Real Estate Act Part - II

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Why in news?

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The much awaited Real Estate (Regulation & Development) Act is now in effect.

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What does the act say?

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- The Ministry of Housing and Urban Poverty Alleviation recently sections of the act which set the ball rolling for States to formulate, within six months, rules and regulations as statutorily mandated.
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- Since **land is a State subject** under the Constitution, even after the Centre enacts the legislation, **State governments will have to ratify them.**
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- States will have to set up the **Real Estate Regulatory Authority's (RERA) and the Real Estate Appellate Tribunals** and have only a maximum of a year from the coming into effect of the Act to do so.
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- The Act's preamble details the legislative intention which is to primarily protect the interests of consumers and bring in efficiency and transparency in the sale/purchase of real estate.
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- The Act also attempts to establish an **adjudicatory mechanism** for the speedy redress of disputes.
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- RERA and the Appellate Tribunal are expected to decide on complaints within an ambitious period of 60 days.
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- As one of the largest job creators, the real estate sector contributes almost 6% towards the GDP.

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- Mindful of this, the Act seeks to assist developers by giving the regulator powers to make recommendations to State governments to create a single window clearance for approvals in a time-bound manner.
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- Key provisions of the Act include a requirement for developers to now register projects with RERA prior to any advertisement and sale.
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- Developers are also expected to have all sanction plans approved and regulatory clearances in place prior to commencement of sale.
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- Subsequent changes have to be approved by a majority of buyers and the regulator.
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- The **Act again ambitiously stipulates an electronic system,** maintained on the website of RERA, where developers are expected to update on a quarterly basis the status of their projects, and submit regular audits and architectural reports.
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- If there is non-compliance, RERA has the power to order up to three years imprisonment of the promoters of a project.
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- Importantly, it requires developers to maintain separate escrow accounts in relation to each project and **deposit 70% of the collections in such an account** to ensure that funds collected are utilised only for the specific project.
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- The Act also requires real estate brokers and agents to register themselves with the regulator.
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What are the concerns?

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- While consumer interests have been protected, **developers find provisions of the Act to be exceptionally burdensome** on a sector already ailing from a paucity of funds alike.
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- In fact, the 22 sections still to be notified relate to functions/duties of promoters, rights/duties of allottees, recovery of interest on penalties and other offences.
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- It appears that the law makers have consciously delayed the notification of these provisions till such time as regulators, developers and buyers familiarise themselves with the new legislation.
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- Added with it were **multiple regulatory challenges.**
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- The builder lobby has been demanding “industry” status for the real estate sector as it would help in the availability of bank loans.
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- Real estate companies say that most delays are because of the failure of authorities to grant approvals/sanctions on time.
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- While the Act addresses some of this, it does not deal with the concerns of developers regarding force majeure (acts of god outside their control) which result in a shortage of labour or issues on account of there not being a central repository of land titles/deeds.
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Are the concerns of developers legitimate?

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- Some of these concerns are legitimate but the real estate sector has become a sort of untamed horse galloping in all directions.
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- The cracks emerging in their books are largely of their own making.
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- Once 100% foreign direct investment was permitted in real estate, international money flooded the market.
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- Builders/developers overstretched themselves and diverted funds while some began to cross-invest in non-core activities.
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- In the race to announce the next “mega project” one came across, in many instances, **real estate companies embarking on projects without even consolidating land.**
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- Despite a model set of rules, only a few States have notified their rules.
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- The onus is now on States to formulate rules and establish the regulatory authorities on time.
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- There shouldn’t be just paper compliance, by designating an existing

authority to take additional charge as the real estate regulator, as that would affect the timeliness prescribed under the Act.
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- Finally, the new legislation is a welcome enactment. It will go a long way in assisting upstanding developers.
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- More importantly, it will ease the burden on innocent home buyers who put their life’s savings into a real estate investment in the hope of having a roof over their head but often find their dreams come tumbling down.
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Source: The Hindu

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