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Revisiting the Real Estate Bill, 2013

SHIRISH B PATEL, VAIDEHI TANDEL, SAHIL GANDHI

The central government has introduced the Real Estate (Regulation and Development) Bill, 2013, which sets up a regulatory authority to protect consumers as well as promote the real estate sector. This article compares various provisions of the bill with a 2011 draft as well as a bill introduced in the Maharashtra legislature in 2012. It also provides a brief overview of the regulatory mechanisms in different countries for governing the real estate industry. It finds that the bill has serious deficiencies and will do little to help either customers or builders. It will only add one more layer of bureaucracy to an already tedious real estate development process.

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1 Introduction

The real estate industry in India is in dire need of effective regulation. The industry has witnessed significant growth over the years and attracted heavy investments. But home-buyers throughout the country face serious problems with delays in completion of projects, fraudulent developers, and illegal construction. Most countries have recognised the need to regulate this industry, and have introduced laws and established authorities to protect consumers and promote the industry.

With the aim of bringing about greater transparency in the real estate sector and holding developers accountable, the Ministry for Housing and Urban Poverty Alleviation published a Draft Real Estate (Regulation and Development) Bill in 2011. The Maharashtra Housing Regulation and Development Bill, a similar law for establishing a regulatory authority in the state, was placed before the state legislative assembly in April 2012. It was passed by the assembly in June 2013, and is awaiting central government approval to become an Act. Recently, the central government introduced the Real Estate (Regulation and Development) Bill, 2013 in Parliament.

It is instructive to compare the Real Estate Bill of 2013 with the other two and also put it within the context of real estate regulations in other countries. We then suggest changes in the bill that would make it more effective in both regulating and promoting the industry and safeguarding consumers' interests.

2 Comparing the Three Bills

We look at the central government's Draft Real Estate Bill, published in 2011 (RE11); the Maharashtra Bill in 2012 establishing a housing regulatory authority, tabled in the state legislature in April

2012 (RE12), but not yet enacted; and the central government's Real Estate (Regulation and Development) Bill, 2013, tabled in Parliament in August 2013 (RE13).¹ The differences are quite revealing. RE13 of course replaces RE11, which was a draft.

In both RE11 and RE13, an apartment is defined as including garages and servant's quarters. RE11 even allowed an open-to-the-sky reserved parking space as part of an "apartment". The "carpet area" of the apartment would then include the area of this ground-level open-to-the-sky parking. This little bit of lunacy has been half-corrected in RE13, which requires that the garage be a covered space. But aggregating servants' quarters and garage spaces into "apartments" (whether attached to them or not) certainly does nothing for transparency and only obfuscates the meaning of "carpet area". Maharashtra RE12's definitions separate garages and servants' quarters into a separate category called "independent areas", and balconies, cupboards, and flower beds into "utility areas". The RE13 bundling together of all these areas certainly makes it very difficult to compare prices per square foot of carpet area for different properties because you do not know how much is livable apartment, how much is garage and servants' space, and how much is balconies, cupboards, and flower beds.

The main thrust of all bills is to make registration of all projects above a certain size compulsory. In RE11, it is 4,000 sq metres. In RE12, it is 250 sq m, or not more than four apartments in the project. In RE13, it is 1,000 sq m or not more than 12 apartments. The 12 apartments is a neat dodge. You can have 12 apartments in a plot much larger than 1,000 sq m; each can be a duplex apartment occupying two floors (making it 24 habitable floors, plus parking below), which later would be very simple to split into 24 or even 48 or 96 apartments (two or four to a floor).

Neither RE11 nor RE12 require real estate agents to register with the authority. RE13 requires agents who deal with registered projects to first themselves register with the authority. Once registered,

they cannot deal with unregistered projects. One cannot help wondering why registration is considered some kind of silver bullet that will solve all customer problems.

In case a project is discontinued for any reason (including the developer discontinuing his or her business) RE13 says in one place that if the promoter withdraws, he or she refunds the amount received plus interest; and in another place that all he or she owes the allottees is their money back without interest. RE12 is different. If an allottee withdraws, he or she recovers payments plus interest at the prescribed rate, but with an upper limit of 15%. But if the promoter withdraws, he or she is liable to repay the amount received, plus interest at 15%, plus penalty. This is far more intelligent, because as we all know property prices can appreciate dramatically between the offer price at the start of construction and the selling price when apartments are ready for occupation. A promoter would only be delighted to repay the original allottee for his or her financing the project, with interest, because the promoter can then sell the same apartment to someone else at a much higher price.

RE12 clearly mentions that in case there is an increase in floor space index (FSI) while a project is in progress, the benefit will be shared proportionately between promoters and allottees who already have conveyances. RE13 makes no mention of this, possibly because FSI changes are not as casual and frequent as they are in Mumbai.

All three bills provide that the appellate tribunal will have the powers of a civil court. RE12 provides that the tribunal must be bound by the Civil Code Procedure 1908. RE11 and RE13 say it is not bound by the Civil Code Procedure, or by the rules of evidence, but must be guided by the principles of natural justice. What exactly does that mean?

RE12 does not contemplate imprisonment, and the maximum punishment is Rs 10,000 a day or Rs 50 lakh, whichever is less; or in another clause, Rs 1 crore. In RE13, it is 20% of the project cost, or three years in prison, or both.

In case of a conflict between the state Act and the central Act, which prevails?

The general convention is that the later prevails over the earlier, and central legislation over state legislation. The wording of RE13 is puzzling – “Provided that where a State has enacted a law for regulation of the real estate sector, and such State law is not inconsistent with this Act, then, the State Government, to that extent, may not apply the provisions of this Act in the State.” It is hard to make out what “not inconsistent” means. Does it mean there is no difference between the two Acts? In that case, how does it matter which of the two (identical) provisions you apply? Or does “not inconsistent” mean that if both Acts cover the same ground, “may not apply” means the state government can choose whichever of the two legislations it prefers to apply in respect of any particular clause?

3 How Will the Act Help?

Apart from the question of which will prevail over the other, state over central or the other way around, several questions arise. Will the (prevailing) Act adequately protect the interests of buyers? Or will it mostly add costs and discourage newcomers from entering the real estate business? Could the Act do more to encourage the industry? What do other countries’ real estate regulators do? These questions are addressed below.

How the Act will really help buyers is not clear. Of course, every project above a certain size on the market will be noted and accessible through the authority’s website, but this kind of information is already available through a number of commercial real estate websites such as www.HDFCRED.COM, www.magicbricks.com, www.99acres.com, and many others. The authority’s website could mandate disclosure of some significant particulars, such as land title, and the breakdown of pricing of the apartment. RE12 does this but RE13 does not. Instead, it neatly confounds the understanding of pricing by the simple expedient of defining an apartment to include balconies and flower beds and garages and servants’ quarters when measuring its carpet area.

Other than requiring disclosures of this sort on the website, with severe penalties for providing false information, what can the authority do? The bills require

that in agreements for sale the deadlines for stage-wise project completion are spelt out. But what happens if these are missed? This is an all too common situation. Buyers are helpless, because if they pull out, all they will get is their money back, with interest in RE12 but no interest in RE13, whereas the property by now is probably worth far more than the earlier agreed pricing. All the bills ignore this altogether, depending if at all on the agreement for sale to cover this eventuality, without requiring explicitly that the agreements must indeed do so.

RE12 provides that a separate bank account be maintained for each “building”. The occupants of each building will presumably form an independent cooperative society. Each account must be audited, and the state government can “on demand” call for full and true disclosure of all transactions in any account.

In contrast to RE12, RE13 requires a simple declaration by the promoter that he will keep 70% (or less, as decided by the government) of the amounts received by him in separate accounts for each “project” (which could comprise several buildings) in a scheduled bank, and that the funds in such accounts will be used only towards the cost of construction. It is not clear whether the cost of land is included in the cost of construction. If it is not, the assumption must be that land costs come out of the remaining 30%, which is highly unrealistic in most urban contexts. Alternatively, if construction cost is supposed to include the cost of land, and the freely usable 30% is overheads and profit, does the authority really expect to directly control how much and to whom disbursements are made out of such accounts?

RE13 smacks of a show of transparency combined with a reluctance to introduce meaningful controls. The real misuse of allottee funds that has taken place in the past has been that they were not used on the project for which they were collected, but to speculate in new properties. By calling for disclosure of accounts, RE12 might conceivably trap and stop such misuse. RE13 would allow 30% to be legitimately diverted towards such speculation. And for the balance 70%, all we have is a simple declaration by

the developer that he will deposit the amount in a separate account and use it only towards the cost of construction of the project. Of course, under the powers the authority has of functioning like a civil court, it can call for production of accounting records, but this would be “while trying a suit”.

RE13 calls for the promoter to show on his website a “quarterly up-to-date list of number and types of apartments or plots, as the case may be, booked”, while RE12 makes no such demand. (RE11, even more absurdly, called for a fortnightly update of this information.) Developers are notoriously coy about revealing the state of their bookings to potential clients. This kind of clause in RE13 invites them to make *benami* bookings. Otherwise, how can they give the impression that their project is wildly popular? There is no clear provision for punishment for making false statements of bookings. So this particular provision looks like another bit of humbug to persuade allottees that the primary purpose of this Act is to protect buyers’ interests.

4 What Do Other Countries Do?

This section provides an overview of the international experience on real estate regulations by discussing a few cases.

Dubai, UAE

The Real Estate Regulatory Authority, established in 2007, is headed by an executive director and comprises a number of qualified staff. Its functions include certifying and regulating real estate developers, agencies, and agents; regulating and registering rental agreements; regulating advertisements about real estate; and making recommendations for laws to regulate the real estate sector.² The authority has registered all real estate development and brokers in the UAE.³ All developers are required to open a trust account for each project, managed by a trustee, which is a bank or a financial institution. Buyers’ instalment payments are deposited in the trust account, from which payments are made to the developer as construction progresses. The authority also maintains a website on which records of all real estate developers, agents, projects, and trust accounts

can be accessed along with guidelines for rental agreements, and information for buyers and sellers of property.

Hong Kong

The Estate Agents Ordinance 511 provides for an Estate Agents Authority to regulate the activities of estate agents and salespersons, and to grant them licences. The authority has the powers to set up and delegate powers to committees. It comprises a maximum of 19 members, of which half are people who are outside the industry (Mdlulwa Nkuhlu Attorneys 2006: 43). All are appointed by the chief executive of the court of Hong Kong’s Special Administrative Council (Mdlulwa Nkuhlu Attorneys 2006: 44). There is no authority for regulating real estate developers.

Alberta, Canada

Regulation of real estate activities is at a provincial level in Canada. Alberta has the Real Estate Council of Alberta (RECA) set up under its Real Estate Act.⁴ Its mandate is to set and enforce standards of conduct for the real estate industry, protect consumers, and promote the integrity of the industry. It has the power to frame rules and by-laws pertaining to standards of conduct, the form and content of advertising, disclosure of information by industry members, records and books of accounts to be maintained by members, and operation of trust accounts, besides others. The council also administers the real estate assurance fund, from which it pays claims made against members of the industry. Assessments levied on applicants for becoming industry members and incomes earned from investing that money are credited to the assurance fund. The council, headed by an executive director, who is not an industry member, comprises 12 members, including a non-industry member, a real estate appraiser, and real estate agents, among others (Mdlulwa Nkuhlu Attorneys 2006: 44). The authority does not explicitly regulate real estate developers.

Ontario, Canada

The Real Estate Council of Ontario was established to administer the Real Estate and Business Brokers Act (REBBA), 2002

and issue other related regulations with the aim of fostering professionalism in the industry and protecting consumers.⁵ It enforces standards for registration, sets requirements for preregistration, conducts inspections of brokerage offices, addresses inquiries and complaints, promotes education, and sets and enforces insurance requirements. The council is headed by a board of directors, comprising the chair, vice chair, and 10 members. The chair and vice chair, along with seven members, belong to the industry. As per the REBBA, information regarding registration of brokers, such as date of expiry of registration, compliance with insurance requirements, and disciplinary activities related to a person has to be displayed on the council’s website. A related legislation – the Condominium Act, 1998 – requires developers to maintain a trust account with a trustee, where, other than the down payment, the money received from purchasers is deposited and released only on the completion of projects.

Queensland, Australia

The real estate industry in Queensland is governed by the Property Agents and Motor Dealers Act, 2000, under which licences are issued for various real estate actors, including real estate agent, resident letting agent, pastoral house director, auctioneer, property developer, and property developer director, among others. The chief executive officer of the department of justice enforces the Act. He grants, suspends, and restores licences and conducts investigations to ascertain whether a person qualifies for a licence. A property developer is someone authorised to make more than six residential sales in any 12-month period and to market residential property in which he has an interest of more than 15%. A licensee can be penalised in case of irregularities or deficiencies in the trust account, bankruptcy, conviction of a serious

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offence, dual agency, and contravention of the provisions of the Act.

South Africa

The Estate Agency Affairs Act, 1976 provides for maintaining and promoting standards of conduct and regulating the activities of estate agents in the country.⁶ The estate agency affairs board comprises 15 members – five belonging to the estate agents' industry, five belonging to civil society, and five from related professions and institutions, such as law and banking. The members are appointed by the minister of trade and industry. The board issues a fidelity fund certificate to the estate agent after he passes the prescribed examination or training, renewable annually. He needs this to legally undertake an estate agent's activities. The board publishes and enforces a code of conduct and prosecutes non-compliance with the Act. It can appoint various committees such as an executive committee, committees to advise the board, and committees of inquiry.

Mdlulwa Nkuhlu Attorneys (2006) critique the Act, saying it is dated and does not cover intermediaries such as developers, auctioneers, and appraisers that have emerged over the years. The Act does not provide any specification regarding the form and content of contracts between licensees and consumers. There are no provisions for penalising licensees for failure to supervise salespersons, non-compliance with prescribed forms, and failure to operate a branch under a branch manager who is a licensed agent.

Utah, United States

The real estate industry is governed by the real estate licensing and the real estate licensing and practices rules. The rules pertain to licensing procedures, fees, certification of real estate schools, courses, and instructors, advertisements, record-keeping, and trust accounts. The real estate commission of Utah comprises five members, of which one is a public member. The commission makes rules pertaining to licensing of brokers and sales agents, examination procedures, determines fees, and advises the director of the division on various matters. As per the administrative rules, if the broker is

also a developer, he is required to maintain a real estate trust account, where payments from buyers are deposited and released on the completion of a project (Naini 2011).⁷

Washington, United States

The real estate industry is regulated by a real estate commission appointed by the governor. It comprises seven members, including the director of the department of licensing who is the chair, five members who are real estate licensees, and one developer. The commission advises the director regarding the rules and regulations governing real estate agents' activities, organises educational conferences for the industry, and conducts examinations for applicants. Real estate firms, brokers, and managing brokers are required to acquire licences to undertake their activities. All are strictly concerned with providing brokerage services and not land development. Failure to acquire or renew licences, and violating the law attracts a penalty.

Woodall and Brobeck (2006) argue that the state real estate commissions in the US cannot protect the interests of consumers since they are populated by practising real estate brokers. This criticism applies to the Washington real estate commission, which has five out of six members belonging to the real estate industry.

Other countries' real estate regulation seems to focus mainly on real estate agents, on licensing and managing them. What is interesting from the South African experience is the hierarchy of controls. First is the statute, the Act passed by Parliament or the legislature, which sets up the real estate authority, defines its composition, and sets out its powers, including the limits of the punishments it can impose. The Act also defines where appeals should lie. Second are the rules and regulations, determined by each state's real estate authority. These could vary from one state to another, as long as they fall within the bounds of the statute. They define the rules of the game, and spell out the punishments for various kinds of transgression. Third are the protocols, the forms to be filled in or the website pages to be maintained, and

in which languages, through which the authority monitors what is going on and on which it depends for evidence of transgression of the rules. Fourth is a code of ethics, which everyone is expected to observe; the final lens through which, in case of doubt, all actions are judged.

In India, we cannot focus on regulating real estate agents alone because what has emerged in this country is that properties are sold before they are built (what the Dubai Acts call "off-plan units" – we would prefer a less mystifying and more self-explanatory term like "pre-paid units"). We have a rapidly expanding real estate market, with possibly more transactions in new construction than in existing units. Funds are collected in advance, in phases as construction proceeds, and there is a need to regulate developers as much as there will be a need, in the long run, to regulate real estate agents marketing ready-to-occupy second sales.

5 What Should Our Real Estate Act Do?

At the outset, we should ask ourselves whether we need a central Act at all. Under the Constitution, this is a concurrent subject, open to legislation by both the centre and the states. The central Act should therefore either be a model Act with no force except as a guide for the states, or it should be made clear that it applies immediately but only to those states that have not yet enacted legislation in this field.

At the end of RE13, there is a statement of objects and reasons. Besides establishing a real estate authority, an advisory council (too unwieldy to be useful) and a real estate appellate tribunal, the main feature of the bill seems to be to ensure registration on the authority's website, of promoters, real estate agents, and projects. That and the requirement that for each building a separate account is maintained in which 70% (or less) of the funds received from allottees are deposited, to be used only for the construction of that project. How these accounts will be controlled is not clear. Maximum penalties and punishments are prescribed, but for what exactly these can be imposed is not clear.

Before we comment on whether RE13 will achieve a worthwhile purpose,

perhaps we should first agree on what we want to achieve.

Customer Protection: Customers should have a clear understanding of what it is they are buying – carpet area of liveable space, ancillary areas like flower beds and balconies, garage area, servants' quarters, and a list of common amenities. They should get what they have agreed to pay for, with a clear title, without the threat of any of it being an illegal or unauthorised construction, and with an assurance of safety and structural durability. They should also know whether the title is disputed, whether any litigation is pending, and whether the property is mortgaged or encumbered in any way. In the case of prepaid flats, there should be an assurance of delivery within a specified time period, with compensation for delays, and penal compensation for abandonment of a project.

Promoter Protection: In case of default by an allottee, the promoter should be free to refund the money paid by the allottee till date, with simple interest at the prevailing bank rate, and rescind the contract. Since project delays are frequently caused by rent-seeking from approving authorities, the performance of these too should be within the scope of scrutiny by the authority, with powers to impose fines and imprisonment if it so decides.

Promotion of the Industry: The authority should be enjoined to advance the industry, both for ownership and rental. In particular, it should work with the government and local authorities to improve coordination and expedite the granting of construction permissions, working towards if not single-window clearance, at least minimising the number of agencies to be dealt with in the chain of clearances (Kumar 2013). The authority should be required to publicly present an annual report on its performance.

Speedy Dispute Resolution: The appellate tribunal should have the powers of a civil court. Appeals, if admitted, should lie with the high court.

To achieve these objectives, what is it we would need to do?

First, the Act should be in the nature of a broad statute that sets up the various controlling bodies, the authority and the appellate tribunal, and defines their composition. It might also stipulate who can be a trustee for the trust accounts that must be set up for each project. It should set the limits for punishment that the authority can impose, with appeals to be referred to the tribunal, and beyond that to the high court. After that, it should be left open to each state authority to decide on its rules and regulations, and what mechanisms it will put in place to operate these. Whether its protocols (the forms to be filled in and filed with the authority) will be electronic or on paper is for the authority to decide, depending on what it thinks it can best manage. Advertising, whether in the media or on the website of the authority, is for the authority to control through its rules and regulations.

Most countries in the western world regulate only real estate agents. We should understand that in our country real estate agents are only involved in second sales. All prepaid sales are handled directly by the promoters of a project. No agents are involved. So while the RE13 expects registration of both promoters and real estate agents, we need to ask ourselves whether we really want to monitor all property transactions, including second sales, or only prepaid sales. If it is only prepaid sales, there is no need to concern ourselves with real estate agents; or they could be added later as an extension of the present bill.

Should the bill set a floor on the size of projects that need to be protected? We should understand that fraud occurs not only on the larger projects, but also perhaps even more on small projects for poor people. The model bill should set no floors – leave it to each authority to decide what it is meaningful to control in the context of its own problems. In many cases, the authority will find that it is not only buildings that need to be worried about, but also layouts, where land on the perimeter of a city is carved out into plots, without authorisation of any kind, sold, and then built on by individuals who finally demand regularisation. Should the real estate authority address such issues or ignore them altogether?

The bill should also clarify that the promoter and the allottee are not the only two players in the chain of responsibilities that run through a project. This chain includes the following:

- (a) the landowner, who provides details of his title, including provenance and encumbrances if any, as well as details of the contract he has with the developer;
- (b) an independent attorney, who provides confirmation of having carried out a search to confirm the title;
- (c) the developer, who provides details of his corporate structure, record of past projects, including in particular information regarding date when ground was first broken to the date when the first and last apartment were handed over;
- (d) the architect, who shows his credentials and certifies that all sanctions are in place (or are awaited, if the project is in its early stages);
- (e) the engineer, who shows his credentials and certifies that his structural design will conform to ruling codes of practice;
- (f) the approving authority that approves the plans, and later issues a completion certificate;
- (g) the contractor, or contractors, who show their credentials;
- (h) the project manager, who shows his credentials and certifies that construction has been carried out to the specified standards; and at various stages certifies completion so that appropriate disbursements from trust accounts can be made;
- (i) the real estate agent (or the marketing arm of the developer) who certifies the different areas pertaining to an apartment, including carpet area, ancillary areas, balconies and garages, as well as the unit price of each; and
- (j) the purchaser, who makes a down payment against a written contract, and payments at regular intervals thereafter as construction proceeds.

The statute needs to recognise these players to ensure that each authority similarly does so, including allowing for the possibility of one person fulfilling more than one function. Whether the authority decides to register and regulate any particular category of player or not is for it to decide. But there should be a provision in the statute that for those who choose an all-India registration, a

state by state duplication of registration is not required. Each such registration would of course call for regular updating, particulars of current organisation, and previous record of completed projects.

The composition of the authority, which will implement the legislation, is of some significance. This is the body that will define the rules and regulations, determining what is required of each player, how they will be controlled, and the extent of punishment for each type of transgression. It is surely not enough, as the present bills envisage, to have a chairman and two members selected by the state government. Should the governing board of the authority not be like a normal company board, with between eight and 12 members, including representatives from government, the industry, and customers?

The appellate tribunal, with the powers of a civil court, is essential for speedy dispute resolution. Appeals may lie with the high court.

The Thirteenth Finance Commission says, "The inclusion of real estate in the GST [goods and services tax] tax base will constrain the parallel economy with consequent positive spillovers into governance and the development of land markets" (2009, 5.42 (v)). There are a number of taxes levied on the real estate sector by both the centre and the state. These include value added tax (VAT) on inputs and stamp duty, among others. These multiple taxes have a cascading effect, where the same commodity is taxed several times at different stages of production. The resulting very high tax burden on the real estate sector combined with a lack of transparency in levying and collecting taxes, incentivises under-reporting and tax evasion. Bringing the real estate sector within the single GST regime, eliminating multiple taxes (including stamp duty), and ensuring tax credits on inputs, will lead to transparency and reduce the tax burden by eliminating the cascading effect. This should also reduce under-reporting and the use of unaccounted money.

The statute should mandate the following:

(a) The setting up of a trust account for each building, on the lines of the Dubai legislation. All customer funds (other

than perhaps the down payment) are paid into this trust account. The trustee managing the account is a bank or other authorised financial institution. Progressive payments are made out of this account by the trustee to the developer at various stages of completion of the work. However, the statute should mandate that at least 40% of the transaction amount is retained in the account, and handed over to the developer only after he has handed over possession and conveyed the property – to anyone who thinks 40% is too high, we should point out that it is 80% in both Utah (US) and Ontario (Canada) (Naini 2011: 120-34).

(b) That the authority takes active steps to promote and advance the industry, both for ownership and for rental premises.

(c) Auditing not just of the accounts of the authority, but also of its performance. Further, just as every corporate body is required to have an annual shareholders' meeting, the authority should be required to hold an annual public meeting, to pass a resolution approving or disapproving of last year's performance, and another approving its future plans. Nothing provokes performance better than having to stand up, face an audience, and respond to criticism.

The statute might suggest guidelines for the authority in drawing up its rules and regulations, and draw attention to the need to address the following.

(a) Ensure transparency and completeness of information between provider and customer in the real estate sector. Depending on how sophisticated the customers for a project are expected to be, this could be in the form of pamphlets published or documents issued by the developer which must first be lodged with the authority; or it could be on the website of the authority, where the authority archives regular snapshots of the website as evidence for future disputes.

(b) Punish provision of false or misleading information. Punish also failure to deliver. Punish approving authorities for unwarranted delays. It should be left to the authority to decide each specific punishment. All the statute should do is prescribe the maximum penalties the authority can impose, say, three years in prison, or 20% of the cost of a project, or both.

(c) Appropriately compensate aggrieved parties.

Conclusions

The present bill is seriously deficient in the way it is structured. At the very least, it needs to be recast on the lines of the Dubai legislation, with the important difference that a substantial part of the customer's total payment (say 40%) is withheld in a trust account and handed over to the developer only when conveyancing is complete and possession handed over. However, we have suggested important additional features that should find place in our legislation to deal with features such as unauthorised construction, normal in India, but unthinkable in Dubai.

NOTES

- 1 Central Real Estate Bill, Draft, 2011 available at http://mhupa.gov.in/W_new/RealEstate_BILL-2011_OM09112011.pdf; Maharashtra 2012 Bill available at <http://www.indiaenvironmentportal.org.in/files/file/L%20A%20BILL%20No%20XV%20OF%202012.pdf>; Maharashtra Apartment Ownership Act 1970 available at <https://housing.maharashtra.gov.in/Sitemap/housing/pdf/actsrules/Maharashtra%20Apartment%20Ownership%20Act%201970.pdf>; Development Control Regulations for Greater Bombay, 1991 available at <http://www.diehardindian.com/ngo/download/DCR1991.pdf>; Central Real Estate Bill 2013 available at http://mhupa.gov.in/W_new/Real%20Estate%20Bill%20as%20introduced%20in%20the%20Rajya%20Sabha%20on%2014.8.2013.pdf
- 2 <http://www.bhomes.com/uae/rera.xhtml>
- 3 http://www.dubailand.gov.ae/english/about_us/about_rera.aspx
- 4 The website of RECA is at <http://www.reca.ca/>
- 5 The website of the council is at www.reco.on.ca/
- 6 The website of the board is <http://www.eaab.org.za/>
- 7 <http://www.rules.utah.gov/publicat/code/r162/r162-02f.htm#T3000>
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