

11. Functions and duties of promoter:

(1) The promoter shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including--

(a) details of the registration granted by the Authority;

(b) quarterly up-to-date the list of number and types of apartments or plots, as the case may be, booked;

(c) quarterly up-to-date the list of number of garages booked;

(d) quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate;

(e) quarterly up-to-date status of the project; and

(f) such other information and documents as may be specified by the regulations made by the Authority.

(2) The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto.

(3) The promoter at the time of the booking and issue of allotment letter shall be responsible to make available to the allottee, the following information, namely:--

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**(a) sanctioned plans, layout plans, along with specifications, approved by the competent authority, by display at the site or such other place as may be specified by the regulations made by the Authority;**

**(b) the stage wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity.**

**(4) The promoter shall--**

**(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:**

**Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.**

**(b) be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;**

**(c) be responsible to obtain the lease certificate, where the real estate project is developed on a leasehold land, specifying**

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**the period of lease, and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees;**

**(d) be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees;**

**(e) enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable:**

**Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project;**

**(f) execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;**

**(g) pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project):**

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**Provided that where any promoter fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person;**

**(h) after he executes an agreement for sale for any apartment, plot or building, as the case may be, not mortgage or create a charge on such apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or building, as the case may be;**

**(5) The promoter may cancel the allotment only in terms of the agreement for sale:**

**Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.**

**(6) The promoter shall prepare and maintain all such other details as may be specified, from time to time, by regulations made by the Authority.**

### **11(1): Online Disclosure by Promoter**

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Once the promoter receives the login ID and password from the Authority under Section 5, they must create a dedicated project webpage on the Authority's official website. This page must contain all mandatory project information as specified in Section 4(2), and it must be accessible to the public. The promoter must also update the following information every quarter:

- (a) the registration details granted by the Authority
- (b) the number and types of apartments or plots booked
- (c) the number of garages booked
- (d) the list of approvals obtained and those still pending after the commencement certificate
- (e) the current construction status of the project
- (f) any additional information or documents as required by the Authority's regulations

[Section 11(1), *Real Estate (Regulation and Development) Act, 2016*]

### **11(2): Advertisement Requirements**

The promoter must clearly mention the website address of the Authority in every advertisement or prospectus issued for the project. This is where all registered project details are publicly available. The advertisement must also include the project's registration number and any other related information as required.

[Section 11(2), *Real Estate (Regulation and Development) Act, 2016*]

### **11(3): Information to Allottee at Booking**

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At the time of booking and issuing the allotment letter, the promoter must provide the allottee with the following information:

- (a) the approved sanctioned plans, layout plans, and specifications, which must be displayed at the project site or any other location specified by the Authority's regulations
- (b) the stage-wise timeline for completion of the project, including arrangements for civic infrastructure such as water, sanitation, and electricity.

*[Section 11(3), Real Estate (Regulation and Development) Act, 2016]*

#### **11(4): Continuing Responsibilities of the Promoter**

The promoter must fulfil various responsibilities until full handover and beyond in some cases:

- (a) They are accountable for all legal duties, rules, regulations, and commitments under the agreement for sale until ownership of all units and common areas is legally transferred. Their liability for structural or other defects continues even after conveyance, as provided under section 14(3)
- (b) They must obtain and provide the occupancy or completion certificate (or both, if applicable) from the competent authority to each allottee or to their association
- (c) If the project is on leasehold land, the promoter must get a lease certificate showing the lease duration and confirming payment of all dues, and provide it to the association of allottees

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(d) They must provide and maintain essential services at reasonable charges until the association of allottees takes over maintenance

(e) They must facilitate the formation of an association, society, or co-operative society of the allottees, or a federation. If local laws do not cover this, such an association must be formed within three months from the time a majority of units are booked

(f) They must execute a registered conveyance deed for each unit in favour of the allottee and transfer undivided interest in the common areas to the association or competent authority, as per section 17

(g) They must pay all outgoings—such as land costs, municipal taxes, utility bills, maintenance, and financial dues—collected from allottees until physical possession is transferred. If they fail to pay any of these before transfer, they remain liable even after handover and must bear penalties and legal expenses if applicable

(h) Once an agreement for sale is executed, the promoter cannot mortgage or create any charge on that specific unit. If they do, the allottee's rights remain unaffected regardless of any other law

[Section 11(4), *Real Estate (Regulation and Development) Act, 2016*]

### **11(5): Restrictions on Allotment Cancellation**

The promoter can cancel an allotment only if the terms of the agreement for sale permit it. If the allottee believes the cancellation is unfair, one-sided, or not supported by valid reasons under the agreement, they may seek relief from the Authority.

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[Section 11(5), Real Estate (Regulation and Development) Act, 2016]

11(6): Maintenance of Additional Records

The promoter must prepare and keep updated any other information or records as may be required from time to time by the regulations issued by the Authority.
[Section 11(6), Real Estate (Regulation and Development) Act, 2016]

Rule 16: Details to be Published on Website

(1) Project Information Disclosure: The Authority must publish details for each registered project, including:

- (a) **Promoter details:** Profile, registration, background, photographs, enterprise type, track record of projects (completed/ongoing), litigations in last 5 years, and web links.
- (b) **Project details:** Advertisements/prospectus, approvals and commencement certificates, sanctioned plans, registration certificate, unit/garage/parking details, registered agents, consultants (contractors, architects, engineers), location with land boundaries/coordinates, and development plan with amenities, Gantt/milestone charts, and timelines.
- (c) **Financial details:** PAN/Aadhaar of promoter and audited accounts/reports for last three years (or parent entity if newly incorporated).
- (d) **Quarterly updates:** Bookings, garages, project status (building/floor/common areas with photographs), and approvals (obtained, applied, pending, modified).
- (e) **Approvals and legal documents:** Licenses, site/layout/floor plans, occupancy/completion certificates, title deeds, encumbrance details, collaboration/development agreements, and

mortgage/charge records.

(f) **Contact details:** Address, phone, and email of promoters/authorized officials.

(2) Revoked or Penalised Projects: The Authority must maintain and display a database of all projects revoked or penalised.

(3) Real Estate Agents: For each registered, rejected, or revoked agent, the Authority shall publish registration number and validity, enterprise details, photographs, PAN/Aadhaar, address proof, and contact details.

(4) Digital Back-Up: A digital back-up of all website contents must be maintained and updated monthly.

[Rule 16, Real Estate (Regulation and Development) Rules 2017]

Reg 7: Other Fees (Miscellaneous Fees Payable by Promoter or Agent)

The promoter or agent must pay additional charges or late charges to the Authority at the rates specified by a general or special order of the Authority, as published on its website from time to time, in the following cases:

- (i) For periodical updation of the project website.
- (ii) For late submissions or for permission to make changes in the registration application, whether before or after registration.
- (iii) For any other matter as determined by the Authority.

[Regulation 7, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

Reg 8. Display Boards

(1) Geo-Tagged Project Display Board: The promoter must install a weather-proof, geo-tagged display board (minimum size 5'×4') at the project site. The board must include: project name, registration number, QR code issued by the Authority, date of registration, phases of the project, number of towers, and number of stories (tower-wise). All details should be in bold, legible text, and visible year-round until project completion.

(2) Display Board for Plotted Development: For plotted development projects, the promoter must erect a display board containing the approved Site Plan. This should show the entire project area—roads, water supply, external services—and the revenue details of the land (Plot Number, Khata Number, Thana Number). A layout plan must also be superimposed on the Revenue Map in bold and legible text, to remain displayed until project completion.

(3) Display of Promoter's Contact Details: The display board must also include the name, contact details, and website of the promoter's authorised representative, as required under sub-regulation (1).

[Regulation 8, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

Reg 9. Information/Documents to be uploaded by Promoter on the web-page of the project which remains available on the website of the Authority

(1) Upload of Annual Audited Accounts: The promoter must upload on the project webpage (on the Authority's website) the audited annual accounts in Form 4, duly certified by a Chartered Accountant in practice who is not the enterprise's statutory auditor, by 31st October of the succeeding financial year.

(2) Reporting Change in Directors or Partners: Any change (addition or deletion) in the directors of the company or partners of the firm must be uploaded on the Authority's website within one month of occurrence.

(3) Upload of Quarterly Progress Reports: Within 15 days after each quarter, the promoter must upload a Quarterly Progress Report in Form 7, along with Forms 1, 2, 3, a dated photograph of the display board (Regulation 8(1)), and the project's QR code.

(4) Upload of Supporting Certificates and Charts: The promoter must upload:

- A certificate from a Civil Engineer, Architect, and Chartered Accountant confirming withdrawals match construction progress;
- A certificate from the Architect and Engineer confirming project progress matches the milestone chart;
- A milestone chart, bar chart, or Gantt chart showing construction stage vs. schedule.

(5) Penalty for Late Submission of Quarterly Reports: Failure to submit Quarterly Progress Reports (QPRs) on time can attract a penalty up to 5% of the project's estimated cost under Section 61 of the Act. Late uploading may be condoned on payment of charges:

- 1–15 days: ₹25,000
- 16–30 days: ₹50,000
- 31–60 days: ₹1,25,000
- Beyond 60 days: ₹3,00,000

(6) Penalty for Incomplete Quarterly Reports: If a promoter submits incomplete Quarterly Statements/Reports, a charge of ₹50,000 is levied.

(7) Penalty for False Information in Reports: If false information is provided in Quarterly Reports, an additional charge of ₹1,00,000 is levied.

(8) Penalty for Non-Upload of Display Board Picture: If the geo-tagged dated photograph of the project display board (Regulation 8(1)) is not uploaded with the Quarterly Report, late charges apply:

- 1–15 days: ₹10,000
- 16–30 days: ₹30,000
- 31–60 days: ₹75,000
- Beyond 60 days: ₹2,00,000

[Regulation 9, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]

Reg 12: Late Charge for Delay in Annual Statement of Account

The promoter must pay a late charge of ₹50,000 for each month of delay, or part thereof, in submitting the Annual Statement of Account. This statement must be duly certified and signed by a Chartered Accountant in practice, as required under Section 4(2)(1)(D) of the Act. *[Regulation 12, Bihar Real Estate Regulatory Authority (General) Regulations, 2024]*

Reg 30: Completion of project

(1) Documents Required on Completion of Project: Upon completion of the project, the promoter must submit the following documents:

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- i. If the Occupancy Certificate has not yet been issued by the competent authority, an authenticated copy of the Completion Certificate provided by a certified architect, along with the notice submitted to obtain the Occupancy Certificate.
- ii. A certificate from a Chartered Accountant clearly indicating the total funds spent on the project.
- iii. Current photographs of the project showing the front, side, and back elevations of the constructed building.
- iv. Details of the number of Sale Deeds executed from the promoter's share.
- v. An affidavit declaring:
  - a. That all services have been provided as per the Agreement for Sale, prospectus, and brochure.
  - b. The number of complaint cases pending against the promoter.

[Regulation 30(1), Bihar Real Estate (Regulation and Development) Regulations, 2024]

**(2) Authority's Discharge of Promoter's Responsibility:** After examining these documents, if the Authority is satisfied that the project is complete, it may issue a letter—upon written request by the promoter—discharging the promoter from all responsibilities under Section 4(2)(1)(D) of the RERA Act. The Authority will also inform the bank where the project's separate account is maintained. [Regulation 30(2), Bihar Real Estate (Regulation and Development) Regulations, 2024]

### Interpretations:

**Ferani Hotels Pvt. Ltd. v. SIC Greater Mumbai (2018) — RTI Disclosure of Building Plans:** Supreme Court held that sanctioned building and development plans submitted to public authorities are public documents and must be disclosed under the Right to Information Act, 2005, notwithstanding objections of

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the developer based on trade secrets, commercial confidence, copyright, or pending private disputes. The Court rejected claims that such disclosure lacked public interest, emphasizing that the RTI Act grants an independent statutory right to citizens *de hors* private litigation. It clarified that plans sanctioned by municipal authorities form part of public records and disclosure of certified copies does not infringe copyright (protected under Section 52 of the Copyright Act). The Court further linked this obligation to transparency requirements under the Real Estate (Regulation and Development) Act, 2016 (RERA), directing that developers should mandatorily display sanctioned plans at construction sites. Finding the appeal a “legal misadventure,” the Court dismissed it with ₹2.5 lakh costs imposed on the appellant. [*Ferani Hotels Pvt. Ltd. v. State Information Commissioner, Greater Mumbai & Ors.*, TNC 2018 (9) 31, SC:27-Sept-2018]

**Narayan Realty Infrastructure v. State of Gujarat (2019) — No Penalty if Website Mentioned in Prospectus:** The Gujarat High Court, hearing a second appeal under CPC s.100 read with RERA s.58, set aside a penalty imposed on the promoter for alleged breach of RERA s.11(2). The Court held that s.11(2), by its wording “advertisement or prospectus,” requires the Authority’s website address to be mentioned in either one; there is no requirement that it appear in both. Since the appellant had included the website in the prospectus, there was no violation. The penalty imposed under RERA s.61 was unwarranted. The matter was remanded to the Appellate Tribunal for reconsideration in light of this interpretation. [*Narayan Realty Infrastructure v. State of Gujarat*, TNC 2019 (11) 21, Guj HC: 22-Nov-2019]

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Nissa Realtors Pvt. Ltd. v. Shaila Agrawal (2021) — Promoter Cannot Evade RERA Obligations Despite Pre-Act Agreement:

The Bihar Real Estate Appellate Tribunal dismissed appeals by the promoter and landowners against the RERA order directing possession and penalty. The allottee's husband had booked a flat in 2012, paid 86% of the price, but possession was not given; he later committed suicide in 2015 citing non-delivery. The promoter argued that the agreement predated RERA and that the flat had been allocated to landowners under a share distribution agreement. The Tribunal held that RERA applies where transactions remain incomplete post-2016, and that unilateral cancellation or share distribution cannot defeat the allottee's rights. It found violation of Sections 11(4), 34(f), and 59 RERA, upheld penalty at ₹5 per sq. ft. per month plus enhanced penalty of ₹2 lakhs, and ordered possession/transfer or enforcement through court, with interest at 2% above SBI MCLR for further delay. Both appeals were dismissed. [*Nissa Realtors Pvt. Ltd. v. Shaila Agrawal*, TNC 2021 (1) 6, Appeal Nos. 13/2020 & 18/2020, BREAT: 6-Jan-2021, CP: REA 11]

Alok Kumar v. State of Bihar (2025) — Plea to Quash Multiple FIRs in Real Estate Fraud Rejected:

The Patna High Court dismissed a writ petition seeking to quash or consolidate several FIRs registered against the petitioner in connection with a real-estate scheme. The Court held that the allegations disclosed prima facie offences of criminal breach of trust under Sections 405 and 406 of the Indian Penal Code, since money had been collected from homebuyers without requisite RERA permissions, with indications of diversion and misappropriation, including purchases made in the petitioner's own name. Referring also to the Enforcement Directorate's findings, the Court observed that dishonest intention could be inferred from the inception of the

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transaction. Consequently, the Court refused to exercise its extraordinary jurisdiction under Articles 226 and 227 to quash the FIRs, dismissed the writ petition, made no order as to costs, and disposed of pending interlocutory applications. [*Alok Kumar v. State of Bihar & Ors.*, TNC 2025 (2) 43, Pat HC: 7-Feb-2025, CP: REA 11]

12. Obligations of promoter regarding veracity of the advertisement or prospectus:

Where any person makes an advance or a deposit on the basis of the information contained in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as provided under this Act:

Provided that if the person affected by such incorrect, false statement contained in the notice, advertisement or prospectus, or the model apartment, plot or building, as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under this Act.

12: Promoter's Liability for False Advertisement

If a person pays an advance or deposit based on information in any advertisement, prospectus, or model apartment, plot, or building, and suffers loss due to false or incorrect statements, the promoter must compensate them as per the provisions of the Act. If the affected person chooses to withdraw from the project due to such misrepresentation, the promoter must refund the full

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investment with prescribed interest and pay compensation as specified under the Act. [Section 12, Real Estate (Regulation and Development) Act, 2016]

### **13. No deposit or advance to be taken by promoter without first entering into agreement for sale:**

(1) A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.

(2) The agreement for sale referred to in sub-section (1) shall be in such form as may be prescribed and shall specify the particulars of development of the project including the construction of building and apartments, along with specifications and internal development works and external development works, the dates and the manner by which payments towards the cost of the apartment, plot or building, as the case may be, are to be made by the allottees and the date on which the possession of the apartment, plot or building is to be handed over, the rates of interest payable by the promoter to the allottee and the allottee to the promoter in case of default, and such other particulars, as may be prescribed.

#### **13(1): Limit on Advance Payment Before Agreement**

A promoter cannot accept more than ten percent of the cost of an apartment, plot, or building as advance payment or application fee from a buyer unless a written agreement for sale has been signed with that buyer and the agreement has been duly

registered as per the applicable law. [Section 13(1), *Real Estate (Regulation and Development) Act, 2016*]

### 13(2): Contents of Agreement for Sale

The agreement for sale must be in the prescribed format and include full details about the project, such as the construction of buildings and apartments with specifications, internal and external development works, the payment schedule and method for the allottee, the date of possession, the rate of interest payable by either party in case of default, and any other prescribed particulars. [Section 13(2), *Real Estate (Regulation and Development) Act, 2016*]

### Rule 8. Agreement for Sale

**(1) Standard Form:** The Agreement for Sale between the promoter and the allottee must be executed in the prescribed form provided in the Annexure.

**(2) Protection of Allottee's Rights:** Any prior document signed by the allottee—such as application letters, allotment letters, or other agreements—cannot limit the allottee's rights under the Agreement for Sale, the Act, or the Rules and Regulations made thereunder.

[Rule 8, *Bihar Real Estate (Regulation and Development) Rules, 2017*]

### Reg 15: Mandatory Mention of Booking Amount in Agreement to Sale

The promoter must clearly state the booking amount in Schedule–C of the Agreement to Sale executed with the allottee. [Regulation 15, *Bihar Real Estate Regulatory Authority (General) Regulations, 2024*]

## Interpretations:

### **Subhra Jyoti v. Shree Loknath Baba Homes Pvt. Ltd. (2021) — Illegal Cancellation of Flat Allotment Without Agreement**

**for Sale:** The Bihar Real Estate Appellate Tribunal (BREAT) held that the promoter violated mandatory provisions of RERA by (i) booking and accepting substantial payment for a flat before registration of the project, (ii) failing to execute a registered agreement for sale, and (iii) unilaterally cancelling the allotment under a so-called “one time payment scheme,” which has no basis under the Act. The Tribunal restored the appellant’s allotment of Flat No. 708 in *Sarvayoni City* and directed the Authority to ensure execution of a registered agreement for sale or to proceed against the promoter under law. It also reminded the Authority of quorum requirements under Sections 21, 29 and 30 RERA, clarifying that orders cannot be validly passed by a single member where the statute requires a Chairperson and not less than two Members. [*Smt. Subhra Jyoti v. M/s Shree Loknath Baba Homes Pvt. Ltd., TNC 2021 (7) 8, REAT Appeal No. 20 of 2021, BREAT: 20-Jul- 2021, CP: REA 13*]

## **14. Adherence to sanctioned plans and project specifications by the promoter:**

**(1) The proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.**

**(2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or**

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building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the promoter shall not make--

(i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:

Provided that the promoter may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorised Architect or Engineer after proper declaration and intimation to the allottee.

Explanation.-- For the purpose of this clause, "minor additions or alterations" excludes structural change including an addition to the area or change in height, or the removal of part of a building, or any change to the structure, such as the construction or removal or cutting into of any wall or a part of a wall, partition, column, beam, joist, floor including a mezzanine floor or other support, or a change to or closing of any required means of access ingress or egress or a change to the fixtures or equipment, etc.

(ii) any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other

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than the promoter, who have agreed to take apartments in such building.

Explanation.-- For the purpose of this clause, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, etc., by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

14(1): Adherence to Approved Plans

The promoter must develop and complete the proposed project strictly as per the sanctioned plans, layout plans, and specifications approved by the competent authorities. [*Section 14(1), Real Estate (Regulation and Development) Act, 2016*]

14(2): Restrictions on Changes to Approved Project Plans

Once the sanctioned plans, layout plans, specifications, and details of fixtures, fittings, amenities, and common areas are

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shared with the buyer, the promoter is restricted from making changes without proper consent:

(i) The promoter cannot make any additions or alterations to the approved plans or specifications relating to the buyer's apartment, plot, or building without the prior consent of that buyer.

However, minor changes requested by the allottee or changes necessary for architectural or structural reasons—certified by a qualified architect or engineer—are permitted, provided they are properly declared and communicated to the allottee.

Minor additions or alterations do not include structural changes such as changes in area or height, removal of building parts, modifications to structural elements like walls or beams, or changes to fixtures or essential access points.

(ii) The promoter cannot make changes to the sanctioned plans, layout, specifications, or common areas of the building or project without prior written consent from at least two-thirds of the total number of allottees (excluding the promoter) who have booked units in the building.

For this purpose, a single allottee is counted as one, even if they have booked multiple units in their name or that of their family, company, firm, or related entity.

[Section 14(2), *Real Estate (Regulation and Development) Act, 2016*]

14(3): Liability for Structural and Other Defects

If the allottee notifies the promoter of any structural defect or defect in workmanship, quality, services, or any other obligation under the agreement for sale within five years from the date of possession, the promoter must fix the defect at no extra cost within thirty days.

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If the promoter fails to do so within this period, the affected allottee has the right to receive appropriate compensation as provided under the Act. [*Section 14(3), Real Estate (Regulation and Development) Act, 2016*]

Rera Bihar, Office Order No.130 dt 20.09.2024 — Approval of Revised Sanctioned Maps in Registered Projects

The Bihar Real Estate Regulatory Authority, invoking Section 14(2)(ii) of RERA, 2016 and Regulation 2(xvii) of the Bihar RERA (General) Regulations, 2024, directed that promoters cannot alter sanctioned plans without written consent of two-thirds of allottees. To process applications for revision, surcharge fees were fixed — ₹2,00,000 (up to 20 units), ₹4,00,000 (21–40 units), ₹6,00,000 (41–60 units), and ₹8,00,000 (above 60 units). Promoters must file affidavits, consent records, revised agreements, sanctioned maps, land documents, and an undertaking that compensation rights of existing allottees will not be denied due to delay. The order takes immediate effect, with non-compliance inviting penal action. [*Rera Bihar, Office Order No.130 dt 20.09.2024, TNC 2024 (9) 52*]

Interpretations:

M/s Apna Awas Construction Pvt. Ltd. v. Upendra Kumar Mishra (2020) — Compensation for Delay, Rent, and Occupancy Certificate Compliance: The Tribunal held that the promoter could not unilaterally alter the development agreement terms or reduce the landowner's share beyond what was agreed (40:60 ratio). RERA lacked jurisdiction to rewrite the contract by enhancing the owner's share. However, given delay in completion, the promoter was directed to pay ₹15,000 per month as compensation (after November 2016) until delivery of possession, along with ₹3,000 monthly rent (from March 2014,

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adjusted for rent already paid), plus ₹25,000 litigation cost. The promoter was further directed to obtain completion/occupancy certificate under Section 11(4)(b) of RERA. Appeals of both sides were partly allowed with directions. [*M/s Apna Awas Construction Pvt. Ltd. v. Upendra Kumar Mishra*, TNC 2020 (9) 12, Appeal Nos. 13 & 14 of 2019, BREAT: 28-Sep-2020]

Kamini Homes v. Ishrat Parween (2020) — Unilateral Alteration of Flat Size and Cancellation of Allotment Illegal:

The Bihar Real Estate Appellate Tribunal upheld the RERA order declaring that the promoter’s unilateral cancellation of flat no. 104 in “Ahmad Residency” was illegal. The promoter had increased the super built-up area from 850 sq. ft. to 1070 sq. ft. without the consent of two-thirds allottees, in violation of Section 14(2)(ii) of the RERA Act, 2016. The Tribunal held that no alteration in sanctioned plans or specifications can be made without such consent, and the promoter’s act of reselling the same flat during pendency of appeal violated the doctrine of *lis pendens*. Since the allottee no longer wished to retain the altered flat, the Tribunal applied Section 18 of RERA, directing the promoter to refund ₹20 lakhs with interest (2% above SBI’s prime lending rate) and to pay an additional ₹3 lakhs as compensation within 60 days, failing which liability under Section 64 would arise. The promoter’s conduct was found to reflect disregard for law, and the appeal was dismissed with modification of relief. [*Kamini Homes v. Ishrat Parween*, TNC 2020 (12) 9, REAT Appeal No. 02 of 2020, BREAT: 18-Dec-2020, CP: REA 14]

Supertech Ltd. v. Emerald Court Owner RWA (2021) — Illegal Towers Ordered Demolition: The Supreme Court upheld the Allahabad High Court’s direction to demolish

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Supertech’s twin towers (T-16 “Ceyane” and T-17 “Apex”) in NOIDA, holding that they were constructed in blatant violation of mandatory distance norms under NBR 2006, NBR 2010 and NBC 2005, as well as fire safety rules, and without obtaining the flat-owners’ consent required by Sections 4(4) and 5 of the U.P. Apartments Act, 2010. The Court found collusion between NOIDA and Supertech in sanctioning illegal revised plans, rejected arguments of equity in favour of purchasers (who were entitled to refunds with 12% interest), and directed demolition within three months at Supertech’s cost under CBRI supervision. [*Supertech Ltd. v. Emerald Court Owner Resident Welfare Assn. & Ors.*, TNC 2021 (8) 5, SC:31-Aug-2021]

## **15. Obligations of promoter in case of transfer of a real estate project to a third party:**

**(1) The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from two-third allottees, except the promoter, and without the prior written approval of the Authority:**

**Provided that such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be, in the real estate project made by the erstwhile promoter.**

**Explanation.-- For the purpose of this sub-section, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, by whatever name called, booked in its name or booked in the name of its**

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associated entities or related enterprises, shall be considered as one allottee only.

(2) On the transfer or assignment being permitted by the allottees and the Authority under sub-section (1), the intending promoter shall be required to independently comply with all the pending obligations under the provisions of this Act or the rules and regulations made thereunder, and the pending obligations as per the agreement for sale entered into by the erstwhile promoter with the allottees:

Provided that any transfer or assignment permitted under provisions of this section shall not result in extension of time to the intending promoter to complete the real estate project and he shall be required to comply with all the pending obligations of the erstwhile promoter, and in case of default, such intending promoter shall be liable to the consequences of breach or delay, as the case may be, as provided under this Act or the rules and regulations made thereunder.

15(1): Restriction on Transfer of Promoter's Rights

The promoter cannot transfer or assign the majority of their rights and liabilities in a real estate project to a third party without first obtaining:

- the written consent of two-thirds of the allottees (excluding the promoter), and
- the prior written approval of the Authority.

Such a transfer or assignment will not affect the existing allotments or sales made by the original promoter.

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For this purpose, an allottee is counted as one unit-holder, regardless of how many apartments or plots they or their related entities have booked.

[Section 15(1), *Real Estate (Regulation and Development) Act, 2016*]

15(2): Obligations of the New Promoter After Transfer

Once the transfer or assignment is approved by both the allottees and the Authority under sub-section (1), the new (intending) promoter must fulfil all pending obligations under this Act, including:

- compliance with the Act, rules, and regulations, and
- all obligations arising from the agreement for sale made by the previous promoter.

This transfer does not allow any extension of time for completing the project. The new promoter must meet all responsibilities of the former promoter and will be held accountable for any delay or default, as per the provisions of the Act.

[Section 15(2), *Real Estate (Regulation and Development) Act, 2016*]

Interpretations:

M/S Samruddhi Developers v. Kiran Vasant Verekar (2019)

— Assignee-promoter must honour prior obligations; delay-interest payable: The Bombay High Court upheld the Appellate Tribunal’s direction that an assignee of a real-estate project is a “promoter” under RERA ss. 2(zk) & 15(2) and must independently fulfil the erstwhile promoter’s pending obligations to allottees. Payments earlier made to the original promoter are

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deemed received by the assignee; lack of commencement certificate or a later “termination” of the assignment is no defence. With the project registered under RERA and possession promised by 31-12-2018, allottees are entitled to interest for delay under s. 18 until possession with completion certificate; the second appeals were dismissed with ₹30,000 costs to each respondent, no substantial question of law arising. [*M/s Samruddhi Developers v. Kiran Vasant Verekar*, TNC 2019 (9) 29 = *AIRONLINE* 2019 BOM 917 = 2019 (6) ABR 92, Bom HC: 17-Sep-2019]

16. Obligations of promoter regarding insurance of real estate project:

(1) The promoter shall obtain all such insurances as may be notified by the appropriate Government, including but not limited to insurance in respect of--

(i) title of the land and building as a part of the real estate project; and

(ii) construction of the real estate project.

(2) The promoter shall be liable to pay the premium and charges in respect of the insurance specified in sub-section (1) and shall pay the same before transferring the insurance to the association of the allottees.

(3) The insurance as specified under sub-section (1) shall stand transferred to the benefit of the allottee or the association of allottees, as the case may be, at the time of promoter entering into an agreement for sale with the allottee.

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**(4) On formation of the association of the allottees, all documents relating to the insurance specified under sub-section (1) shall be handed over to the association of the allottees.**

#### **16(1): Mandatory Insurance by Promoter**

The promoter must obtain all insurances as may be specified by the appropriate Government. These include, but are not limited to:

(i) insurance for the title of the land and building that form part of the real estate project

(ii) insurance for the construction of the real estate project

*[Section 16(1), Real Estate (Regulation and Development) Act, 2016]*

#### **16(2): Promoter's Responsibility for Insurance Charges**

The promoter is responsible for paying the premium and related charges for the insurances mentioned in sub-section (1). These payments must be made before the insurance is transferred to the association of allottees. *[Section 16(2), Real Estate (Regulation and Development) Act, 2016]*

#### **16(3): Transfer of Insurance Benefit to Allottee**

The insurance obtained under sub-section (1) will automatically transfer for the benefit of the allottee or the association of allottees, as applicable, when the promoter enters into an agreement for sale with the allottee. *[Section 16(3), Real Estate (Regulation and Development) Act, 2016]*

#### **16(4): Handover of Insurance Documents to Allottee Association**

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Once the association of allottees is formed, the promoter must hand over all documents related to the insurance obtained under sub-section (1) to the association. [*Section 16(4), Real Estate (Regulation and Development) Act, 2016*]

17. Transfer of title:

(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws:

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Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the completion certificate.

17(1): Execution of Conveyance and Handover of Possession

The promoter must execute a registered conveyance deed in favour of the allottee and transfer the undivided share in the common areas to the association of allottees or the competent authority, as applicable. The promoter must also hand over:

- physical possession of the plot, apartment, or building to the respective allottees, and
- possession of the common areas to the association of allottees or the competent authority,

within the time period specified in the sanctioned plans and local laws.

If there is no applicable local law, the promoter must complete the conveyance within three months from the date the occupancy certificate is issued.

[Section 17(1), Real Estate (Regulation and Development) Act, 2016]

17(2): Handover of Documents and Plans After Possession

After receiving the occupancy certificate and giving physical possession to the allottees as per sub-section (1), the promoter must hand over all necessary documents and plans, including those related to common areas, to the association of allottees or the competent authority, as required under local laws.

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If there is no applicable local law, the promoter must complete this handover within thirty days of obtaining the completion certificate.

[Section 17(2), *Real Estate (Regulation and Development) Act, 2016*]

18. Return of amount and compensation:

(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,--

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the

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manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

18(1): Promoter's Liability for Delay or Failure in Delivery

If the promoter fails to complete or deliver possession of an apartment, plot, or building—

(a) as per the terms and timeline mentioned in the agreement for sale, or

(b) due to discontinuation of business because of suspension, revocation of registration, or any other reason—

then, upon the allottee's request to withdraw from the project, the promoter must refund the entire amount received along with the prescribed interest and compensation, without affecting any other legal remedy available to the allottee.

If the allottee chooses not to withdraw from the project, the promoter must pay monthly interest for the period of delay until possession is handed over, at the rate prescribed.

[Section 18(1), *Real Estate (Regulation and Development) Act, 2016*]

18(2): Compensation for Defective Land Title

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The promoter must compensate the allottee for any loss resulting from a defective title of the land on which the project is being developed or has been developed. This compensation must be provided as per the provisions of the Act, and such claims are not restricted by any limitation period under existing laws.

[Section 18(2), *Real Estate (Regulation and Development) Act, 2016*]

18(3): Compensation for Breach of Other Obligations

If the promoter fails to fulfil any other duty under this Act, its rules or regulations, or the agreement for sale, they must compensate the allottees as specified under the provisions of the Act. [Section 18(3), *Real Estate (Regulation and Development) Act, 2016*]

Rule 17: Interest Payable by Promoter and Allottee

The rate of interest payable by the promoter to the allottee or by the allottee to the promoter shall be two percent above the prevailing Prime Lending Rate of the State Bank of India on the date when the amount becomes due.

Proviso: If the SBI Marginal Cost of Lending Rate (MCLR) is not in use, it shall be replaced by such benchmark lending rate as fixed by SBI from time to time for lending to the general public.

[Rule 17, *Real Estate (Regulation and Development) Rules 2017*]

Rule 18: Timelines for Refund

Any refund of monies, along with applicable interest and compensation (if any) payable by the promoter under the Act or the rules and regulations, shall be paid to the allottee within 60 days from the date on which such refund, interest, or

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compensation becomes due. [*Rule 18, Real Estate (Regulation and Development) Rules 2017*]

Interpretations:

Pioneer Urban Land and Infrastructure Ltd. v. Union of India (2019) — Homebuyers Recognized as Financial Creditors under IBC: The Supreme Court upheld the constitutional validity of the 2018 amendment to the Insolvency and Bankruptcy Code (IBC) that classified real estate allottees as “financial creditors.” It held that amounts paid by homebuyers finance the real estate project, giving them creditor-like rights. The classification was found to be rational, non-arbitrary, and consistent with the objectives of the IBC. Homebuyers are therefore entitled to initiate insolvency proceedings and participate in the Committee of Creditors. [*Pioneer Urban Land and Infrastructure Ltd. v. Union of India, TNC 2019 (8) 9 = (2019) 8 SCC 416 = AIR 2019 SC 4055, SC:9-Aug-2019*]

M/s Pukhraj Developers Pvt. Ltd. v. Om Prakash Tiwari (2020) — RERA Inapplicable to Pre-RERA Cancelled Agreements: The Bihar Real Estate Appellate Tribunal held that where an agreement for sale was executed in 2012, cancelled in April 2016, and the advance refunded in October 2016—well before the enforcement of the Real Estate (Regulation and Development) Act, 2016 (operative from 01-05-2017)—the provisions of the Act, particularly s.18 (refund and compensation), could not apply. Since the project never commenced, was never advertised, and the allottee’s status ceased prior to the Act, the Adjudicating Officer lacked jurisdiction. The impugned order directing relief under RERA was set aside. However, the Tribunal clarified that the allottee was not without remedy and could seek compensation or interest

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before other competent forums such as the Consumer Forum.
[*M/s Pukhraj Developers Pvt. Ltd. v. Om Prakash Tiwari & Anr.*,
TNC 2020 (1) 9, *REAT Appeal No. 01 of 2019*, *BREAT: 24-Jan-2020*]

Agrani Homes Pvt. Ltd. v. Nilu Kumari (2020) — Refund with Interest, Cheque Payments Risky, AO Proper Forum for Compensation: The promoter advertised a project without sanction and failed to commence construction since 2013. Although the principal advance (₹8,06,000) was refunded during RERA proceedings, some refund cheques bounced before the amount was cleared via RTGS. The Appellate Tribunal held that the promoter remains liable to pay interest on the refunded amount. It also cautioned that refunds should be directed via Bank Draft/RTGS/NEFT, not cheques, to prevent defaults. Finally, it clarified that issues of refund, interest, and compensation properly fall within the jurisdiction of the Adjudicating Officer under RERA. The appeal was dismissed.
[*Agrani Homes Pvt. Ltd. v. Nilu Kumari*, *TNC 2020 (3) 32*, *REAT Appeal No. 07/2020*, *BREAT: 03-Mar-2020*, *CP: REA 18*]

Habitech Infrastructure Ltd. v. State of U.P. (2020) — RERA Authority's Power to Order Refund with Interest: The Allahabad High Court upheld the U.P. RERA Authority's order directing refund of the allottee's deposit with interest under Section 18 of the RERA Act, 2016. It clarified that the Regulatory Authority has jurisdiction to order refund with statutory interest, whereas only claims for compensation fall within the domain of the Adjudicating Officer under Section 71. The Court also held that interest is payable from the date of deposit, even if that predates the commencement of the Act, because Section 2(z)(ii) expressly covers such liability. The writ

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petition was dismissed, with the Court emphasizing the alternative appellate remedy before the Real Estate Appellate Tribunal under Section 43(5). [*Habitech Infrastructure Ltd. v. State of U.P.*, TNC 2020 (7) 5, All HC: 6-Jul-2020]

**M/s Lysin Engineers Pvt. Ltd. v. Kali Charan (2020) — GST incidence on allottee; delay rent starts post-extension; AO’s mixed relief largely upheld:** Bihar REAT dealt with an allottee’s complaint seeking possession, interest on home-loan EMIs, and GST relief for a flat in “Sneh Chhavi Vatika Apartment.” The promoter’s project was registered on 10.08.2018 and later granted a one-year extension under Section 6 till 25.12.2019. The Adjudicating Officer (AO) held GST is payable by the purchaser (with applicable rates adjusted to sectoral changes: effectively 8% on ₹24 lakh and 5% on the remaining ₹8 lakh, totaling ₹2.32 lakh); awarded ₹5,000/month towards interest burden and ₹10,000/month as rent due to delay; and directed possession. On appeal, REAT affirmed GST incidence and quantum (noting another allottee was charged 8%), upheld the ₹5,000/₹10,000 monthly components, but modified the rent start date: rent would accrue only after the extended registration period ended (i.e., from 25.12.2019), given the lawful extension under Section 6. With that modification, the appeal was dismissed. [*M/s Lysin Engineers Pvt. Ltd. v. Kali Charan*, TNC 2020 (8) 4, REAT Appeal No. 01 of 2020, BREAT: 27-Aug-2020, CP: REA 18]

**Ireo Grace Realtech Pvt. Ltd. v. Abhishek Khanna (2021) — Builder-Biased Clauses Declared Unfair, Refund Rights Upheld, Remedies under the CPA and RERA are concurrent:** The Supreme Court held that possession must be calculated from the Fire NOC date, but struck down the Apartment Buyer

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Agreement as one-sided and oppressive, amounting to an unfair trade practice under the Consumer Protection Act, 1986. It clarified that remedies under the CPA and RERA are concurrent, and due to inordinate delay, buyers could terminate and claim a refund with 9% interest (12% if not timely paid). [*Ireo Grace Realtech Pvt. Ltd. v. Abhishek Khanna, TNC 2021 (1) 3 = (2021) 3 SCC 241; SC:11-Jan-2021*]

NBCC (India) Ltd v. Shri Ram Trivedi (2021) — Builder's Liability for Delay in Possession: The Supreme Court upheld the NCDRC's finding that NBCC was liable for delay in handing over possession of the flat, but modified the compensation terms. The Court held that contractual clauses requiring the buyer to accept only ₹2 per sq. ft. per month as compensation were one-sided and unfair trade practices. Instead, the buyer was entitled to 7% simple interest per annum from 1 January 2016 until 26 July 2018 (the actual possession date). The award of ₹2,00,000 for loss of rent was set aside since interest compensation sufficed. The Court also rejected NBCC's force majeure defense, ruling that contractor disputes and routine construction delays cannot qualify as force majeure. The developer was directed to complete all documentation and registration formalities within one month. [*NBCC (India) Ltd v. Shri Ram Trivedi, TNC 2021 (3) 7, SC:8-Mar-2021*]

Jayesh Tanna, Director of ITMC Developer Pvt. Ltd. v. Radha Arakkal & Ors. (2022) — Matter under Indian Contract Act, Appeal Dismissed After Final Hearing; SLP Denied: The Bombay High Court admitted the appeal under Section 58 RERA, raising legal questions around Section 62 of the Indian Contract Act and consent for possession extension. The matter proceeded for final hearing on 2 May 2022. The

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appeal was eventually dismissed, disposing of interim applications. The Supreme Court later rejected the Special Leave Petition on 13 April 2023, affirming the HC’s ruling. [*Jayesh Tanna, Director of ITMC Developer Pvt. Ltd. v. Radha Arakkal & Ors., TNC 2021 (4) 3, Bom HC: 26-Apr-2022, final order delivered 02 May 2022; SLP dismissed 13 April 2023, CP: REA 18*]

**Bombay Dyeing & Mfg. Co. Ltd. v. Ashok Narang & Ors. (2021) — Refund with Interest Payable Even for Pre-RERA**

**Bookings:** The Bombay High Court upheld orders of the Maharashtra RERA Appellate Tribunal granting homebuyers refund with interest and tax reimbursement for luxury flats booked under a “20:80 scheme” in 2012–13. Despite the promoter’s argument that Sections 12 and 18 RERA could not apply retrospectively to pre-2016 agreements and that no registered sale agreement existed, the Court held that these provisions are quasi-retroactive and apply to ongoing projects without a completion certificate. It ruled that “agreement for sale” under Section 2(c) includes allotment letters and brochures, not merely formal deeds under Section 13. Finding continued default in possession despite promises, the Court dismissed the appeals, affirming allottee rights to refund and statutory interest. [*Bombay Dyeing & Mfg. Co. Ltd. v. Ashok Narang & Ors., TNC 2021 (8) 7, Bom HC: 30-Aug-2021, CP: REA 18*]

**M/s IREO Pvt. Ltd. v. Alope Anand (2022) — Refund to Flat Buyers for Delayed and Deficient Possession:**

The Supreme Court upheld NCDRC’s directions against the developer for refund with interest after failure to timely deliver a habitable apartment in its “SKYON” project. The Court rejected IREO’s argument that the possession timeline ran only from the Fire

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NOC, holding that even if contractual timelines were assumed, the builder was unable to hand over possession as of September 2018. It affirmed that buyers, as consumers under COPRA, were entitled to refund with interest at 10.25% (the RERA benchmark rate), since the promised amenities were not provided and possession was incomplete. Thus, the appeals were dismissed, and consumer remedies were sustained. [*M/s IREO Pvt. Ltd. v. Alope Anand & Ors.*, TNC 2022 (1) 2, SC:21 Jan 2022]

**M/s. Imperia Structure Ltd. v. Brig. Harit Pant & Ors. (2022)**

**— Allottee’s Unqualified Right to Refund or Interest under**

**RERA:** The Supreme Court upheld the National Consumer Disputes Redressal Commission’s reliance on *Imperia Structures Ltd. v. Anil Patni (2020)*, reiterating that under Section 18 of the Real Estate (Regulation and Development) Act, 2016, if a promoter fails to hand over possession by the agreed date, the allottee has an unqualified statutory right either to withdraw and claim refund with prescribed interest, or to remain in the project and receive monthly interest for the period of delay. This remedy is “without prejudice to any other remedy available” to the allottee. Since the National Commission correctly applied this principle, the Court dismissed the appeals, affirming that the RERA Act ensures protection of allottees’ investments through mandatory refund/interest obligations. [*M/s. Imperia Structure Ltd. v. Brig. Harit Pant & Ors.*, TNC 2022 (3) 10, SC: 28 Mar 2022]

**M/s. Imperia Structure Ltd. v. Baljor Singh Jakhar & Ors. (2022)**

**— Allottee’s Unqualified Right to Refund or Interest under RERA:**

The Supreme Court dismissed the developer’s appeals and upheld the National Commission’s reliance on *Imperia Structures Ltd. v. Anil Patni (2020)*, reiterating that

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under Section 18 of the RERA Act, if a promoter fails to hand over possession by the agreed date, the allottee has an unqualified statutory right either to withdraw and claim refund with interest, or to stay in the project and receive monthly interest for the delay. Since the National Commission correctly followed binding precedent, the Supreme Court found no ground to interfere. [*M/s. Imperia Structure Ltd. v. Baljor Singh Jakhar & Ors.*, TNC 2022 (3) 11, SC: 28 Mar 2022]

**Experion Developers Pvt. Ltd. v. Sushma Ashok Shiroor (2022) — Consumer Forums Can Order Refund Despite RERA, One-Sided Clauses Unenforceable:** The Supreme Court held that delay compensation clauses in apartment buyer agreements, which impose negligible liability on developers while heavily burdening consumers, are one-sided, unfair, and amount to unfair trade practice. Such terms cannot bind consumers. It further clarified that remedies under the Consumer Protection Act, 1986 and the Real Estate (Regulation and Development) Act, 2016 (RERA) are concurrent and harmonious, allowing consumers to choose between them. Consumer Fora have jurisdiction under Section 14 of the Consumer Protection Act to direct refund of amounts with interest and compensation. In this case, the Court upheld refund of ₹2.06 crore with 9% interest, modifying that interest must run from the date of each deposit, not just the last one. The developer's appeal was dismissed, while the consumer's appeal for interest adjustment was partly allowed. [*Experion Developers Pvt. Ltd. v. Sushma Ashok Shiroor*, TNC 2022 (3) 13, SC: 7 Apr 2022]

**Vishal Chelani v. Debashis Nanda (2023) — Homebuyers with RERA Decrees Are Financial Creditors:** The Supreme

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Court held that homebuyers who obtained refund orders from RERA remain “financial creditors” under Section 5(8)(f) of the IBC. It struck down the resolution professional’s attempt to classify decree-holding homebuyers separately from other allottees, calling it impermissible hyper-classification violating Article 14. Once recognized as financial creditors by statute, their status is not altered by pursuing remedies under RERA. [*Vishal Chelani & Ors. v. Debashis Nanda, TNC 2023 (10) 3, SC:19-Oct-2023*]

Wadhwa Group Holding Pvt. Ltd. v. Vijay Choksi (2024) — Joint Liability of Promoter under Section 18 RERA: The Bombay High Court held that all promoters, including landowners, investors, and joint development partners, fall within the wide ambit of “promoter” under Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016, and are jointly liable to refund amounts with interest under Section 18, even if one of them has not directly received consideration from an allottee. Absence of privity of contract or direct receipt of funds cannot absolve liability. The Tribunal’s order directing refund with interest and costs was upheld, and stay was refused. [*Wadhwa Group Holding Pvt. Ltd. v. Vijay Choksi, TNC 2024 (2) 28, Bom HC: 26-Feb-2024*]

Park Xpress JV v. Sagar Hargovind Saboo (2024) — Delay Liability under Section 18 RERA is Absolute: The Bombay High Court held that a promoter cannot escape liability to pay interest for delay in completion of a project by citing external causes such as municipal stop-work notices or restrictions on water and sand use. Such factors do not shift the burden from the promoter, as Section 18 of the Real Estate (Regulation and Development) Act, 2016 imposes an absolute and unconditional

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obligation. The Court clarified that allottees can claim interest even after accepting possession, and there is no bar on filing complaints post-issuance of Occupancy Certificate. It further rejected the promoter's contention of waiver absent a specific agreement and upheld the deduction of only ₹71,795 as adjustment towards compensation, not the claimed ₹95,000. Consequently, both Second Appeals were dismissed, affirming the Appellate Tribunal's order. [*Park Xpress JV v. Sagar Hargovind Saboo*, TNC 2024 (3) 48 = 2024:BHC-AS:15148, Bom HC: 22-Mar-2024]

Dharmendra Sharma v. Agra Development Authority (2024)

— Refund and Compensation for Invalid Possession Offer:

The Supreme Court ruled that the 2014 offer of possession by the Agra Development Authority was invalid because it lacked mandatory completion and firefighting certificates under the UP Apartment Act, 2010 and RERA, 2016. Despite the appellant's delayed payment, ADA's statutory breach vitiated the offer. The Court held the complaint was within limitation, affirmed NCDRC's jurisdiction, and directed ADA to refund the deposit with 9% interest, pay ₹15 lakh compensation, and return stamp duty of ₹3.99 lakh. ADA's appeal was dismissed. [*Dharmendra Sharma v. Agra Development Authority*, TNC 2024 (9) 51 = 2024 INSC 667, SC: 6-Sep-2024]