

MAJOR REAL ESTATE FRAUDS IN INDIA AND GOVERNMENTS INTERVENTION

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ABSTRACT

*Real estate sector plays an important role in the growth and economic development of India. The present study aims to identify the types of real estate frauds. Second, it is attempt to uncover the key real estate frauds in India. Third, the study will analyse the governments' initiative in preventing the frauds and the role in developing policy. The study is based on a review of literature from various published sources' and government websites. Past reviews highlighted about the types of real estate frauds in India. The present study identified several real estate frauds happened in India are Emaar properties scam, Rangmahal Cooperative group housing scheme, **Karnataka Wakf Board Land Scam**, Noida land scam, and Adarsh Housing Society. Last, the study discussed about the importance of fraud prevention mechanism and focus on the benefits of Real Estate Regulation Development Act, 2016 on developers and buyers.*

Keywords: Fraud, Scam, Real-estate, RERA, Government, India

INTRODUCTION

Real estate sector in India is an important area in stimulating the economic growth. Real estate is a type of property to possess and use. Post globalization and urbanization India has seen consistently increase of real estate demand for business opportunities. The developments of real estate sector boosted the growth of retail, hospitality, entertainment, housing and services business. It is an important area for increasing the demand for shopping malls and super markets in Indian cities. Migration of workers from rural to urban places rises the demand for commercial and residential premises'. The demand for residential real estate is due to migration of people towards cities, population growth, rising income and nuclear families, and access to financial support from banks and financial institutions.

The entire real estate industry is dependent on subsidiary industries namely, building materials, steel, timber, glass, brick & concrete and cement making it one of the largest industry after the agriculture sector in India. Most of the players or developers in real estate industry are small in size. Very few are organized players in India. It is true that, in real estate, developers and buyers both are equally important. The real estate industry in India had faced several criticism due to lack of rules and regulation to protect the developers and buyers in India. Most of the frauds in real estate happened either due to the ignorance of buyers certain information or developers not sharing the exact information with the buyers. Therefore, the ministry of housing and urban affairs, government of India in 2016 introduced the real estate regulation development Act, 2016 to protect the interest of buyers and developers.

Previous studies highlighted the several reasons of real estate frauds. Real estate markets is large and high value market (Unger *et al.*, 2010¹; Nelen (2008)². Second, the investment is in real estate and a belief of property speculation for buyers. Further, Unger *et al* (2010) in their study highlighted about the unusual movements in housing prices and ownership creating a concern of involvement for identification of criminal activities. There is a dearth of study related to the real estate frauds in India and lack of similar type of literature to evaluate the concern. Hence, present study aims to understand on this area to uncover the government initiatives' and support the buyers, developers in India.

OBJECTIVES

The objectives are

- To understand the types of real estate frauds.

- To identify the major real estate frauds in India.
- To analyse the governments initiative towards the policy making to prevent the real estate frauds in India.

METHODOLOGY

The present study relied on the secondary information to satisfy the objectives. Relevant data were gathered from published research papers of journals, online newspapers, blogs, and government websites. However, the study has been carried out to understand the types of fraud and real estate frauds with the help of a several real examples. The study was conducted during the period of August to November 2019.

CONCEPTUAL FRAMEWORK

The real estate activity included three key components in the cyclic process of real estate development business. The components are developer, buyer, and government authority or agency. The actions of each entities or elements can lead to the fraud in the process of real estate business or property buying-selling. The fraud can happen from the side of any elements: Developer-Buyer, Developer-Government agency, and Government agency-Buyer.

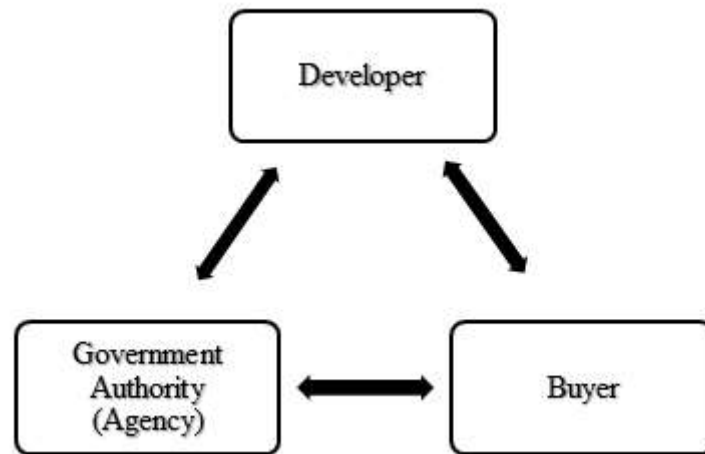


Figure1: Three elements cyclic process in real estate development
(Source: Created by the Author, 2019)

Within the Developer-Buyer the fraud may for reasons such as lack of knowledge of customer for investment in property, customer focus on promotional benefit offered by developer, unethical practices of developer. Second, Developer-Government agency fraud may be due to the negligence of government agency, involvement of unethical practices by either developer or government agency. Third, Government agency-Buyer fraud may be for the inadequate support from the regulatory bodies, supporting agencies; lack of knowledge of buyers about rules, policy and procedures; and time limit.

FINDINGS AND DISCUSSION

The findings of the study highlights about the various types of real estate frauds that happened. Second, results enunciates the major real estate frauds happened in India post 2000, their involvement. Third, government of India's initiatives to prevent the various types of frauds and policy measures.

TYPES OF REAL ESTATE FRAUDS

Real estate frauds happened when a buyers buy certain property. Buyers either got cheated and their money were lost most of the time. The different types of real estate's fraud are Title Deception; Hurried sales; Assured returns; Delays in Possession; Fake promises; Forced Cancellations; Selling without authorization; Change in plans; Selling the same unit to Multiple buyers; and Encroachments.

³ The detail discussion on each type are as follows:

- Title Deception – ownership of real estate property is unclear.
- Quick sales – Most of the time buyers bought an apartment/ flat without research due to the fake publicity of developers about their flats.

- Guaranteed returns – Many developers commitment to buyers include assured returns on the investment. Even developers agree on payment or interest to buyers of the delayed possession of the house/ apartment/ flats.
- Postponements in Possession of property (3P) – Sometimes developers intentionally delayed on the delivery of their flats irrespective of the brand they belongs.
- False promises – Many builders offered discounts on immediate investment or payment. It also includes about the fake promises developer committed to its buyer.
- Forced Revocations – Sometimes builder intentionally creates the situation for buyers, so the buyers withdraw the investment amount from the builders'. Some of the reason may be delayed delivery of flats by builders or may be the late installment payment.
- Change of land use (CLU) check - It is important for buyers to always check the approval of building prior investment.
- Change in building plans – Many of the developers change building plans (including carpet area, interiors, exteriors, electrical equipment, and ceramics etc.) presented to customer at the time property sale.
- Selling of one property to many buyers - Some of the developers' even sale same property to the multiple buyers. Most of the time buyers were unaware about those activities of sellers.
- Illegal possession (Encroachments) - Many times people sale others property to buyers due to the inactiveness of the owner. Moreover, illegal construction and possession of other property. Even people illegally acquired the governments land as well.

MAJOR REAL ESTATE FRAUDS

Some of the real estate frauds or scams happened in India namely, Emaar properties scam, Rangmahal Cooperative group housing scheme, Karnataka Wakf Board Land Scam, Noida land scam, Adarsh Housing Society Scam and so on. The brief details of these frauds are highlighted below:

Case 1: Emaar Properties scam

Situated at Dubai, Emaar Properties had a partnership with the Andhra Pradesh Industrial Infrastructure Corporation (APIIC) of 70:30 equity. The key aim of this partnership was to build an ultra-luxury township on 535 acres of land in Gachibowli, Hyderabad. MGF (another Dubai based infrastructure company) became the new partner of this existing companies. It reduced the APIIC stake into 6.5 percent. With the clearance from government terms were revised by APIIC managing director. It fetched a huge loss to the government and Central bureau of investigation suspected that Emaar-MGF partnership had a gain of excessive 2500 crores.⁴

Case 2: Rangmahal Cooperative group housing scheme (CGHS) Scam was 4000 crore scam.

It was started when the plot was illegally allocated by the lawbreakers for Rangmahal CGHS in Pitampura area of North West Delhi. In total 11 people were apparently involved including the public servants. They forged the documents, misrepresented the DDA and allotted lands in the subsidized prices to the society.⁵

Case 3: Karnataka Wakf Board Land Scam

In 2012, Anwar Manippady, Karnataka State Minorities Commission's chairman in his report to the Chief Minister of Karnataka brought out about the scam of 2 lakh-crore. It was alleged that Karnataka Wakf Board illegally distributed the land of 27,000 acres for a small amounts of actual market value.⁶

Case 4: Noida land scam

The top scientists of Indian Council of Medical Research (ICMR) reassigned the government plot of ₹ 70 crore value to a private group in a small amount to construct society flats.⁷

Case 5: Adarsh Housing Society scam

Mumbai was started in the year 2002. It was started with a request to allot land for building houses for serving and the retired defense personnel in the Colaba area of South Mumbai. However, over the

period, top officials government officials, politicians were violated the rules and norms and misuses the houses build for martyrs' widows and used for their personal benefit.⁸

Case 6: Housing Development Infrastructure Limited (HDIL) in a real estate fraud in Ghaziabad. It was identified that the developer not involved any kind of infrastructural development in the land and not had any approval from the authorities. Even, developer demanded and collected money from buyers illegally after the expiry of sanctioned development plan.⁹

Case 7: Indian real estate funds IREO management engaged in a fraud of 1.5 billion through the web of shadow companies connected to the owners' relatives, friends and business acquaintances' to drain off money from the fund.¹⁰

Moreover, the summary of Table 1 highlights about the frequency of Thornton Fraud in construction in India.

STRATEGIES TO AVOID FRAUD

Some of the strategies buyers should adopt to avoid real estate fraud. It is necessary to buy the item. These are: developers' track record; buyer should look into the detail project report including the RERA approval; don't be hurry in property buy; seek professional advice; look for paper for originality check.¹¹

- **Past records of developers**

It gives an understanding to the customers about the developers background, financial capability, successful project executed, market reputation etc. It is necessary for an investor to track the past records of the developers before investing on any project.

- **Every details of project**

Investor should focus on every details of project including type of land, different approval from government bodies, RERA approval, bank financing etc. prior his / her investment.

- **Be calm, not in hurry in property buy**

It is important to evaluate all aspects of real estate property. Most of the customers investment on flats, apartments are once in life time. So, it is recommended not be in hurry in buying a property. Most of the frauds happened due to lack of knowledge and information of the customer.

- **Professional advice from experts**

It is important for the customers or investors to consult with the lawyers, legal advisors and the experts of real estate prior investment of projects.

- **Look for paper**

Investors should prefer papers (highlighted terms and conditions of investment) in written format including the agreed terms and conditions to prevent the frauds and proof of evidence to protect the investment from future problems.

Prevention Measures by the Governments

With the introduction of Real Estate Regulation Development Act, 2016 the Ministry of Housing and Urban affairs of Government of India in 2016 initiated the major changes in the real estate sector.

RERA ACT, 2016

The key objective of RERA, 2016 Act is to provide transparency and protect the interest of home buyers. The act makes it mandatory to register the projects and real estate agent with RERA before sale. It is also necessary for developers to deposit 70% of the collected amount from buyers to deposit in escrow account and can withdraw in project construction with a certification by Architects, CA, and Project engineers. RERA provide benefits to the consumers and developers in India. The table 2 mentioned about the different benefits under the RERA Act, 2016 to consumers and developers in India.

As on October 19, 2019, in total 45,817 Real Estate Projects and 36,172 Real Estate Agents have registered under RERA across the India. Similarly, 28,697 cases disposed by the authority in India. The details of RERA implementation progress such as notification, setup and website operationalization are mentioned in Table 3. However, it is worth to mention that regulatory

authorities available in the Indian states and Union Territories are available in Table 4. Moreover, RERA conducted four regional Workshops from September – December 2018 on 'RERA- a New Era of Transparency and Accountability in Real Estate- 2 Years of Implementation and Way Ahead' at the different locations of India such as¹² Western Region in Pune, Maharashtra; Southern Region in Chennai, Tamil Nadu; Northern Region in Delhi; and Eastern and North Eastern Region in Ranchi, Jharkhand. The key aim of this workshops was to provide a platform for discussion and best practices to implement the RERA act across the India.¹³

CONCLUSION AND DIRECTION FOR FUTURE RESEARCH

The present study discusses about the real estate sectors different scam and the prevention mechanism in India. The study highlights about various types of real estate frauds such as title deception, delays in possession, fake promises, forced cancellations, selling without authorization, change in plans, selling to multiple buyers and so on. The result enunciated different types of scams happened in India over a period of time namely, Emaar properties, Rangmahal Cooperative group housing scheme, Karnataka Wakf Board Land, Noida land, Adarsh Housing Society etc. In addition, present study stressed on the strategies to avoid the real estate scam verifying the developers' information, project details and other approval related information. Furthermore, the study highlights about the relevance and importance of RERA Act, 2016 in preventing the real estate frauds in India. The study also analyses the various benefits of real estate act on the developers' and buyers in India.

The present study proposes that the future researchers should consider the various types of fraud in evaluating the real estate scam. The past studies were randomly reviewed and are not exhaustive in nature. Second, the study confined to secondary data. Third, it analyses the role of RERA Act, 2016 in prevention of real estate frauds. Hence, the future research can be carried considering certain primary information of any organization and buyers in relevance to fraud. The future research on any developers and buyers in relation to the scam may bring down the limitations and fill the existing gaps in literature.

LIST OF TABLES

Table 1: Grant Thornton Fraud in Construction report's in India

Type of Fraud	Level of Fraud
Real estate Billing fraud	Low
Bid rigging, market collusion	High
Corruption	High
False vendors, forging payment applications	Low
Change order manipulation	Medium
Robbery or replacement of materials	Low
Fabricated demonstration	Medium
Money laundering	High

Source: Grant Thornton (2017). Fraud trends in realty. The Hindu Business Line (November 23, 2017), Online available at <https://www.thehindubusinessline.com/news/education/Fraud-trends-in-realty/article20694587.ece>, accessed date October 27, 2019.

Table 2: Benefits under the Real Estate (Regulation and Development) Act, 2016 to Consumers and Developers

RERA benefits to Consumers	RERA benefits to Developers
<ul style="list-style-type: none"> • Timely completion of projects. • Prevents diversion of funds. • Protects interest of the buyers • Creates transparency on project information. • Ended the one-sided agreements. • Fast track dispute resolution mechanism. • Equal rate of interest provided by the promoters. 	<ul style="list-style-type: none"> • Ensures the presence of genuine developers in the real estate sector. • Makes the sector mature and transparent. • Channelize investment into the sector. • Act/Rules would restore investment sentiment of consumers. • Regulatory mechanism will increase the confidence of the financial institutions in real estate sector.

	<ul style="list-style-type: none"> • Proper regulatory mechanism of the Act will increase foreign investment (FDI, ECB) in the real estate sector.
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Source: *Real Estate Regulation and Development Act-2016*. Ministry of Housing and Urban Affairs, Government of India. Online available at <http://mohua.gov.in/cms/real-estate-regulation-and-development-act-2016.php>, accessed date October 26, 2019.

Table 3: RERA Implementation Progress Report (as on 19-10-2019)

Sl.	State/UT	General Rules	Establishment of Regulatory Authority	Establishment of Appellate Tribunal	Web Portal	Registrations Projects	Registrations Agents	Total no. of Cases disposed by Authority
1	Andaman & Nicobar Island	N	Permanent	Permanent	S	1	20	0
2	Andhra Pradesh	N	Permanent	Permanent	S	529	77	14
3	Arunachal Pradesh	NN	Not Established	Not Established	NS	--	--	--
4	Assam	N	Interim	Not Established	NS	101	13	0
5	Bihar	N	Permanent	Permanent	S	746	233	109
6	Chandigarh	N	Permanent	Interim	S	3	14	0
7	Chhattisgarh	N	Permanent	Not Established	S	1074	406	483
8	Dadar & Nagar Haveli	N	Permanent	Permanent	S	84	2	0
9	Daman & Diu	N	Permanent	Permanent	S	22	0	0
10	NCT of Delhi	N	Permanent	Interim	S	21	189	53
11	Goa	N	Interim	Not Established	S	451	176	17
12	Gujarat	N	Permanent	Interim	S	6173	1041	1287
13	Haryana *	N	Permanent	Permanent	S	718	1673	2,746
14	Himachal Pradesh	N	Interim	Not Established	S	34	32	58
15	Jammu & Kashmir**	--	--	--	--	--	--	--
16	Jharkhand	N	Permanent	Interim	S	165	4	41
17	Karnataka	N	Permanent	Permanent	S	2948	1619	1595
18	Kerala	N	Permanent	Not Established	NS	--	--	0
19	Lakshadweep	N	Not Established	Not Established	NS	--	--	0
20	Madhya Pradesh	N	Permanent	Permanent	S	2396	621	2,512
21	Maharashtra	N	Permanent	Permanent	S	22674	21661	6,019
22	Manipur	N	Interim	Interim	NS	--	--	0
23	Meghalaya	NN	Not Established	Not Established	NS	--	--	--
24	Mizoram	N	Interim	Not Established	S	--	--	0
25	Nagaland	NN	Not Established	Not Established	NS	--	--	--
26	Odisha	N	Permanent	Permanent	S	317	52	727

27	Puducherry	N	Interim	Permanent	NS	28	2	1
28	Punjab	N	Permanent	Interim	S	777	1796	589
29	Rajasthan	N	Permanent	Permanent	S	1101	1058	260
30	Sikkim	NN	Not Established	Not Established	NS	--	--	--
31	Tamil Nadu	N	Permanent	Permanent	S	1174	1023	295
32	Telangana	N	Interim	Interim	S	1314	885	0
33	Tripura	N	Interim	Interim	NS	--	--	0
34	Uttar Pradesh	N	Permanent	Permanent	S	2710	3302	11596
35	Uttarakhand	N	Permanent	Interim	S	256	273	295
36	West Bengal***	NN	Not Established	Not Established	NS	--	--	--
Total						45,817	36,172	28,697

N= Notified, NN= Not Notified, S= Setup, NS=Not Setup

Source: *Real Estate (Regulation & Development) Act, 2016 [RERA] Implementation Progress Report*. Ministry of Housing and Urban Affairs, Government of India. Online available at [http://mohua.gov.in/upload/uploadfiles/files/RERA_Status_Tracker%20\(19-10-2019\).pdf](http://mohua.gov.in/upload/uploadfiles/files/RERA_Status_Tracker%20(19-10-2019).pdf), accessed date October 26, 2019.

Table 4: Real Estate Regulatory Authorities of States and UTs

Sl. No.	State/Union Territories	Websites of Real Estate Regulatory Authorities
1	Andaman & Nicobar	http://www.tnrera.in/
2	Andhra Pradesh	https://www.rera.ap.gov.in
3	Bihar	https://rera.bihar.gov.in/
4	Chandigarh	http://rera.chbonline.in/
5	Chhattisgarh	https://rera.cgstate.gov.in/
6	Dadra & Nagar Haveli	https://maharera.mahaonline.gov.in/
7	Daman & Diu	https://maharera.mahaonline.gov.in/
8	Delhi	https://rera.delhi.gov.in/
9	Goa	https://rera.goa.gov.in/reraApp/
10	Gujarat	https://gujrera.gujarat.gov.in/
11	Haryana	https://haryanarera.gov.in/
12	Himachal Pradesh	http://www.hprera.in
13	Jharkhand	http://rera.jharkhand.gov.in/
14	Karnataka	https://rera.karnataka.gov.in/
15	Madhya Pradesh	http://www.rera.mp.gov.in/

16	Maharashtra	https://maharera.mahaonline.gov.in/
17	Mizoram	http://udpamizoram.nic.in/RERA.html
18	Odisha	http://orera.in/
19	Punjab	https://rera.punjab.gov.in/
20	Rajasthan	http://rera.rajasthan.gov.in/
21	Tamil Nadu	http://www.tnrera.in/
22	Telangana	http://rera.telangana.gov.in/
23	Uttrakhand	http://www.uhuda.org.in/
24	Uttar Pradesh	http://www.up-rera.in

Source: *Real Estate Regulatory Authorities of States UTs*. Ministry of Housing and Urban Affairs, Government of India. Online available at <http://mohua.gov.in/cms/real-estate-regulatory-authorities-of-states--uts-under-rera.php>, accessed date October 26, 2019.

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