

Association of Corporate Advisors and Executives

CERTIFICATE COURSE
BUILDING YOUR PRACTICE IN RERA

**Compliance under RERA including
Certification under RERA**



CA. ARUN KR. AGARWAL

INDEX

Sl.	Topic	Slide No.
1.	RERA Law Framework	3
2.	Key Compliance by promoter	4-22
3.	Compliance for Real Estate Agents Under RERA	23-26
4.	Penalties for Non-Compliance Under RERA	27-36
5.	Certification Under RERA	37-43

ARS in RERA

Powers & Functions

Functions of Authority [S. 34]

- Register
- Records
- Ensure **Compliance**

Powers of Authority [S. 35-40]

- **Direction**
- Imposition of **Penalty**
- **Recovery**

Offences, Penalties & Adjudication [S. 59-72]

Application of other Laws. Overriding Effect

[S. 88-89]

Power of Government. [S. 82-86, 91]

Bar on Jurisdiction
Cognizance of Offences
Delegation

[S. 79-81]

Object

Obligation of Promoter upto CC/ Rights and Duties of Allottees
OC. [S.11-18] [S. 19]

Promised= Deliver
Authority for **Promotion of Real Estate.** [S. 32]

Registration

No sell in Real Estate Project by promoter without registration [S. 3-8]

Promoter [S. 2 (zk)]

Real Estate Project

[S. 2 (zn)]

Enforcement

Complaint with **Authority/ Adjudicating Officer (AO) for Violation** [S. 31]

Order of AO/ Authority

Appeal to Appellate Tribunal (AT)

Power of AT-

Civil Procedure Code

Evidence Act

Own Procedure

Civil Court [S. 44, 53-57]

Order of AT

Appeal to High Court [S. 58]

RERA Law Framework

Key Compliance By Promoter

ARS in RERA

Mandatory Project Registration (Sec 3)

No Promoter shall

- **Advertise, book, sale ...**
 - any plot/ apartment/
building
 - in any **real estate project**
 - in any planning area
- without registration.**

Ongoing Projects on date of commencement :

3 month from date of commencement.

WBREERA : Register if CC not recd. till
31.01.2023.

CC ≠ OC [i.e., to register if OC recd.]
- **NN. 929/RERA/L01/2023 dt.**
03.05.24

Authority may direct - **regn. beyond planning area.**

WBREERA order dt. 22.03.23 - Direction for registration beyond planning area

ARS in RERA

Exemptions

Repair / Renovation / Redevelopment + No advertisement

CC before commencement of Act [WB RERA - CC before 31.01.23]

Area \leq 500 m² or No. of apartment \leq 8 [WB : 200 or 6]

Issue: Both limits need to exceed or one limit may warrant ??

ARS in RERA

Marketing and Advertisement Guidelines

S1.	Responsibility	Consequences for non-compliance
1.	No Advertisement prior to registration. [S. 3(1)]	Penalty up to 10% of cost of project. [S. 59]
2.	Mention specific details in advertisement or prospectus. [S. 11(2)]	Penalty up to 5% of the cost of Project. [S. 61 & 63]
3.	Provide true details in advertisement or prospectus. [S. 7(1)]	May lead to revocation of Registration.

All advertisement (Print/ electronic/ social media) bear the WBREERA Regn. Number details.

Display Project Regn. No. & Website Address at right top corner/ quadrant .
[Font Size **not less than 1/3rd of font** of name of Project].

Length and Breadth of RERA registered Information **not less than 20%**.

Other Guidelines are mentioned in detailed order.

-WBREERA Order No. 492-RERA/L-01/2023 [Power u/s 37 in accordance

24-Mar-25 with S. 11(2)]

ARS in RERA

Documentation by Promoter

Real Estate Documentation

- Development Agreements
- Title Deed
- Power of Attorney
- Consortium Agreement
- Memorandum of Understanding
- Agreement for Sale
- Allotment Letter
- Offer of Possession
- Insurance Documents

- Mutation Certificate
- Commencement Certificate
- Occupancy Certificate
- Completion Certificate
- Lease Certificate
- RERA Registration Certificate
- Sanctioned and Layout Plan
- Other Documents

RERA Requirements

- i. Mutation Certificate
- ii. Commencement Certificate
- iii. Occupancy Certificate
- iv. Completion Certificate
- v. No Encumbrance Certificate from Advocate
- vi. Lease Certificate, if lease
- vii. Agreement for Sale
- viii. Offer of Possession
- ix. Insurance Documents
- x. Other Documents

ARS in RERA

Details to be uploaded in Website:

Sl. No	Particulars	Relevant Provisions
1.	Details of the promoter (Developer's profile , Background , track record , litigation details , link of website)	Rule 16 (a) (i) (ii) (iii) (iv)
2.	Details of the real estate project (Approval and commencement certificate, Sanction plan and layout plan , no. , type & carpet area of apartment, garages and open parking area, agent details and consultant details, location, development plan , Amenities .)	Rule 16 (b) (i) (ii) (iii) (iv) (v) (vi)
3.	Financial Details (Pan Card, ITR & Audited Balance Sheet)	Rule 16 (c) (i) (ii)
4.	Other Details (Environment clearance, Fire NOC, Permissions from several departments, Licenses, Plans, Proforma of Application form , allotment letter , Sale Agreement , Conveyance Deed , Land Title Search Report from advocate, Sanction letters from bank ,	Rule 16 (e)

ARS in RERA

Details to be uploaded in Website (Quarterly):

Primary Head	Sub Head	Details	Relevant Rules
Updates on the webpage of the project (Within expiry of 7 days of each quarter)	Apartments	List of number and types of apartments booked	Rule 16(1) (d) (i)
	Garages	List of the number of garages booked	Rule 16(1) (d) (ii)
	Status of project	<ul style="list-style-type: none">▪ Status of the construction of each building with photographs▪ Status of the construction of each floors with photographs▪ Status of construction of internal infrastructure and common areas with photograph	Rule 16(1) (d) (iii) (A) Rule 16(1) (d) (iii) (B) Rule 16(1) (d) (iii) (C)

ARS in RERA

Details to be uploaded in Website (Quarterly):

Primary Head	Sub Head	Details	Relevant Rules
Updates on the webpage of the project (Within expiry of 7 days of each quarter)	Status of approvals	<ul style="list-style-type: none">• Approvals received• Approvals applied and expected date of receipt• Approvals to be applied and date planned for application• Modification, amendment or revision with regard to any license, permit or approvals, if any	Rule 16(1) (d) (iv) (A) Rule 16(1) (d) (iv) (B) Rule 16(1) (d) (iv) (C) Rule 16(1) (d) (iv) (D)

ARS in RERA

Modification of Specifications and Plans / Transfer of Rights

- **Adherence** to the sanctioned plans, layout plans and specifications.
- **No addition** or alteration after disclosure of sanctioned plan, layout plan & specifications – **except** –
 - **Minor alteration** reqd. by **allottees**.
 - **Minor alteration** reqd. due to **structural reasons** (after intimation to allottee)
- **No additions** and alterations **beyond 5%** - **w/o previous written consent** of the Allottee.
- **No other addition** / alteration – **w/o** previous written consent of **2/3rd of allottees** (other than promoter)
- **Any other Addition/ alteration** required by competent authorities (No consent reqd.)

ARS in RERA

Promoter's Obligations

- ❖ **Payment** of **Insurance** - till transfer
- ❖ **Transfer** of Insurance - to benefit of Allottees / AOA - at time of Agreement of Sale
- ❖ **Execution** of **Registered Conveyance Deed** - within 3 month of OC (in absence of local laws)
- ❖ **Handing** over the **physical possession**
- ❖ Handing over the **title documents**
- ❖ Handing over **necessary documents** / Plans - within 1 month of CC (in absence of local laws)



Periodical Compliances

- **Quarterly Updates** - Apartment / Garages / Project Status / Status of Approvals / Contact Details / Other Documents [**within expiry of days of each quarter**]
- **Statement of Account** - Signed and certified by Chartered Accountant.
- **Annual Audit** within 6 month after end of Financial Year



ARS in RERA

Disclosure by Promoters of Existing Projects (Section 4)

Applicability:

Upon notification of **Section 3(1)** , promoters of **all ongoing projects** that **do not have a completion certificate** must apply to the **Regulatory Authority** within the prescribed timeframe, as per **Rule 3**.

Mandatory Disclosures:

Project Details : Promoters must disclose the **project's status and completion extent** as per legal requirements.

Apartment Size Disclosure:

- The apartment size must be disclosed based on **carpet area**.
- If previously sold on a **different basis** (super area, super built-up area, built-up area), the agreement with the allottee remains valid.

Plotted Development Disclosure : Promoters must clearly specify the **exact area** of the plot being sold to allottees.

ARS in RERA

Financial Management and Banking Guidelines

Deposit specific amount realized in a separate account

- **70% of amount** realized from real estate allottees - to be **deposited in separate bank account** - in SCB
- To cover **land cost** and **cost of construction**.
- **Land Cost** - Cost incurred by Promoter - whether outright purchase or lease Premium.
- **Cost of construction** - On-site expenditure for physical development.



For withdrawal from separate account

- **Certificate** from **engineer**.
- **Certificate** from **architect**.
- **Certificate** from **CA**
- that the withdrawal is in proportion to the percentage of completion of project.

Maintenance of Bank Account under RERA

No Specific Guidelines under WBRERA

UPRERA - Real Estate Project (Maintenance and Operation of Project Bank Accounts) Directions, 2020 (revised in Nov 23) - 3 separate Bank Account for each Project -

- i. Collection Account** - 70% auto-sweep to "**Separate Account**"
- ii. Separate Account** - Utilization for Land Cost/ Project Clearance Fees/ Cost of Development and Construction/ Interest
- iii. Transaction Account** - For meeting **expenses other than construction** and development of Project

ARS in RERA

Operation of Bank Account : (Section 4 (2) (1) (D))

➤ A separate Bank Account is required to be maintained in a Schedule Bank.

- **Collection Account of the Project (100%)** - The entire amount accepted from the allottees should be deposited in this account.
- **Separate Account of the Project (70%)** - The money deposited in this account can be utilized only for **meeting land cost, development cost, interest on loan** incurred on the project.
- **Transaction Account of the Project (30%)** - This account can be utilized for meeting expenses other than those directly related to the land cost and construction/development cost of the project, in accordance with the provisions laid out in the Act, the Rules, and the Regulations.
- Non-compliance – Penalty upto 5% of the Estimated Project Cost.
- Deposit of **Loan/ Borrowings** made for the purpose of the project into the **RERA Separate Bank Account.**

ARS in RERA

Restrictions on Fund Withdrawal

Withdrawals allowed only as per project completion milestones.

Certified by engineers, architects, and CAs .

Prevents premature fund utilization & ensures project completion.

ARS in RERA

Super Built-up vs Built-up Area vs Carpet Area

Definitions under RERA:

- Carpet Area (Only Recognized by RERA)
- Defined under Section 2(k) of RERA.
- **"Carpet area"** means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.
- It refers to the net usable area of an apartment, excluding external walls, balconies, service shafts, but including internal walls.
- Promoters are required to sell properties **based on carpet area**, not on built-up or super built-up area.
- Built-up Area **Includes carpet area + walls + balconies + external walls** but excludes common areas.
- Super Built-up Area (Not recognized by RERA) Includes built-up area + common areas (staircases, lifts, corridors, clubhouses, etc.), leads to increase in higher prices

ARS in RERA

Common Disputes Related to Carpet Area

- (A) Selling Based on Super Built-up Area
- (B) Increase in Super Built-up Area & Extra Charges
- (C) Discrepancy Between Promised & Delivered Area
- (D) Carpet Area Not Disclosed in Agreement
- (E) Hidden Charges on Super Built-up Area

Compliance for Real Estate Agents Under RERA

-Key Regulations & Legal Obligations

ARS in RERA

Registration Requirement (Section 9)

- All real estate agents must register under RERA before **facilitating** the **sale** or **purchase** of or act on **behalf of any person** to facilitate the sale or purchase of any **plot, apartment** or **building** in a Real Estate Project.
- The registration granted shall be valid for 5 years.
- Registered Real Estate agent to quote Registration no. in every sale facilitated by him.

ARS in RERA

Compliance by Real Estate Agent (Section 9 & 10)

- Not facilitate the sale or purchase of any plot, apartment, building, in an Unregistered Real Estate project.
- Maintain and preserve books of accounts , records and documents in accordance with IT Act, 1961.
- Refrain from unfair trade practices, including making false or misleading statements,
 - Misrepresenting service standards or grades.
 - Falsely claiming approvals or affiliations.
 - Providing deceptive information about services.
- Publishing advertisements for services not intended to be offered.

ARS in RERA

Documents to be uploaded in RERA website :

- (i) Registration number and validity period with the Regulatory Authority.
- (ii) Enterprise details - name, registered address, and type (proprietorship, partnership, company, etc.).
- (iii) Registration particulars - bye-laws, MoA, AoA, etc.
- (iv) Authenticated copies of PAN card and GST registration (if applicable).
- (v) Address proof of business location, along with contact details of the agent and responsible officials

Penalties for Non- Compliance Under RERA

-Legal Consequences for Violations in Real Estate Projects

ARS in RERA

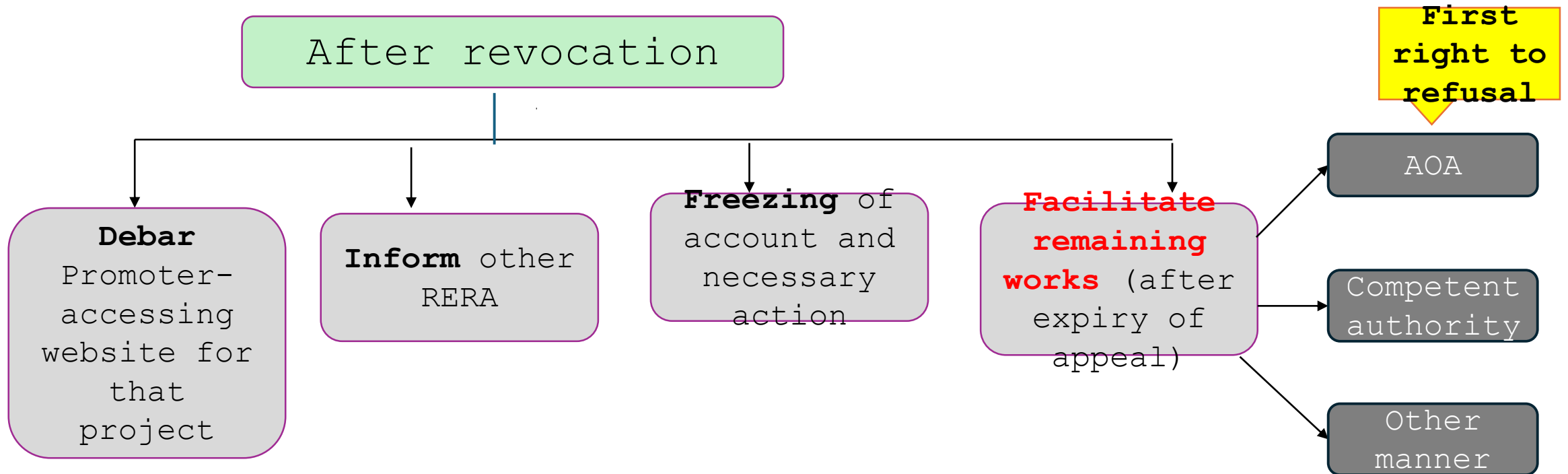
Punishment for Non – Registration (Section 59)

Penalty may extend **up to 10% percent** of the **estimated cost** of the project as determined by the authority

In case of continuous violation of S 3, he shall be punishable with **imprisonment** for a term which may **extend upto three (3) years** or **fine** which may **extend upto further 10%** of the estimated cost of the project, **or with both.**

ARS in RERA

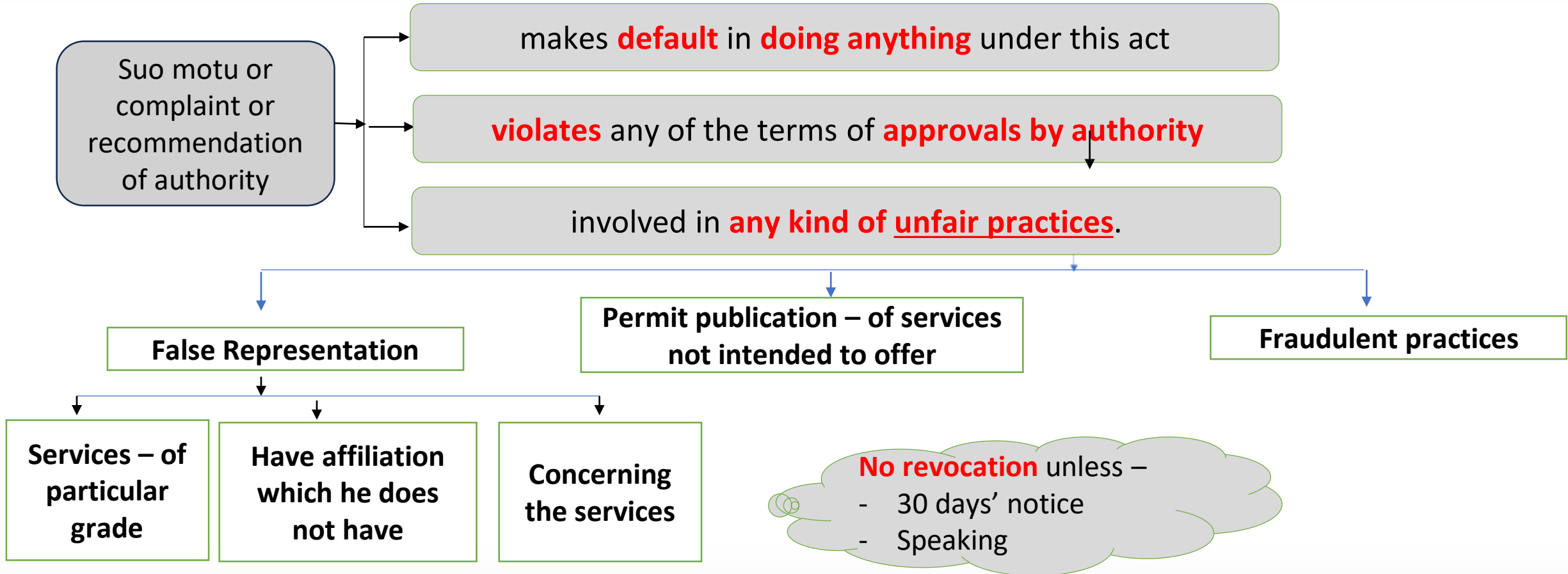
Revocation of Registration



ARS in RERA

Revocation of Registration

Scope??



ARS in RERA

Failure to Update Quarterly Project Status



(Order No. 1986-RERA/L-01/2023 dated 06.12.2024)



₹25,000 per pending quarterly update



Additional penalties up to 5% of the estimated project cost for prolonged non-compliance.

ARS in RERA

Due to promoters' failure to upload quarterly updates on time, the **WBREERA** has enforced strict compliance under **Rule 16(1)(d)** of the WBREERA Rules, 2021, as per **Order No. 1986-RERA/L-01/2023** dated **06.12.2024**.

Penalties for Non-Compliance:

- **By 31.12.2024:** Upload pending updates (up to 30.09.2024).
- **From 01.01.2025:** ₹25,000 penalty per pending update (Section 61).

Additional Consequences for Non-Compliance :

- **Project names** will be **marked in red** on the WBREERA website with the comment: "**RERA Compliances Not Completed**".
- Severe penalty up to **5% of the estimated project cost** may be imposed under Sections 61 & 63 of the RERA Act.
- **Daily penalties** for continued violations.

Extended Deadlines (Due to Technical issues faced on RERA Website):.

- **31.01.2025 (First Extension)**
- **28.02.2025 (Second Extension)**
- **31.03.2025 (Final Extension)**

Delay in Delivery

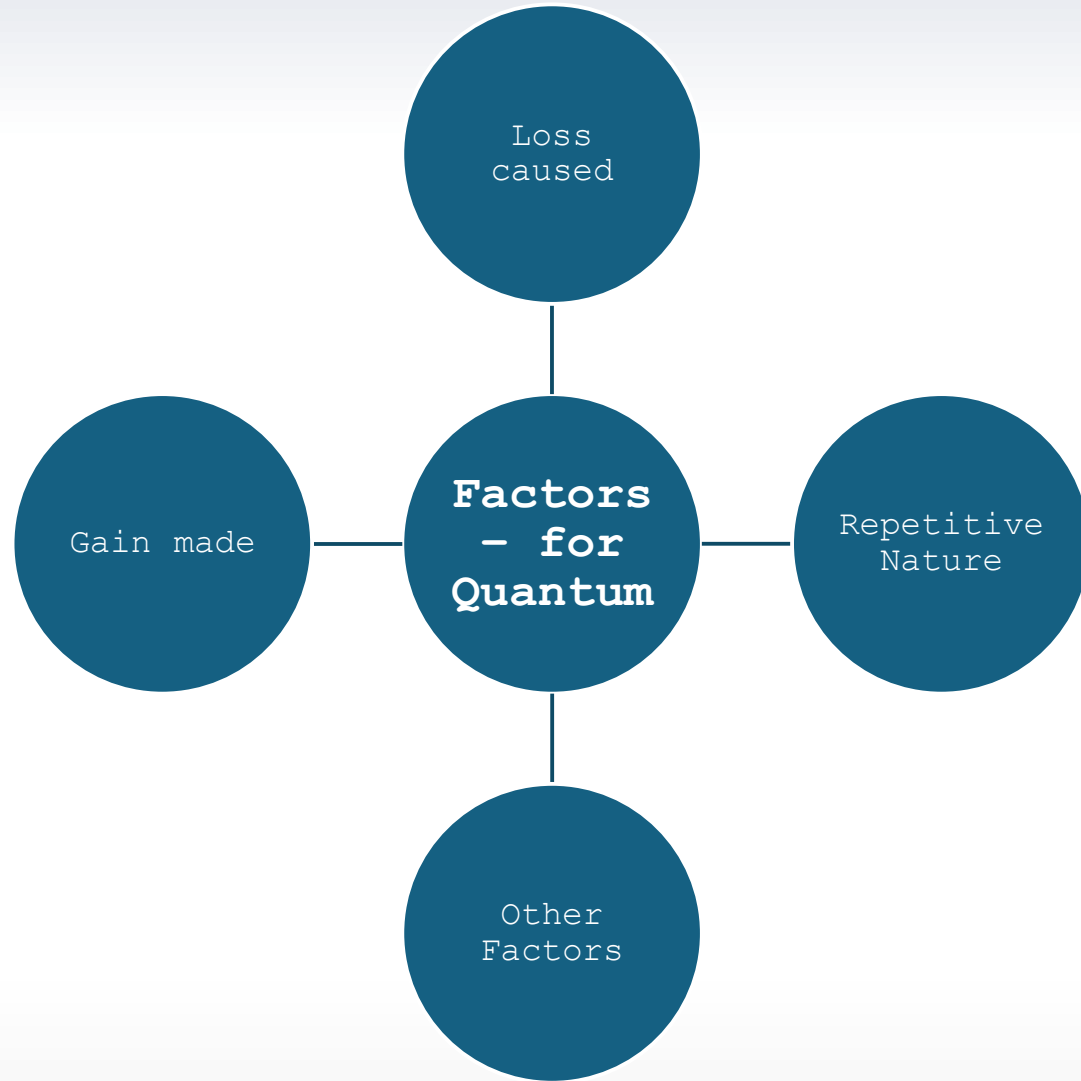
Interest at the Rate of Highest SBI MCLR plus 2%

ARS in RERA

Compensations under RERA

Sl.	Offence	Compensation u/s 71	Refund + Interest (SBI PLR + 2%)
1.	Loss / Damage - on basis of incorrect / false advertisement	✓	✓
2.	Fails to rectify within 30 days - structural Defect / defect in workmanship and quality - within 5 yrs from possession -	✓	✗
3.	Fails to complete & unable to give possession - - As per Agreement for Sale - Due to discontinuance of business - for suspension / revocation or other reason	✓	✓
4.	Loss - due to defective title of land	✓	✗
5.	Discharge any other obligation - As per Act / Rule / Regulation / Agreement for Sale	✓	✗

ARS in RERA



ARS in RERA

Offences and Penalties

Section	Offences	Penalties	
		Fine	Imprisonment
59(1)	(Punishment for Non- Registration) Contravening Provisions of Section 3	Up to 10%	
59(2)	Non-Compliance of order issued u/s 59(1) or; continues to contravenes Provisions of Section 3	Further upto 10%	Up to three years.
60	Provides false information or; contravenes the provisions of section 4 (Application for Registration Real Estate Project)	Up to 5%	
61	Contravenes any other provisions of this Act (Other than Section 3, Section, 4, rules and regulation made thereunder)	Up to 5%	
63	Contravenes any of the orders or directions of the Authority	Every day during which such default continues (may extend up to 5%).	

Certification Under

RERA
Ensuring Compliance,
Transparency & Accountability
in Real Estate

Introduction to RERA Certification

- The Real Estate (Regulation and Development) Act, 2016 (RERA) mandates various certifications to ensure financial discipline, construction progress monitoring, and compliance.
- Key professionals involved: Chartered Accountants (CAs), Engineers, Architects.

ARS in RERA

Role of Chartered Accountants

- **Certification** before withdrawal from separate account (that withdrawal is in proportion of completion).
- **Audit** within 6 month after end of F.Y.
- **Verification** during audit - that withdrawal from separate account is in compliance with proportion of completion.
- **Representation** before Adjudicating Officer / Regulatory Authority /



ARS in RERA

Audit of accounts by CA [Third Proviso to Section 4(2)(I)(D)]

The promoter is required to get their **accounts audited** by a practicing **Chartered Accountant** within **six months** after the **end** of each **financial year**. A duly **certified** and **signed statement of accounts** must be **produced**, **verifying** that the **funds collected** for **each project** have been **exclusively utilized for that project** and that **withdrawals** have been **made strictly in proportion(???)** to the **project's completion percentage**.

ARS in RERA

Certificate from Engineer [Form 2, Regulation 4]

- An **Engineer** certifies the **actual cost incurred** on the **construction** of each **building/wing** in the project.
- The certification includes:
 - Total estimated cost** for each **building/wing** and the **entire project**.
 - Cost incurred** as of the certification date.
 - Percentage of work completed**.
 - Balance cost** to be incurred.
 - Cost of extra items** not included in the estimated cost.
- The cost calculation is based on:
 - Approved drawings/plans**.
 - Quantity surveyor's assessment** of items and quantities.
 - Material, labor, and input cost estimates** provided by the **developer**.
 - On-site inspection** by the **engineer**.

ARS in RERA

Certificate from Architect [Form 1, Regulation 4]

An **architect** is required to **certify** the **percentage** of **completion** of **construction work** of **each** of the **task/ activity** of the **building/wing** of the project.

ARS in RERA

Judicial Hierarchy under RERA

Supreme Court

High Court

Any party aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on question of law arising out of such order.

Real Estate Appellate Tribunal

REAT can examine the legality of orders passed by the RERA and decide whether to uphold or overturn them. Orders passed by REAT can further be appealed by filing an appeal in the High Court

Real Estate Regulatory Authority

Any person may file a complaint with the authority for any contravention of the provision of the Act or the rules and regulations made thereunder against any promoter, allottee, or real estate agent.

Real Estate Adjudicating Officer

- Appointment by Authority.
- Power to hold enquiry for interest and compensation u/s 12, 14, 18, 19.

Thank
you



Arun Kumar Agarwal

www.arsconsultants.net
info@arsconsultants.net