



# An Attempt to Clean the Real Estate Mess

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The cabinet has recently cleared the Real Estate (Regulation and Development) Bill. It is aimed at setting right at least some of the things that are blatantly wrong. But the cabinet clearance, by itself, has little meaning; the bill has to be passed in the Parliament, not to speak about the need to refine and re-define the provisions so that a holistic approach to regulation is obtained. Since 2009, the Government has been trying to pass one or the other version of the proposed bill but has not been successful. It is anybody's guess whether this time around the bill gets passed in the House. Yet, as an attempt, the Government's effort should be welcomed.

As could only be expected, real estate players have welcomed the bill cautiously or condemned it outright. After all, they have had a free run for decades and now suddenly they are called upon to change to more fairness, transparency and accountability in their dealings. The list of misdoings of builders and brokers is long. Developers sell products (flats/houses) even before they are constructed and are ready for occupation. Typically, large projects take 2 to 3 years before their completion in all respects. What is even worse is where the builders book units for clients even before obtaining all clearances and approvals. There have been any number of instances where they have built or promised to build on disputed lands or on properties without clear title. Some of them have been guilty of giving false

promises at the time of entering into contract. Delays in project completion and handing over are more of a norm than an exception. Cash refunds are promised for project over runs but never given on one or the other pretext. The customer has neither the time nor the inclination to read all that is mentioned in the fine print. The bill recognizes that customers are not equipped to check and understand whether there is valid and proper title to land and whether necessary approvals and sanctions have been obtained. Hence, the provision that no builder shall sell/enter into an agreement to sell without all approvals in place. Further, it is mandated that 70 per cent of all monies collected be deposited in dedicated bank accounts. Creation of such 'escrow' accounts will ensure that real estate companies do not divert customers' funds to other building projects. It is also laid down that the sale price should be related to or calculated by taking into account carpet area or the built up area and not some ambiguous 'super built' area; the later includes area that is used up by lifts, staircases and other common utilities. Real estate is a state subject. Therefore, even after the bill is passed and becomes a legislative Act, it is the States which have to appoint regulator and put in place a tribunal for speedy disposal of disputes. Systems, though important as they are, cannot deliver results unless the quality of men who man them is up to the mark. In case of electricity for example, state



regulators are in place, but the mess in this vital energy sector is hardly cleared. Today, in most states delays in real estate are also due to the role of multiple state authorities/agencies-such as municipalities, pollution control boards, urban planning and development, PWD etc- whose clearances and approvals are needed. Lack of accountability has been responsible for making residential real estate a hotbed of corruption and graft. It is not clear how the proposed bill will address these issues which are essentially connected to real estate but are technically out of their purview.

Another area which needs to be taken care of is the lending for land acquisition. Most real estate

developers are denied funding because it is thought it will lead to higher inflation and creation of asset bubbles. But the fact is that there exists a huge gap and a mis-match in demand for and supply of dwelling units and hence land prices in any case are going to rise. By not allowing bank finances, the medium and small players are driven to more expensive and riskier forms of financing. Nearly all developers 'divert' funds because of this type of credit denial.

So, long way to go before a buyer gets a sigh of relief. The bill, at best, is a baby step in the direction of protecting buyers' interests in real estate sector.

