

The background features a stylized illustration of a city skyline with various skyscrapers and a construction crane. The scene is depicted in a sketch-like style with muted colors. A large, open book is visible in the lower right corner, with its pages fanned out. A diagonal teal-colored band runs across the upper left portion of the image, serving as a backdrop for the main text.

Getting ready for **RERA** Real Estate (Regulation and Development) Act, 2016

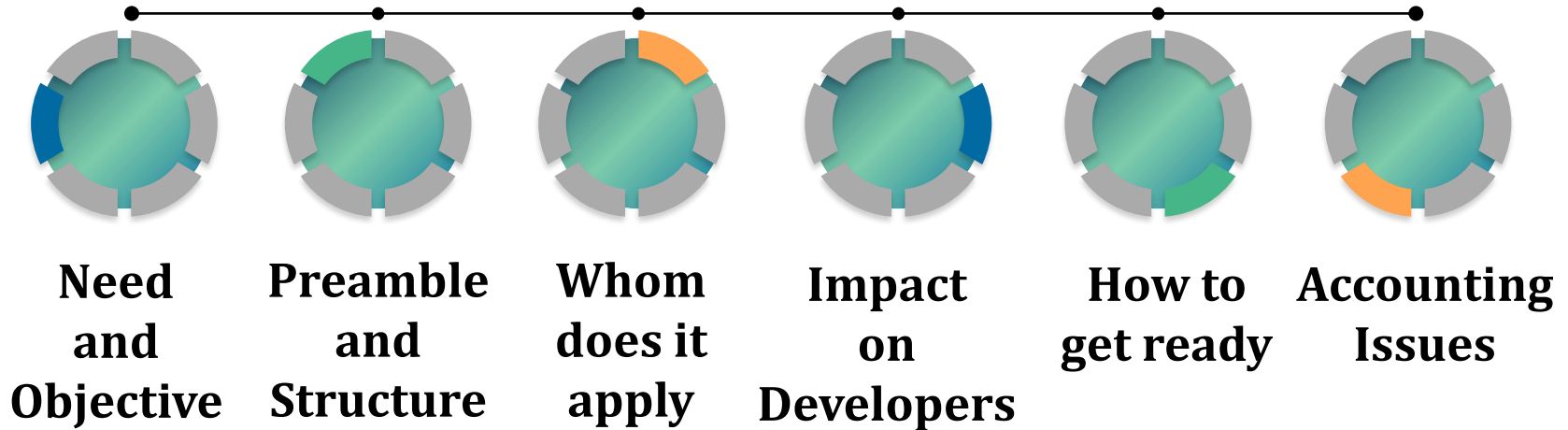
Seth & Associates

Chartered Accountants

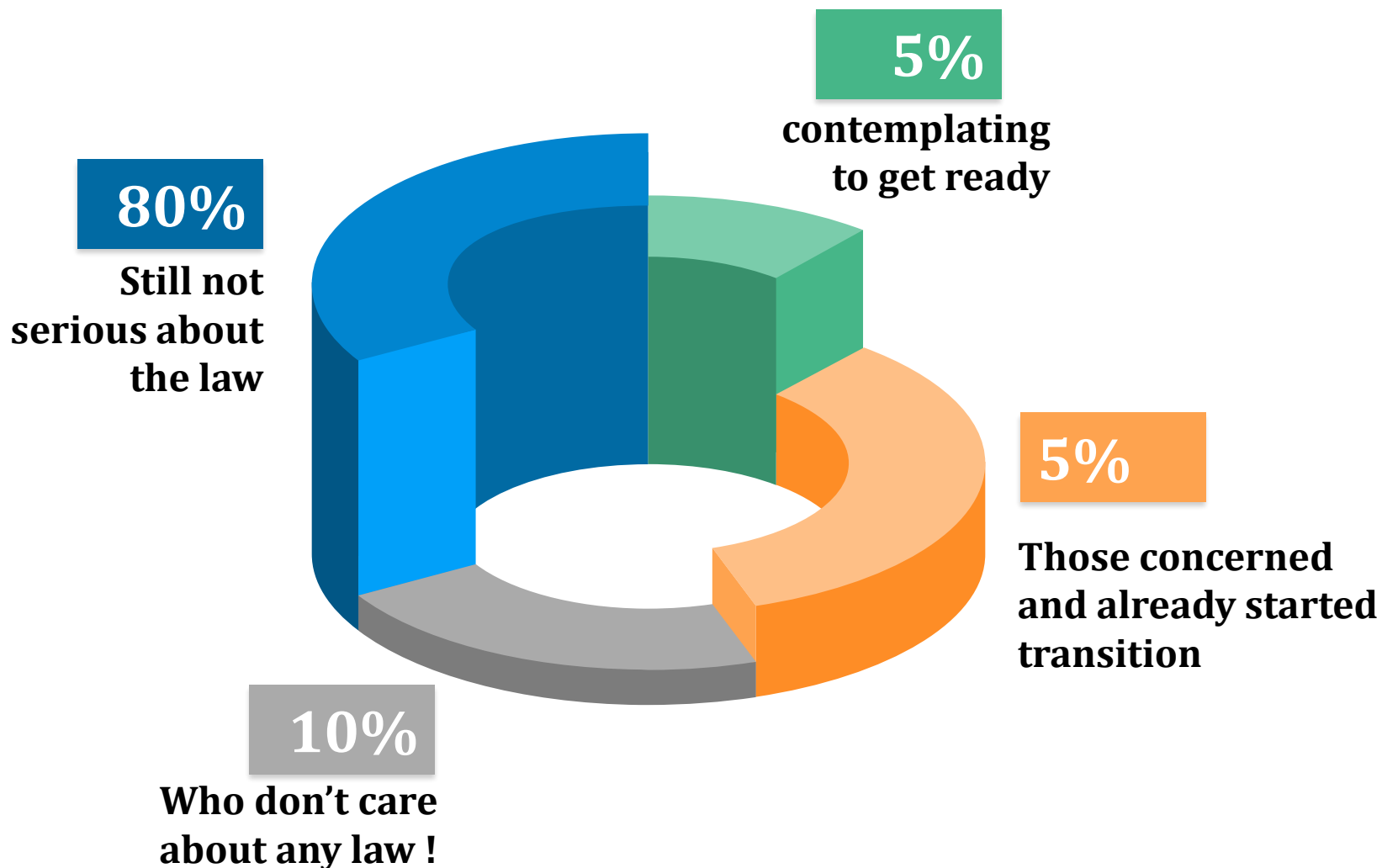
New Delhi | Lucknow

www.sethspro.com





Current status of developers



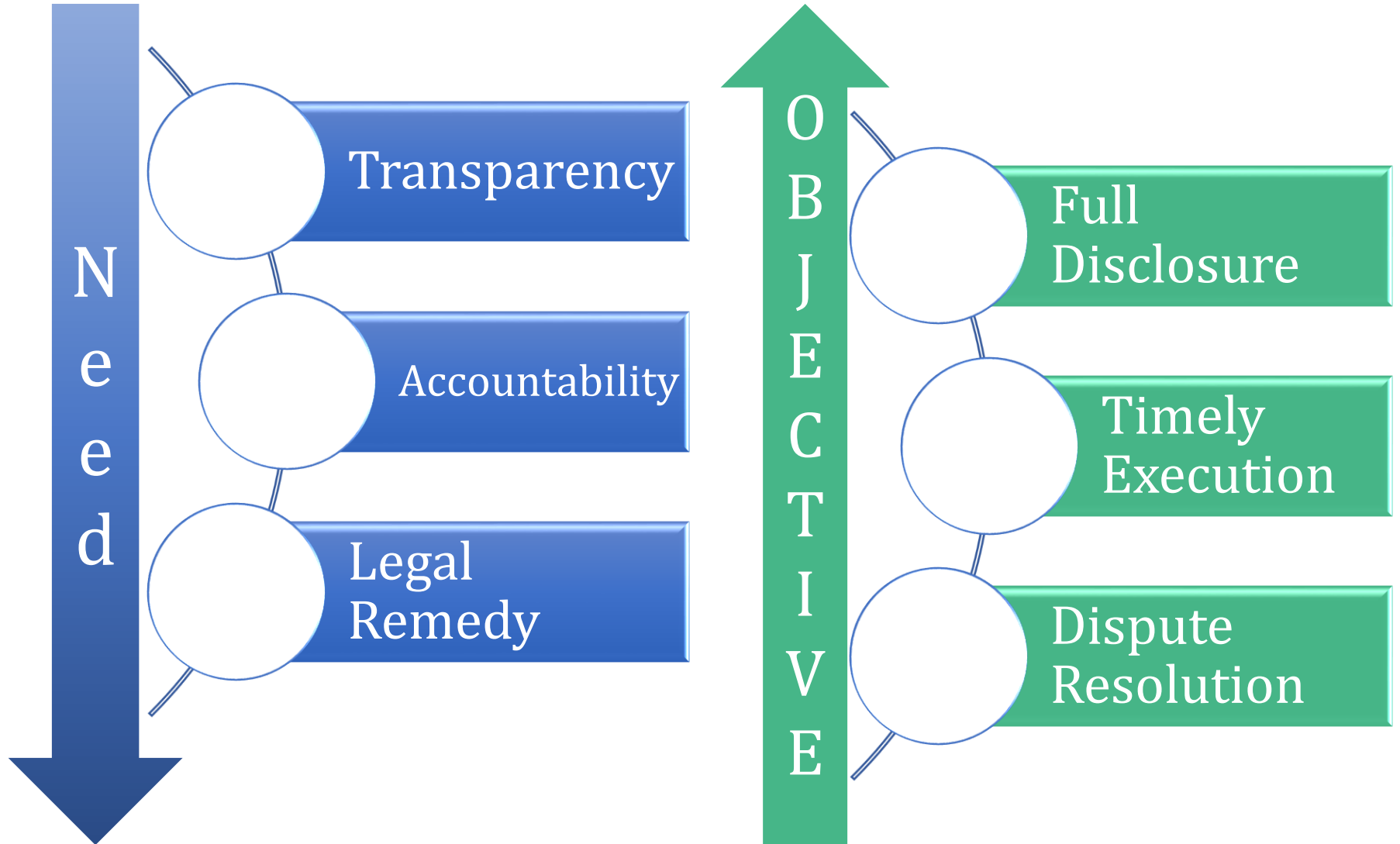
Preamble



An act to...

- 01 Establish authority for regulation and promotion
- 02 Ensure sale of RE are efficient and transparent
- 03 Protect the interest of consumers
- 04 Establish adjudication mechanism
- 05 Establish appellate tribunal
- 06 For matters connected therewith or incidental thereto

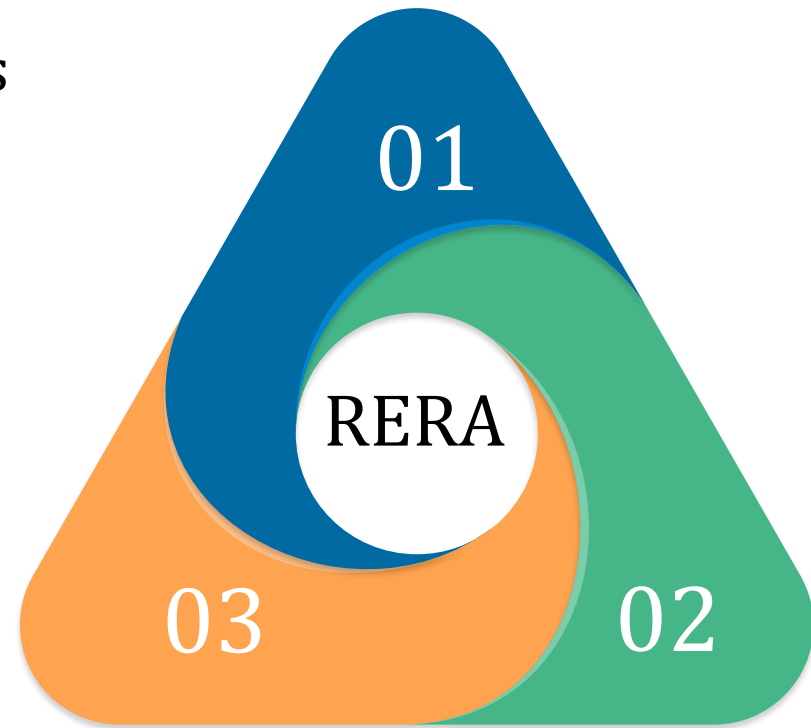




01 Registration of Projects and Agents

02 Functions, Duties and Rights of Promoters, Agents and allottees

03 RERA authority constitution and regulation

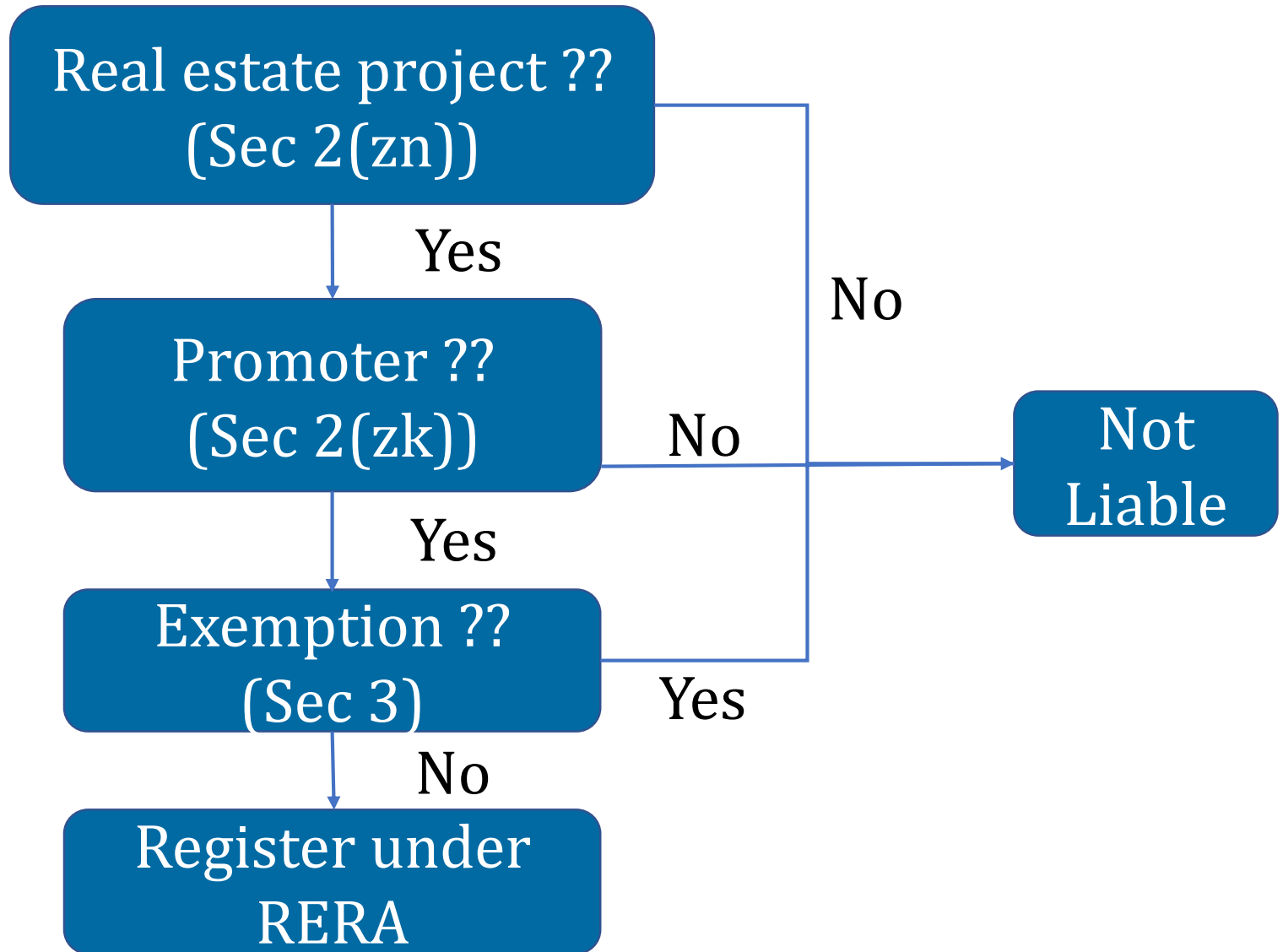


- Sec 1-2 are for Definitions
- Sec 3-19 are the key sections
- Sec 20-78 relate to RERA authority – Setup, Regulation, Accounts etc
- Sec 79-92 are Miscellaneous



KEY PROVISIONS

APPLICABILITY FLOWCHART



Key Definitions

Project – Sec 2(zj)

(zj) "project" means the real estate project as defined in clause (zn);

(zn) "real estate project" **means** the development of a building or a building consisting of **apartments**, or converting an existing building or a part thereof into apartments, or the **development** of land into plots or apartment, as the case may be, for the purpose of **selling all or some** of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

(j) "building" **includes any structure** or erection or part of a structure or erection which is **intended to be used** for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;

- Mr. X has 1 acre land which he sub divides and sells in 1000 sq ft plots without any amenities. Would it be covered under “real estate project” ?

Key Definitions

Apartment – Sec 2(e)

(e) "apartment" whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, **means a separate and self-contained part** of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, **used or intended to be used** for any residential or commercial use **such as** residence, office, shop, showroom or godown or **for carrying on any business, occupation, profession or trade**, or for any other type of use ancillary to the purpose specified;

- Would servant quarter which can only be bought by a flat owner be considered as a separate “apartment” or would act as an extension of the main flat ?

Key Definitions

Advertisement – Sec 2(b)

b) "advertisement" **means** any **document described or issued** as advertisement through **any medium** and includes any notice, circular or other documents **or publicity in any form**, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to **make advances or deposits** for such purposes;

ISSUES

- Development of model flat would be construed as advertisement ?
- Holding conference or participating in exhibition also covered ?

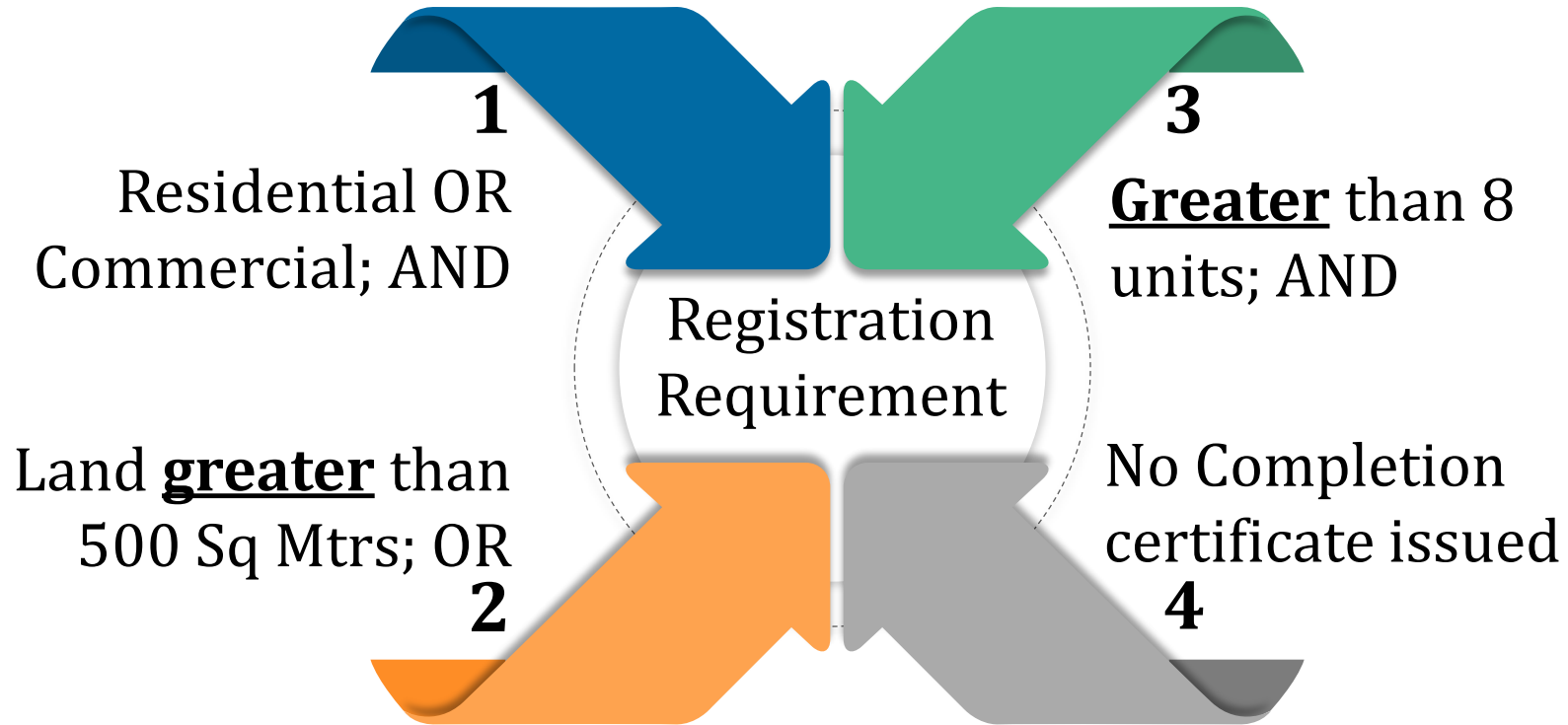
REGISTRATION

Sec 3

(1) No promoter **shall** advertise, market, book, sell or offer for sale, or invite persons to purchase **in any manner** any plot, apartment or building, as the case may be, in any real estate project or part of it, in **any planning area**, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has **not** been issued, the promoter **shall** make an application to the Authority for registration of the said project **within a period of three months** from the date of commencement of this Act

REGISTRATION REQUIRED



- States have power to lower the land and units applicability.
- Redevelopment of RE where no new allotments are needed.
- Renovation / Repair – Not involving marketing any plot or building
- Does not cover sale of ready to occupy property in the resale market

Issue 1

In a building 9 apartments (each of 95 Sq Mtr) are being developed. 4 would be kept by the promoter for his personal use. Will registration under RERA apply to the project ?

Issue 2

Developer bought 750 Sq mtr land and wanted to develop it in two phases of

Phase - 1 – Two Villas measuring 150 Sq Mtr each

Phase - 2 – Three Villas measuring 150 Sq Mtr each

Will RERA apply to the project ?

Issue 3

LDA develops and sells various housing projects.

Will RERA apply to such governmental authorities ?

Issue 4

A developer is building an Industrial Park of approximately 1 acre wherein 150 plots for industries would be cut out.

Will RERA apply to the project ?

Issue 5

A developer bought continuous 60 acres of land and wants to develop 10 towers in it with each having distinct entry, facilities and target segment. These towers would be built over a period of 5-7 years depending upon the demand as foreseen.

- Will these be considered as different phases or clubbed and seen as one ?
- Will your answer change if all the towers have common entry, facilities and target segment ?

Issue 6

Mr. X enters into a JDA with Y Ltd. for 10 acre of his land. As per JDA Y Ltd. is solely responsible for construction, financing, selling and collection. Mr. X would get 25 completed flats which he would sell on his own account and collect the receipts towards land cost.

- Mr. X contends that RERA does not apply to him since he is not constructing. Please suggest.
- What if Mr. X gets 30% of the profits from project and not constructed flats
- If applicable to both then would Mr. X and Y Ltd. take separate registration or both would be covered under a single registration ?

Promoter Sec (zk)

(i) a person who constructs or **causes to be constructed** an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

Issue 7

A developer buys 5,000 Sq ft of land and intends to make 5 low cost houses on it. During construction he is able to buy adjoining land of 9,000 Sq ft on which further 9 low cost houses would be built. The entire area of 14,000 Sq ft would be now in a single compound and will have same common areas and facilities.

Will RERA apply to the entire project or only on latter purchase ?

Issue 8

Mr. X launches a project on such land is beyond municipal limits of any authority.

Would registration under RERA apply for such a project ?

Estimated Project Cost – Sec 2(v)

(v) "estimated cost of real estate project" **means** the total cost involved in developing the real estate project **and includes** the land cost, taxes, cess, development and **other charges**;

ISSUES

- Administrative cost also included ? If yes, then how to apportion between distinct projects ?
- Would ITC / CENVAT be considered as cost ?
- What would "Other Charges" include ?

A low-angle, upward-looking photograph of several modern skyscrapers with glass and steel facades. The buildings are set against a bright blue sky filled with scattered white clouds. The perspective creates a sense of height and scale. A semi-transparent green horizontal band is overlaid across the middle of the image, serving as a background for the title text.

FUNDS UTILISATION

Depositing 70% - Sec 4(2)(l)(D) www.sethspro.com

(D) that **seventy per cent.** of the **amounts realised** for the real estate project **from the allottees**, from time to time, shall be deposited in a **separate account** to be maintained in a **scheduled bank** to **cover the cost of construction and the land cost** and shall be used only for that purpose

ISSUES

- Would transfer charges, cancellation charges, interest realized, IFMS, adhoc registry charges be covered under amounts realized?
- Status of flats in name of underwriters without any specific allotment ?
- 80:20 schemes also covered under “amounts realized” ?
- Separate account would be an escrow or normal ? Phase wise ?
- Periodicity of depositing the amounts. Daily ? Weekly ? Monthly ?
- Would following be classified as cost of the project ?
 - ☐ Customer Refunds
 - ☐ Administrative Costs
 - ☐ Payment of Taxes on customer realizations such as GST
- What would the situation be for ongoing projects brought under the ambit after enactment of RERA ?

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project.

Cost	Amount
Land	200
Construction	200
Overheads	300
PROJECT COST	700

Agreement	Installment	% Completion
Agreement	10%	0
1 st Milestone	25%	20%
2 nd Milestone	25%	40%
3 rd Milestone	25%	70%
4 th Milestone	10%	85%
Possession	5%	100%

Particulars	Cash Flow (Cumulative)	Amount to be deposited – 70%	% Completion X Project Cost	Restricted amounts
Agreement	100	70.00	0.00	70.00
1 st Milestone	350	245.00	140.00	105.00
2 nd Milestone	600	420.00	280.00	140.00
3 rd Milestone	850	595.00	490.00	105.00
4 th Milestone	950	665.00	590.00	75.00
Possession	1000	700.00	700.00	0.00

Provided further that the amounts from the separate account shall be withdrawn by the promoter **after** it is certified by an **engineer, an architect** and a **chartered accountant in practice** that the withdrawal is in proportion to the **percentage of completion** of the project.

Provided also that the promoter shall get his **accounts audited within six months** after the end of every financial year **by a chartered accountant in practice**, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be **verified** during the audit that the amounts collected for a **particular project** have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

ISSUES

- What will each professional certify ?
- If difference in opinion of completion between the certificates ?
- Defined audit report structure ?
- Audit report – Qua promoter or Qua Project ?
- CA in first proviso can be same in second proviso ?
- Possibility of rectification in case of error while issuing certificate ?

A nighttime photograph of a city skyline, featuring the Empire State Building prominently in the center. The building is illuminated with warm lights, contrasting with the dark blue night sky. Other skyscrapers are visible on either side, some with their own unique lighting schemes. A semi-transparent teal banner is overlaid across the middle of the image, containing the word 'REGISTRATION' in white, serif, all-caps font.

REGISTRATION

3. (1) No promoter shall advertise.....**without** registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Commencement
Certificate

Complete details
of type of units

AND


Sanctioned Plans

Legal title to the
land of the project

Any other documents
as per rules



- 01 Brief details about the entity, Details of projects launched in the last 5 yrs, status, litigations etc
- 02 Commencement certificate & Sanctioned Plan
- 03 Proforma of Allotment letter, Agreement to Sell and conveyance deed to be signed with allottee
- 04 Number, type and carpet area of apartment and area of garage, parking area etc.
- 05 Details of agents, architects, contractors, structural engineers etc.

- 01 No registration till commencement certificate is obtained – Practically construction starts
 - 02 In case of land thrown into a firm would it be “legal title” or “equitable title” ?
 - 03 Sanctioned Plan to include environment clearance ?
 - 04 Rejection by authority can be based on the previous history of the promoter ?
 - 05 Validity of such registration ?
 - 06 What if contractors / engineers change ?
- 
- A decorative horizontal bar at the bottom of the slide with three segments in blue, green, and orange.

(zm) "real estate agent" **means** any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, **in a real estate project**, by way of **sale**, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives **remuneration or fees or any other charges** for his services whether as commission or otherwise and **includes** a person who introduces, through any medium, prospective buyers and sellers to each other **for negotiation** for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

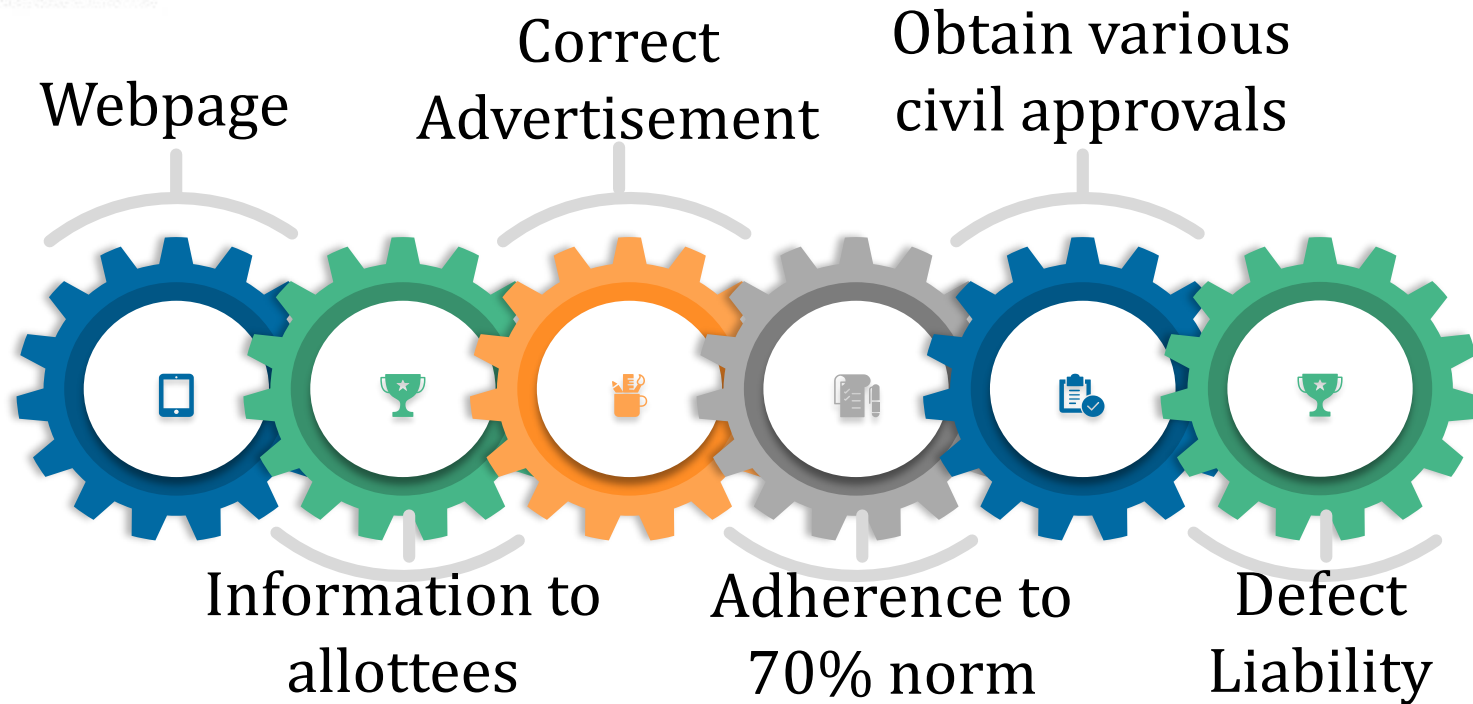
ISSUES

- Would a one off transaction also be categorized as an agent ?
- Agent does not charge any commission from the builder but from the allottee. Would he still be covered ?
- Mr. X as a friend introduces Mr. Y to a developer for a project without any consideration. Would Mr. X be classified as an agent ?

A green rectangular road sign with rounded corners and a white border, mounted on a wooden post. The word "Responsibility" is written in large, white, sans-serif capital letters across the center of the sign. The background is a bright blue sky with scattered white clouds. The sign is tilted slightly to the right.

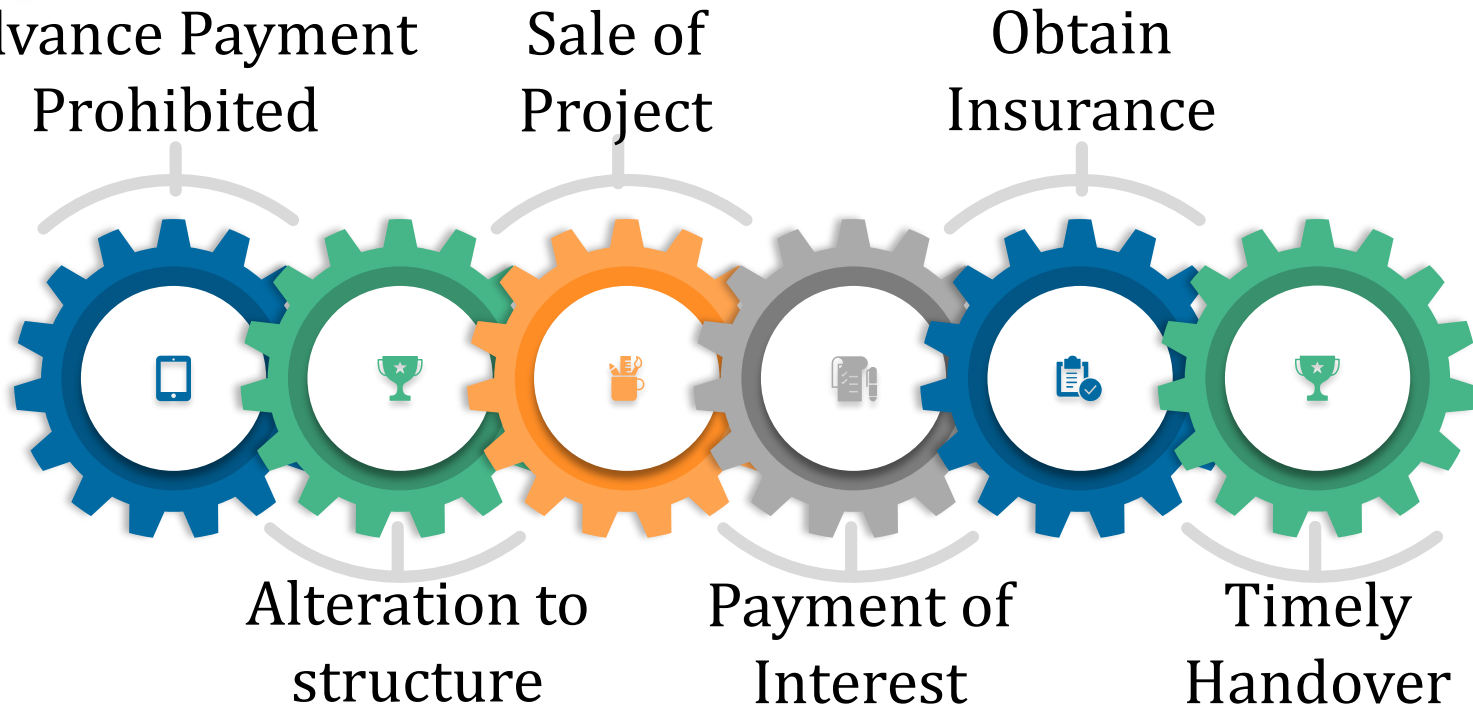
Responsibility

INCTIONS & DUTIES - Promoters



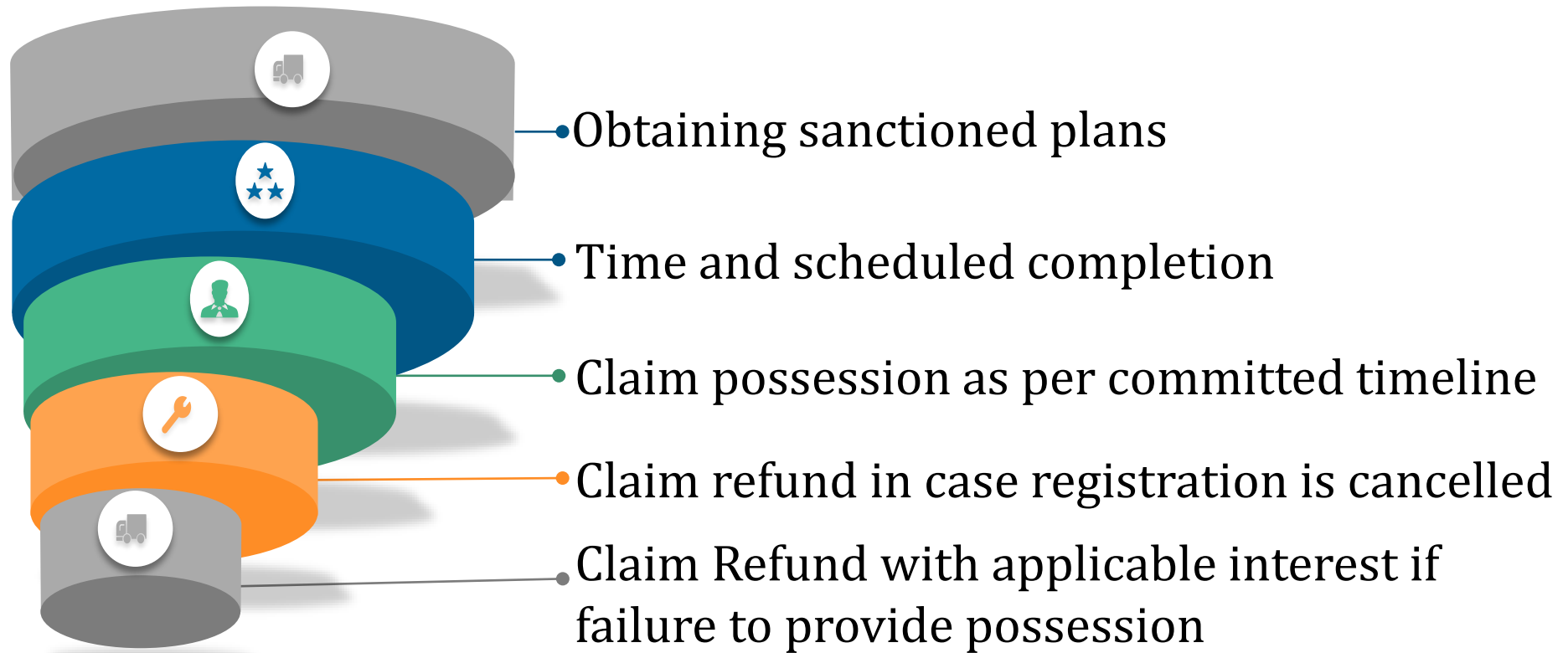
Webpage – Number of plots, types, approvals status, project status
Allottees Information – Sanctioned Plan, Layout Plan, Sch of completion
Advertisement – No misinformation regarding any amenity or design
Civil approvals – Maps approval, commencement certificate
Defect Liability – any defect to be rectified in 30 days for 5 yrs.

INCTIONS & DUTIES - Promoters



Advance Payment – Not more than 10% before registered agreement to sale
Structure Alteration – At least 2/3rd allottees to agree
Sale of Project – At least 2/3rd allottees to agree
Payment of Interest – Rates as defined by the applicable state rules
Project Insurance – To cover the title of land and construction undertaken
Timely handover – Allottees have power to demand compensation

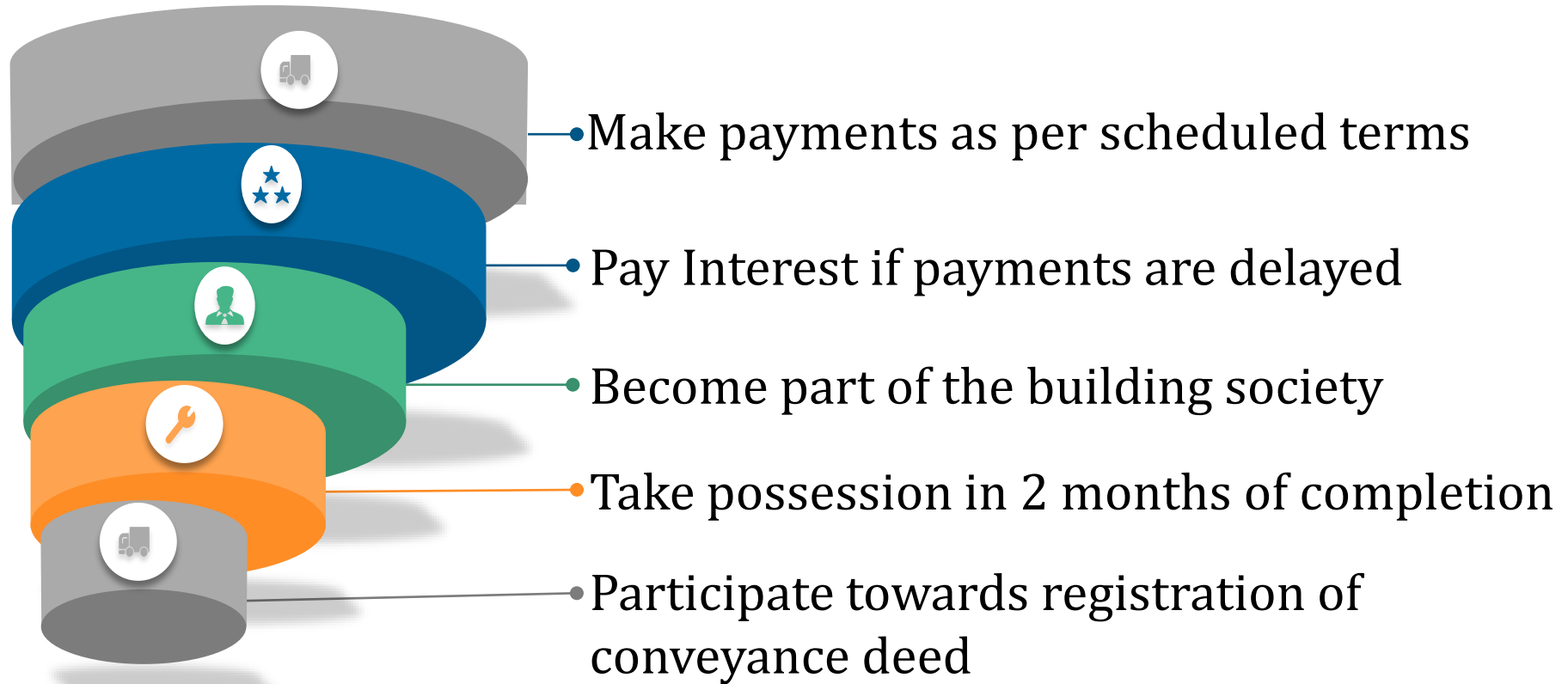
RIGHTS - Allottees



"allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

Rental is excluded but long term lease agreements also exempted ?

DUTIES - Allottees





RULES COMPARISON

Parameter	Karnataka	Tamil Nadu	Maharashtra
CURRENT STATUS	Draft Rules, yet to be notified	Draft Rules, yet to be notified	Notified, RERA registration commenced
KEY DISCLOSURE	Promoter KYC	Land cost, cost of construction, Proposed FSI etc	As per rules for UT
REGISTRATION FEE	Not Specified	Specified as per rates to be specified	Depends on Area; Maximum Rs. 1 Lac
TIME PERIOD for REGISTRATION	Within 3 months of notification of Act	Within 3 months of notification of Act	Within 3 months of notification of Act
REGISTRATION FEE for RE AGENTS	50,000 to 5,00,000	25,000 to 50,000	10,000 to 25,00,000
INTT PAYABLE by PROMOTER	SBI PL + 2%	Repo Rate of RBI + 2%	SBI PL + 2%

Parameter	Karnataka	Tamil Nadu	Maharashtra
TIMELINE for REFUND	45 days of becoming due	45 days of becoming due	30 days of becoming due
PENALTY for NON REGISTRATION	10% of the Project cost	10% of the Project cost	2-10% of the Project cost
PENALTY for NON COMPLIANCE TO ORDERS	10% of the Project cost	10% of the Project cost	5-10% of the Project cost
FAILURE ON PART OF THE ALLOTTEE	10% estimated cost of the apartment	10% estimated cost of the apartment	5% estimated cost of the apartment
CA CERTIFICATE	Same as per act	Same as per act	Construction; Estimated cash from Unsold + Balance cash from Sold = Estimated Cost



HOW TO START

HOW TO START

Project Status	Near Completion		Prioritize Completion ASAP	Prioritize Completion ASAP
	Mid Way		Build RERA competency by complying with laws and rules	Prioritize Completion ASAP
	New Launches	Consider revising the project as per RERA	Build RERA competency or sell out of project	Build RERA competency
		<10%	10% to 50%	More than 50%
Sales status				

HOW TO START

FINANCE



Cash Flow Liquidity management

Maintaining project wise banks

Undertake pricing assessment

Maintain regular books of accounts

Inventories of ongoing projects

HOW TO START

LEGAL



Aligning Allottee contracts

Double check land title

Register with RERA and follow up

No mortgages prejudicial to allottees

Allottee Association formation

HOW TO START DESIGN



Finalize design before launching project



Fix structural defects within timelines



Minor v. Major structural defects



Validate construction is as per approved map

HOW TO START OPERATIONS



Strengthen execution capabilities

Human resource hiring

Changes in ERP / MIS

Undertake regular vendor's assessment

HOW TO START

SALES / CRM



No promotions before registration

Monitoring advertisements quality

Provide information to allottees

Managing cancellations to remain compliant



HITS & MISSES

Increased affirmation
of project completion
and quality of
delivery

Regulated Agent and
the Builders

Balanced Builder-
Buyer agreements

Sale on Carpet Area
basis without any
gimmicks on rates



Lack of single
window clearance
for builders



May dent the Govt.'s
agenda of Housing
for all because of
funds restriction



Timelines for
regulatory
approvals not
defined



Ambiguity in Act
and difference in
state rules





ACCOUNTING ISSUES

- 01 Time period mentioned for completion in the registration form to impact operating cycle under Sch III of Companies Act, 2013 ?
- 02 The total cost of the project estimated to have any impact on the revenue recognition under Guidance Note of ICAI ?
- 03 Will each phase be also considered as a different “Project” under Guidance Note to recognize revenue ?

- 04 Books to be maintained and audited within 6 months of year close. Impact on assessee covered under Sec 44AD of Income Tax Act ?
- 05 Cost of Advertisement debited to project cost to meet 70% compliance. As per Guidance Note to be debited to P&L if not material. Auditors stance ?
- 06 Where is the amount parked in a separate account to be shown as per Sch III in case of a Company ?
- 07 Percentage of Completion under RERA to include cost of land ? If yes, then different to that prescribed under Guidance Note.



SETH & ASSOCIATES
CHARTERED ACCOUNTANTS

About Seth & Associates

www.sethspro.com



Seth & Associates was founded in 1975 on the principles of providing immaculate and precise consultancy to our clients in the field of taxation, risk advisory and audit. Since then the firm has grown manifold and achieved great success in providing its client's advice which has been able to help them in attaining their financial goals. Our multi-faceted approach to a problem has helped our clients in taking informed decisions.

With seven highly experienced partners, four senior associates as subject matter experts, six chartered accountant employees we have extended our capabilities to MyCFO Solutions, Business and Financial Advisory, Startup and New Venture Opportunities, Transaction Advisory (Valuation & Deals), Project Advisory (Subsidy, Rating etc), Project Financing (Equity & Debt), Goods and Service Tax (GST), Fraud & Forensic Assessments, Data Analytics, Legal Contracting, Labour Law Compliance, Franchising & Growth Options, Corporate Compliance and Market Listing Solutions.

We endeavor and strive in value creation for our clients.

Contact for RERA

CA Dhruv Seth

Partner in Charge

dhruv@sethspro.com

(m) 9935522611

Offices

New Delhi
C-7, Sector A
Vasant Kunj – 110070

Lucknow
Ground Floor, AI Apartments
Jopling Road – 226001

Connect with us



THANK YOU

**Seth & Associates
Chartered Accountants
New Delhi | Lucknow**

**Dhruv Seth
(dhruv@sethspro.com)**

