therefore the allottees of flats/apartments have concurrent remedies under the Consumer Protection Act, 2019, RERA as well as the triggering of the Insolvency and Bankruptcy Code, 2016.

the code was enacted on 28th May 2016 providing uniform provision of corporate insolvency. With the amendment introduced in August 2018, the allottees of housing projects were certainly brought under the ambit of financial creditors, hence empowering them to maintain the insolvency application against the defaulting builder/promoter and can certainly participate in a meeting of the committee of creditors that is usually conducted under the code.

However, the amendment introduced in December 2019 imposed a threshold of a minimum of 100 allottees or 10% total homebuyers in a project that is required to initiate the insolvency proceedings. This limit was to reduce unnecessary insolvency cases to insolvency court.

The insolvency proceeding under IBC may be initiated when the aggrieved person is only seeking a refund of money and especially the financial position of the promoter is deteriorating. However it is true that to initiate remedies under IBC the criteria have to be passed, it certainly beneficial for the large no. of allottees or association of allottees who being united may seek justice under the code.

Sr. no.	Remedy under IBC	Remedy Under RERA
1	The concerned person may approach NCLT under code	The complaint may be filed under section 31 of

		the act
2	It is beneficial when the real estate project is delayed or abandoned by a promoter	It is beneficial to claim a refund, compensation when the promoter is financially sound since it is certainly possible to recover the money.
3	Minimum 100 home buyers, 10% of allottees in real estate project required to initiate insolvency proceedings	A single allottee aggrieved under the act may initiate a complaint
4	An appeal being preferred by the promoter under section 61 of the code within 30 days before the NCLAT	An appeal be preferred before the appellate tribunal by the aggrieved person under section 43(5) of the act within 60 days
5	Appeal from the order of NCLAT maybe prefer before the SC within 45 days under section 62 of the code	Appeal from the order of appellate tribunal be preferred under section 58 of the act before the high court within 60 days
6	The code under section has an overriding effect under section 238.	The act under section 88 implies that the provision are in addition and not in derogation to the other law in force

Nevertheless, the home buyers/allottees may always approach the criminal court and filed criminal complaints against the developer.

RECOURSE UNDER CONSTITUTION:

The provision of special leave petition is enumerated under Article 136 of the Consitution, under the provision a special power is bestowed upon the Supreme Court to entertain an appeal against the decision of any court/ tribunal, wherein substantial constitutional question law has been raised. In another word, the special leave petition grants special permission to the aggrieved person that their case may be heard before the highest court of appeal.

It is granted in two circumstances:

- against the judgment, decree, or order passed by the high court within 90 days
- against the order of the high court refusing to grant a certificate of fitness for appeal before the supreme court, within 60 days of the order

Despite the bunch of recourse available under respective forums the right to recourse under articles 32 and 226 of the constitution before the Supreme court and High court is perhaps the golden and crucial weapon of an aggrieved person. The articles give them the right to move these courts by filing/moving petitions depending upon the matter. The Supreme court is the highest court of appeal of the country remedy provided by them is final.

CONCLUSION:

Since its enactment, the act has ensured robust and trustworthy mechanisms that have certainly enhance the confidence of stakeholders. Although the act is silent on certain aspects brings only the sale component of a real estate project under its jurisdiction it is certainly expected to evolve with the passage of time.

Few websites to refer:

1. The Revenue Department <https://rfd.maharashtra.gov.in/en>
2. The Development Authority/ or the local Municipal Authority (in case of Mumbai district this may be obtained from Bombay Municipal Corporation <https://portal.mcgm.gov.in/irj/portal/anonymous>)
3. The Building Proposal Office
<https://autodcr.mcgm.gov.in/bpamsclient2/Login.aspx>

4. Tree Authority Committee/ Water and Drain Department/ Sewage Department/ Electrical Department/ Traffic and Co-ordination department/ Chief Fire Officer under Municipal Corporation
<https://portal.mcgm.gov.in/irj/portal/anonymous>
5. The Ministry of Environment, Forest and Climate Change / the State Environment Impact Assessment Authority (SEIAA)/ State level expert Appraisal Committee<http://environmentclearance.nic.in/>
6. The Archeological survey of India<http://asiegov.gov.in/>
7. The Pollution control board <https://mpcb.gov.in/node>
8. The Civil Aviation Department<https://www.civilaviation.gov.in/>
9. The Central Ground Water Authority<http://cgwa-noc.gov.in/LandingPage/index.htm>
10. The Coastal Zone Management Authority<https://mczma.gov.in/>
11. The Public Work Department<https://pwd.maharashtra.gov.in/>
12. <https://rera.ap.gov.in/RERA/Views/Home.aspx>
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<u>Directorate</u>	
<u>of Estates,</u>	
<u>Government</u>	https://sampada.mp.gov.in/
<u>of Madhya</u>	
<u>Pradesh</u>	
<u>Directorate</u>	
<u>of Town and</u>	
<u>Country</u>	
<u>Planning</u>	
<u>(MPTOWN</u>	http://mptownplan.gov.in/
<u>PLAN),</u>	
<u>Government</u>	
<u>of Madhya</u>	
<u>Pradesh,</u>	
<u>Bhopal.</u>	
<u>e-Nagar</u>	
<u>Palika,</u>	https://www.mpenagarpalika.gov.in/irj/portal/anonymous
<u>Government</u>	

of Madhya Pradesh Directorate of Housing, Government of Meghalaya Meghalaya Urban Development Agency (MUDA) State Investment and Project Management and Implementation Unit, Shillong, Meghalaya EMS Housing Scheme Monitoring System, Idukki, Kerala Housing Commissionerate Town planning Department Government of India Stationery Office, Kolkata Haldia Development Authority Haldia Development Authority (HDA),

<http://meghousing.gov.in/>

<http://mudashillong.gov.in/>

<https://sipmiu.nic.in/>

<http://emshousingkerala.gov.in/>

<http://www.hsgcomr.kerala.gov.in/>

<http://townplanning.kerala.gov.in/>

<http://giso.gov.in/>

<https://www.hda.gov.in/>

<https://www.hda.gov.in/>

<u>West Bengal Kolkata Metropolitan Development Authority New Town Kolkata Development Authority Jaipur Development Authority Town Planning Department, Govt. of Rajasthan Moradabad Development Authority, Uttar Pradesh Urban Transport Directorate, Uttar Pradesh Uttar Pradesh Housing and Development Board Town and Country Planning Department, Uttar Pradesh e-Municipalities - eServices to citizens and Employees of Urban</u>	http://www.kmdaonline.org/
<u>Kolkata Development Authority</u>	https://www.nkdamar.org/Pages/index.aspx
<u>Jaipur Development Authority</u>	https://jda.urban.rajasthan.gov.in/content/raj/udh/jda---jaipur/en/home.html
<u>Town Planning Department, Govt. of Rajasthan Moradabad Development Authority, Uttar Pradesh Urban Transport Directorate, Uttar Pradesh Uttar Pradesh Housing and Development Board Town and Country Planning Department, Uttar Pradesh e-Municipalities - eServices to citizens and Employees of Urban</u>	http://ctp.rajasthan.gov.in/
<u>Moradabad Development Authority, Uttar Pradesh Urban Transport Directorate, Uttar Pradesh Uttar Pradesh Housing and Development Board Town and Country Planning Department, Uttar Pradesh e-Municipalities - eServices to citizens and Employees of Urban</u>	https://mdamoradabad.org/
<u>Uttar Pradesh Urban Transport Directorate, Uttar Pradesh Uttar Pradesh Housing and Development Board Town and Country Planning Department, Uttar Pradesh e-Municipalities - eServices to citizens and Employees of Urban</u>	http://uputd.gov.in/
<u>Uttar Pradesh Housing and Development Board Town and Country Planning Department, Uttar Pradesh e-Municipalities - eServices to citizens and Employees of Urban</u>	https://www.upavp.in/
<u>Town and Country Planning Department, Uttar Pradesh e-Municipalities - eServices to citizens and Employees of Urban</u>	http://uptownplanning.gov.in/
<u>Uttar Pradesh e-Municipalities - eServices to citizens and Employees of Urban</u>	http://e-nagarsewaup.gov.in/ulbapps/

[Local Bodies of Uttar Pradesh Official Portal of Rural Housing Schemes of Odisha Smart City Bhubaneswar, Odisha Special Area Development Project for Kalahandi, Bolangir and Koraput Districts of Odisha.](https://rhodisha.gov.in/)
[odisha eMunicipality, Housing and Urban Development Department, Odisha Public Health Engineering Organisation \(PHEO\), Odisha Online Application for Individual Household Latrine \(IHHL\), Bihar Official website of Land](https://rhodisha.gov.in/)
<https://rhodisha.gov.in/>
<http://www.smartcitybhubaneswar.gov.in/>
<http://kbk.nic.in/>
<https://www.ulbodisha.gov.in/or/emun/home>
<https://www.pheoodisha.gov.in/>
<http://oasys.bih.nic.in/>
<https://landrevenue.mizoram.gov.in/>

Revenue and
Settlement
Department
Regional
Centre for
Urban and
Environment
al Studies
(RCUES),
Osmania
University,
Hyderabad
e-Awas :
Accommoda
tions
Management
and
Allotment
System of
Chandigarh
Administrati
on

<http://rcueshyd.gov.in/>

<https://eawas.chd.gov.in/>

EASE OF DOING INITIATIVES OF MAHARASHTRA

1. All land titles or deed records have been digitized at the Sub-Registrar's Office (SRO) <http://igrmaharashtra.gov.in/>

A. iSarita 2.0 IGR Application

https://appligr.maharashtra.gov.in/NGDRS_MH/Citizenentry/genernalinfoentry/70672950673628

B. Property valuation (general information about all the space rates)

<http://igrmaharashtra.gov.in/eASR/frmMap.aspx>

C. Land records maharashtra <https://mahabhumi.gov.in/mahabhumulink>

D. Download facility for digital 7/12; 8A and property card etc

<https://digitalsatbara.mahabhumi.gov.in/DSLRL> digitized document
downloaded at 15 rs.

E. PR Card application status

https://digitalsatbara.mahabhumi.gov.in//pc_status Application incoming
number is to put

F. Integrated property registration portal

<https://registeringproperty.mahabhumi.gov.in/>

G. E mojani check mojani application status

<https://emojni.mahabhumi.gov.in/emojni/mojani/pgLogin.aspx>

H. Public data entry for property registration and mutation (update) land records <https://pdeigr.maharashtra.gov.in/frmLogin> facilities such as 1.

Marriage registration 2. E registration 3. E filing 4 7/12 mutations 5 e property card

I. Village digital notice boards

<https://digitalsatbara.mahabhumi.gov.in/aaplichawdi>

J. mutation dashboard

K. bhu nakasha <https://bhunaksha.nic.in/bhunaksha/index.jsp> available for 12 states

I. andhra pradesh

II. chattisgarh

III. kerala

IV. orissa

V. assam

VI. himachal pradesh

VII. lakshdweep

VIII. bihar

IX. jharkhand

X. rajasthan

XI. maharashtra

<https://mahabhunakasha.mahabhumi.gov.in/bhunaksha/27/index.jsp>

XII. uttarpradesh

2. To check the **encumbrances** <http://igrmaharashtra.gov.in/>

3. Service delivery standards have been introduced to provide maps within a specific time frame though an online portal

<https://aaplesarkar.maharashtra.gov.in/en/>

4. **Disputes related to land** have been mandated to be adjudicated within 1 year as per amendment of Maharashtra Act No XI of 2016
<http://eqjcourts.gov.in/startup/default.php>
5. **The grievances related to land** can be reported through "Aaple Sarkar" portal
<https://aaplesarkar.maharashtra.gov.in/en/>
6. **Land dispute information has been made available online through e-DISNIC software** https://services.ecourts.gov.in/ecourtindia_v6/
7. **Registration Act has been amended with insertion of Section 89 A, according to which, every court shall send copies of order affecting any immovable property and every recovery officer shall send copies of order or interim order attaching or releasing any immovable property to the concerned Sub-Registrar**
<https://bombayhighcourt.nic.in/libweb/acts/Stateact/2012acts/2012.10.pdf>
8. **Title search can be conducted online without requirement of any physical visit (for _____ Paid _____ search)**
<https://esearchigr.maharashtra.gov.in/portal/esearchlogin.aspx>
- L. **Central Registry of Securitisation Asset Reconstruction and Security Interest (CERSAI)** section 8 company located in new delhi
<https://cersai.org.in/CERSAI/home.prg> created to check frauds in lending against equitable mortgages, in which people would take multiple loans on the same asset from different banks. Searches such as
 - a. asset based search
 - b. debtor based search
 - c. AOR based search available with payment of 10 rs.
9. **Tax dues on property** can be checked online on MCGM's website
<https://ptaxportal.mcgm.gov.in/CitizenPortal/#/login>
10. **eStepIn for online registration slot booking at SROs** launched
<http://igrmaharashtra.gov.in/>
11. **eRegistration system launched for online registration of leave and license rent agreements** <http://igrmaharashtra.gov.in/>

12. **eSecure Bank Treasury Receipt (eSBTR) for payment of Stamp Duty**)
<http://igrmaharashtra.gov.in/> Dept of registration and stamps duty online
payment <https://gras.mahakosh.gov.in/echallan/igr/>
13. **eASR for online statement of rates launched in Aug 2014**
<http://igrmaharashtra.gov.in/>
14. **E records** <https://aappleabhilekh.mahabhumi.gov.in//erecords/> -

M. Below records availbale

- I. Old mutation (Tahsil Office)
- II. Satbara (tahsil office)
- III. 8A (tahsil office)
- IV. K.D.E. Patrak (Tahsil Office)
- V. Ka. Da. E. Patrak-Hakk Nondni Register (Tahsil office)
- VI. Inam patrak (Tahsil office)
- VII. Bot khat (Tahsil Office)
- VIII. Sud register (Tahsil Office)
- IX. Khasra patrak (Tahsil Office)
- X. Khasra phalni patrak (Tahsil Office)
- XI. Jod takta A (Tahsil Office)
- XII. Kul register(Tahsil Office)
- XIII. Old phalni (Tahsil Office)
- XIV. Pere patrak (Tahsil Office)
- XV. Record of rights panji (1954-55) (Tahsil Office)
- XVI. Bandobasti misal (Tahsil Office)
- XVII. Wajab-ul arj (Tahsil Office)
- XVIII. Nista patrak (Tahsil Office)
- XIX. Hakk nondinin register (Tahsil Office)
- XX. Tippan (deputy SLR officer)
- XXI. Gunakar book (Deputy SLR officer)
- XXII. Akarphod patrak (Deputy SLR officer)
- XXIII. JKP (Deputy SLR Officer)
- XXIV. Akkarband (Vadivibhajan) (deputy SLR officer)

- XXV. Akkarband (Gut Consolidiation) (Deputy SLR Officer)
- XXVI. Akkarband (Acer Guntha) Deputy Slr Officer
- XXVII. Yogna Patrak – consolidation scheme- durusti scheme- shudhi patrak (Deputy SLR officer)
- XXVIII. Consolidation jawab (Deputy SLR Officer)
- XXIX. Fiel book original (Deputy SLR Officer)
- XXX. Vaslevar book (Deputy SLR Officer)
- XXXI. Table pavti (Deputy SLR Officer)
- XXXII. Consolidation scheme 9(1) and 9(2) maps (Deputy SLR Officer)
- XXXIII. Kacch sud (Deputy SLR Officer)
- XXXIV. Shetwar patrak (Deputy SLR Officer)
- XXXV. Revision book (Deputy SLR Officer)
- XXXVI. Fodi tippan book (Deputy SLR Officer)
- XXXVII. Pot hissa tippan book (Deputy SLR Officer)
- XXXVIII. Wajib – ul arj (Deputy SLR Officer)
- XXXIX. Resurvey akarband (Deputy SLR Officer)
- XL. Resurvey gunakar book (Deputy SLR Officer)
- XLI. Pot hissa patrak (Deputy SLR Officer)
- XLII. Bandobast misal (Deputy SLR Officer)
- XLIII. Bandobast akarband (Deputy SLR Officer)
- XLIV. Nistar patrak (Deputy SLR Officer)
- XLV. CSO Enquiry register (Deputy SLR Officer)
- XLVI. CSO Property Card (Deputy SLR Officer)
- XLVII. CSO Property register (Deputy SLR Officer)
- XLVIII. CSO field book (Deputy SLR Officer)
- XLIX. CSO city survey (Deputy SLR Officer)
- L. CSO town planning scheme (Deputy SLR Officer)
- LI. Enquiry Register (city survey office)
- LII. Property card (city survey office)
- LIII. Property register (city survey office)
- LIV. Field book (city survey office)

LV. Vaslevar book (city survey office)

LVI. Town planning scheme (city survey office)

- **currently available for below districts:**

- a. akola
- b. amravati
- c. dhule
- d. gondiya
- e. Mumbai suburban
- f. Nandurbar
- g. Nashik
- h. Palghar
- i. Thane
- j. Washim

Hoping you find this article informative and useful, to find out more of such information stay tuned to my next article.

Thank you!