

## Delhi RERA makes registration of real estate projects constructed on more than 500 sq mt land compulsory

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*The move will result in much-needed relief to homebuyers in Delhi-NCT, usher in transparency in the sector, say experts.*

**VANDANA RAMNANI**

Providing relief to hundreds of buyers, Delhi's Real Estate Regulatory Authority (RERA) on April 28 made it compulsory for all real estate projects being constructed on over 500 square meters of land to register with the regulator. It also clarified that all projects being developed in the city on an area of more than 500 sq mt in all phases will have to be mandatorily registered with RERA.

So far, RERA rules provided exemption for any development on land measuring up to 500 sq mt, and less than eight apartments, to register with Delhi RERA. This was undoubtedly a grey area. A few judgments of the RERA Authority and appellate tribunals in states other than Delhi had interpreted this as more than 500 sq m or eight units. What this meant is that if a developer was building on a plot of more than 500 sq m, he still found ways to evade a RERA registration by ensuring that the number of units was less than eight.

"Various promoters including builders and developers have expressed doubt before the Authority on whether they are required to register with the Authority if their plot area exceeds 500 sq mt, but the number of apartments proposed to be constructed remain below nine. Most of them appear to be under the impression that no registration is required with RERA if the plot size is either of 500 sq mt or below or they are constructing less than nine units. These impressions are not correct," the order said.

It also made it clear that "where the real estate project is to be developed in phases, every such phase shall be considered a standalone real estate project, and the promoter shall obtain registration under this Act for each phase separately".

In its order, the RERA Authority said, "Considering the intent and purpose of the Act and the provision made under Section 3, (we) would like to clarify in the interest of all allottees including home, commercial space, plot buyers and the general public, that all real estate projects being developed within Delhi Development Authority Master Plan 2021 area in the NCT of Delhi and falling under following categories would require compulsory registration with RERA, NCT of Delhi."

"RERA Act has been constituted for the protection of home buyers and a transparent real estate ecosystem. With this order, we have removed any ambiguity in the interpretation of the laws which were allowing developers to get away with nonregistration of the builder floor projects. We also wish to ensure that consumers and home buyers in Delhi are aware of their rights and exercise them, by bringing any deviation from the laws, to our notice," said Anand Kumar, chairman, RERA DELHI - NCT.

These include all real estate projects, residential or commercial, being developed on land area of more than 500 sq mt in all phases; all real estate projects in which the number of apartments whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suite, tenement, unit or by any other name, being developed, exceed eight in all phases irrespective of the area of the plot; and all real estate projects where plotting is being done on land area of more than 500 sq mt in all phases, it said.

Citing an example, the Authority said that even if six flats or two floors or four showrooms are being constructed as a real estate project on a plot of 501 sq mt, it would require registration with RERA, NCT of Delhi.

If nine apartments are being constructed as a real estate project on a plot of 300 sq mt, it would require registration with RERA, NCT of Delhi.

Also, if plotting is done as a real estate project on land area of more than 500 sq mt in all phases, registration with RERA would be required, the Authority said.

Failure to register any real estate project falling under these categories would make the promoter, which term includes builder / developer of project, liable for action as per Section 59 of the Act. The Act states that if any promoter contravenes the provisions of Section 3, he shall be liable to a penalty of up to 10 per cent of the estimated cost of the real estate project, as determined by the Authority.

"If any promoter does not comply with the orders, decisions or directions issued under sub-section (1) or continues to violate the provisions of Section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further 10 per cent of the estimated cost of the real estate project, or with both," it said.

Delhi RERA has also advised the general public not to make any investment by booking or purchasing any residential or commercial unit/space or plot in any real estate project falling under any one of these categories unless it is registered with RERA, NCT of Delhi.

Amit Goyal, CEO, India Sotheby's International Realty, said that the order was much awaited. "The number of public notices which appear in newspapers of builders duping home owners and buyers, many of whom are senior citizens and NRIs, was a stark revelation of the rampant malpractices by builders in the capital city," he said.

Most of the developments in Delhi is limited to four floors per plot or 500 sq mt and the builders were using the and/or clause to escape RERA registration. Such builders will now need to register the projects which will offer vastly improved protection to the current home owners for redevelopment and to prospective home buyers, he said.

"We are hopeful that the Delhi real estate ecosystem will be far more transparent and rule-bound, going forward. We applaud the Delhi RERA Authority for taking this proactive, much-needed step. We would also appeal to RERA to enforce the model drafts of Agreement to Sell and other necessary documents," he said.

### Legal experts agree

The public notice issued today by RERA, NCT of Delhi, will bring much-desired relief to a lot of homebuyers in Delhi, who have been buying under-construction floors in villas in Delhi, as till now a lot of promoters/ developers were not registering their projects in Delhi due to lack of clarity on the matter. This helped them to escape from the compliances and obligations imposed on them by the Real Estate (Regulation and Development) Act, 2016, said Sunil Tyagi, Managing Partner, Zeus Law.

A similar order was issued in the past by the Rajasthan Real Estate Regulatory Authority and Bihar Real Estate Regulatory Authority. Thus, RERA Authorities of other states have been taking a similar view that for a project to be exempt from registration under RERA, two conditions should be satisfied -- (i) the area of the plot does not exceed 500 sq mt, and (ii) the number of flats/units does not exceed eight. If a project satisfies only one of these conditions and not the other, it would still require registration under RERA, he said.

The Delhi RERA order, apart from providing the requisite clarity on the matter, would also bring a lot of real estate projects under its purview, entitling homebuyers to seek redressal of their grievances against defaulting promoters/ developers under RERA, and would thus provide speedy redressal of such grievances and safeguard the interests of the homebuyers, he added.

### On land pooling

The Delhi RERA order also warned the public that it has not registered any real estate project under the Land Pooling Policy of DDA.

"The home buyers and general public are advised to be extremely careful and not be misled by the promoters, builders, developers, who in the form of Societies, Companies, Trusts are collecting money on the pretext of providing flats or apartments under the Land Pooling Policy of DDA as per MPD-2021 in various zones of Delhi," the order said.

The Authority has noticed that some Societies registered under the Societies Registration Act, 1860 (which cannot undertake housing as an activity under Section 20 of the said Act), Multi-state Cooperative Societies registered under the Multi-state Cooperative Societies Act, 2002, companies registered under the Companies Act, 2013, and Trusts formed under the Indian Trust Act 1882, have collected money from home buyers and the general public on the pretext of providing flats/apartments under the Land Pooling Policy of DDA as per MPD-2021 in various zones of Delhi, it said.