



Federation of Apartment Owners Association

"All India Body to guide and protect the rights & interests of apartment owners"

(Registration No. HR-018-2013-00185)

C/o The Estate Office, The World Spa, Sector – 30/41, Gurgaon, Haryana – 122 001

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Mr Narendra Modi
Hon'ble Prime Minister of India
7 Race Course Road
New Delhi 110011

27 Oct 2014

Real Estate (Regulation & Development) Bill, 2013

Dear Mr Prime Minister,

I am writing to you on the above subject as during a Seminar organised by the Ministry Of Housing & Urban Poverty Alleviation on 19 September '14. The Minister, Mr Venkaiah Naidu made all the relevant points that the builders/developers must give a fair deal to the prospective house owners. But the builder community while professing to work for the benefit of their customers and desire to fulfil your target of building 30 million houses by 2022, painted a rather bleak picture saying that the "draconian" punishments stipulated in the Bill will dissuade FDI in the real estate sector. Obviously trying to scare the government into making the Regulation Bill toothless.

Having had the experience of buying a house in Gurgaon, the "Millennium Gaon (NOT City)" is the creation of the nexus between the builders, babus and netas. The way the politicians have profited from this sector is evident when the Maharashtra government recently increased the FSI in Mumbai, days before the elections, and the revelation that Haryana government has issued over 1200 'change of land use' certificates in its 10 year tenure. All this at the expense of the house buyers. Our country has all the laws but, for a price, you can circumvent them. The Campa Cola Compound case in Mumbai is a sample of what is happening in the country. People have been deprived of their houses after living in them for 25 years or so. The people who made this injustice possible have not been punished or even alluded to in the Supreme Court judgement! And that is not the only case. If you take a census of all the projects executed by our so called 'developers', you will find that majority of their customers are fighting against them in the courts.

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Be they in courts, consumer courts or the CCI. All because the neta/babu nexus only wants its pound of flesh and leave the home buyers at the mercy of the lawyers and the judges. Regrettably, the other nexus of builder/lawyer/judge ensures that the cases drag on for years while the builder continues to pillage.

I give below the the problems that are faced by the potential home buyer vis-a-vis the builder.

- Advertising a project without procuring the land and having all the permissions in hand, and not divulging its status to the buyers.
- Delays in project completion without comparative compensation to buyers as charged to buyers for delayed payments. Holding back compensation if there is delay in paying instalments of even a day.
- Not putting the money received from buyers in an escrow account, permitting the builder to use the funds on other business opportunities.
- After giving the application money, the buyer becomes a “prisoner” as there is no exit route for him whereas, builder at any given stage can refund the money to consumers possibly, without or with token interest on the buyers funds.
- Putting one sided clauses in the Sale Agreement in violation of Indian Contract Act 1872. The CCI has ruled against it and fined DLF, a dominant builder, Rs 630 crores. But builders, including DLF, continue to flout the law with impunity. Copy of said CCI order dated 12.08.2011 can be seen on the net, while a copy of the Supplementary Order dated 03.01.2013 by CCI, a Central Government body, in which modified clauses are suggested in tabular form by the commission is enclosed. The latter shows how the flat owners were being openly cheated.
- Violating Apartment Owners Acts of states with impunity. Charging for parking, community centre (clubs), shops when it is prohibited by the various Acts and Supreme Court judgements.
- Charging buyers for "super area", a term coined by developers to cheat them. The builder should be charging for the carpet area only, as super area is nothing but sale of a fictitious space which is approx. 15-20% of the carpet area. Apart from this the builders surprisingly, also charge an additional area upto 20% at the time of giving possession causing them extra financial burden, to which there is no remedy, as at that stage it is either “you take it or leave it”. The builder is quite happy to take over your flat at cost price and sell it at profit 4-5 years later, for which he has used your funds.
- FAR/FSI rules are being violated in connivance with state regulators. Fudging drawings to show that they have sold an area larger than delivered.
- Builders do not hand over clubs, shops and schools to the resident welfare association (RWA) and instead, run them as profit centres, through subsidiary companies. When, as per the Act the income accruing from them should help the RWA to meet part of its maintenance costs.

- Moreover, they continue to provide maintenance services in the group housing schemes when they are supposed to handover these facilities to the RWA. Moreover the builders hang on to maintenance security deposited by the flat owners on some pretext or the other, earning interest on the amount when it legally should go to the RWA. Amounts held back on this account in the NCR alone will run into a couple of thousand crores.
- Builders, to earn illegitimate profits, also increase the agreed cost under various heads like Increase of cost if the inflation index increases, if any tax is levied by Central Government / State Government or any other body in the form of E.D.C/ I.D.C and/or taxes like VAT, Service Tax , Works Tax etc.
- Builders keep on charging for parking , both covered and open, when Supreme Court judgements are already against such a practice. Again, concerned officials are not willing to stop this illegal practice.
- No builder in the NCR, possibly in the entire country, has obtained a completion certificate for his projects as that means he has to hand over the title of the land to the RWA, on obtaining it. Moreover, he cannot take advantage of any increase in FAR/FSI or raise the height of the building as that is legitimately the right of the RWA. Also he has to hand over his accounts to the authorities to show that he has not made more than 15% profit on the project, as laid down in the Act.

The above shows that there is total lack of control on the builders, which is only possible due to the connivance of the government officials and egged on by politicians. All three take advantage of the eagerness of the prospective house owner to have a roof over his family's head. To this list of sharks can be added our justice delivery system which now thrives on the vulnerability of the builder and house owner. Thus clogging the already over stretched judicial system.

As regards the threat by the associations of builders like CREDAI, that the stringency of the regulatory law will prevent inflow of FDI, we would like to state that our rapacious builders are not interested in mass housing for the disadvantaged people. The volume of construction required to achieve the targets set by you can only be managed by resorting to factory built housing placed on intelligently planned parcels of land. Otherwise we will have more "Gaons" like Gurgaon.

Everyone is aware how the building mafia has profited from land released to it for providing housing to slum dwellers in Mumbai. The leopard will not change its spots when presented with such a lucrative opportunity. FDI should be invited to set up the factories for building mass housing, 4-5 storeys high, and our present lot of "developers(?)" should be kept away. The housing projects will be delayed, the way the road building and other infrastructure projects have been delayed all over the country.

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- Builders, to earn superfluous profit, also increase the agreed cost under various heads like Increase of cost if the inflation index increases, if any tax is levied by Central Government / State Government or any other body in the form of E.D.C/ I.D.C and/or taxes like VAT, Service Tax , Works Tax etc.
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Only difference being that this time they will take the tax payers money, routed through the government. Therefore, we strongly recommend that the Regulatory Bill should not be diluted just to suit the "developer" community, but made more stringent to prevent the illegal practices enumerated above, being followed by it.

With warm regards

Yours sincerely



A handwritten signature in blue ink, appearing to read 'Lt Gen SK Bahri', is written over a horizontal line. The signature is stylized and cursive.

Lt Gen SK Bahri PVSM
Chairman
Core Council
Federation of Apartment Owners Associations

Cc

Mr M Venkaiah Naidu
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