

THE HORIZON

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IN THIS ISSUE

Key Highlights

- Recent Development in the Real Estate Sector

- Seal the Deal – a Glimpse of New Mandates

- Notable Speakerships and Making Headlines

About Us

Established in 1993, Dhir & Dhir Associates is a full service law firm with a pan India presence in prime cities of New Delhi, Mumbai, Hyderabad and strategic alliance with associate lawyers in more than 15 States. The firm also has an international presence with a representative office in Japan. This network of alliances gives the benefit to the clients of a single window service provider, to deal with all kinds of matters within the country and cross-border transactions under one umbrella. With over 100 professionals including lawyers, some with dual qualifications of chartered accountants, company secretaries, cost accountants, MBAs and engineers, the firm is adept in handling complex legal and financial matters. The firm and its partners have been recognized as the leaders in "Restructuring and Insolvency" and "Dispute Resolution", and have also been highly ranked for "Banking and Finance", "Projects, Infrastructure & Energy", "Technology, Media and Telecommunication", "Project Finance", "Corporate /M&A", "Financial Service Regulatory" and "Private Equity" in leading legal publications including Chamber and Partners, Legal 500, IBLJ, IFLR1000 and Asia Law Profile.



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Recent Development in the Real Estate Sector

By Ms. Namrta Sudan Rai, Associate Partner

The lack of transparency and inefficiency in the real estate sector has created a demand for the proper vigilance mechanism. To address this concern, the Government of India brought a change in the legislation as well as implementation of specialized regulator through the enactment of the Real Estate (Regulation and Development) Act, 2016 ("Act") on May 1, 2016 which has come into full force from May 1, 2017. The Act provides that appropriate state government shall establish Real Estate Regulatory Authority to regulate and promote the state's/Union Territory's real estate sector. RERA rules have so far been notified by 18 states and Union Territories.

The Act focuses primarily on promoting the timely completion of projects and maintaining the consistency by regulating the sale in real estate sector. It further provides for establishing an adjudicating mechanism for speedy dispute redressal through Real Estate Appellate Tribunal ("REAT") to hear appeals from the decisions and orders from the Real Estate Regulatory Authority ("RERA"). With effect from May 1, 2016, the Act brought into force 69 of the 92 sections of the Act and now, with all the 92 Sections of the Act coming into force with effect from May 1, 2017, the builders/promoters will have to ensure that all the ongoing projects as well as new projects

registered with the RERA are given completion certificates by the end of July.

The Act has established RERA, REAT and the Central Advisory Council ("CAC") for discharging its functions under the act and has vested with the powers to regulate its own procedure. The CAC will represent the interests of real estate industry, consumers, real estate agents, construction labourers, academic and research bodies in the real estate sector and will carry out the functions for advising the recommending the Central Government in matters related to implementation of the Act, protection of consumer interest, foster the growth and development of the real estate sector and as any other matter as may be assigned to it by the Central Government. The Act has further entrusted RERA and REAT with the regulatory and adjudicatory authorities with members specializing in the related field by increasing the scope for greater certainty to the matters under the Act. The RERA will facilitate the growth and promotion of transparent, efficient and competitive real estate sector through the protection of the allottees' interest, promoter and real estate agent, creation of single window system for ensuring time bound approvals and clearances of the projects and the measures to encourage investment in the real estate sector including measures to increase financial assistance to affordable housing segment.

Some of the key provisions of the Act are:

(a) Mandatory registration of real estate projects by the Promoters with RERA. However, no registration of the real estate projects will be required inter alia where the area of land does not exceed 500 (five hundred) square meters or the number of apartments does not exceed 8 (eight) inclusive of all phases.

(b) Mandatory registration of real estate agents.

(c) Provides functions and duties of promoters along with rights and duties of allottees.

(c) Depositing 70% of the amounts realised from the real estate projects from the allottees from time to time to be deposited in a separate bank account in a scheduled bank to cover the cost of construction and the land cost, which will be used only for that purpose. However, the withdrawal from the account can be made in the proportion to the percentage of completion of the project.

(d) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of 5 years by the allottee from the date of handing over possession, the promoter will rectify such defects without further charge, within thirty (30) days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

(e) Both developers and buyers to pay the same penal interest of SBI's Marginal Cost of Lending Rate plus 2% in case of delays.

(f) The proposed project is required to be developed and completed by the Promoter as per the approved sanctioned plans, layout plans and specifications. Any alterations or additions in the sanctioned plans, layout plans and specifications after the initiation of the project would require 2/3rd of the allottees.



The allottees' interest has been protected under the Act such as allottees can get the requisite information regarding approved sanctioned plans, specifications etc., claim refunds (along with interest) of the amount paid to the promoter in the event promoter fails to complete or is unable to give possession of an apartment, plot or building: (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, get compensation if allottee (within five years of getting possession) brings to the notice of promoters any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter, allottees may also file a complaint with the RERA (or the adjudicating officer) for any violation or contravention of the provisions of the Act. Further, any person aggrieved by the decision or order of the RERA may file an appeal before the Appellate Tribunal of the relevant jurisdiction.

As regards builders/promoters, there is a mixed reaction in the real estate industry with the Act coming into full force. The recent development has brought the builders/promoters into action for making requisite financial arrangement to comply with the provisions of the Act. The builders/promoters are now restructuring their real estate projects to meet the requirements of the Act more effectively and proposing to treat their each building as a different phase for registration process.

The mid-sized builders/promoters are also proposing to realign their business, which may include seeking financial assistance to meet the 70% deposit criteria. It is also interesting to note that some of the builders/promoters are now in a hurry to handover the possession to the allottees for avoiding penalty under the Act, which shows that the provisions of the Act will play an effective role in ensuring that the possession is handed over to allottees in a timely manner.

We are hopeful that this recent development will bring a much awaited change and constructive progress in the real estate industry. A new transparent, regulated and disciplined real estate market may emerge. This may also encourage the builders/promoters to realign and revamp their business models to attract global capital flows in the Indian real estate market.



Seal the Deal – a Glimpse of New Mandates



NAYA RAIPUR DEVELOPMENT AUTHORITY (NRDA) EMPANELS DHIR & DHIR ASSOCIATES AS LEGAL ADVISORS

Legal Advisory Services to NRDA for Litigation Management, Arbitration & Conciliation, Company Law, PPP and Non PPP Contract Management and Taxation Laws.



DHIR & DHIR ASSOCIATES EMPANELLED AS LEGAL ADVISORS BY NATIONAL MINERAL DEVELOPMENT CORPORATION (NMDC)

The firm is empaneled to offer legal advisory services to NMDC, India's largest iron ore producer and exporter for M&A activities.



DHIR & DHIR ASSOCIATES APPOINTED AS THE LEGAL ADVISORS TO MUMBAI METRO RAIL CORPORATION LIMITED (MMRC)

Dhir & Dhir Associates provide legal consultancy services and assistance in Court matters, documentation and advice on matters of legal implications, matters pertaining to Land acquisition process and redevelopment of plots for project affected families.



DHIR & DHIR ASSOCIATES ACT AS LEGAL ADVISORS TO THE MINISTRY OF COMMUNICATIONS & INFORMATION TECHNOLOGY

The firm offers legal advisory TO THE Ministry of Electronics & Technology under the provisions of Information Technology Act, 2000 and the Information Technology (Preservation and Retention of Information by Intermediaries providing Digital Locker Facilities) Rules, 2016.

DHIR & DHIR ASSOCIATES ACT AS LEGAL ADVISORS FOR NATIONAL ALUMINIUM COMPANY LIMITED (NALCO)

The Firm has advised National Aluminium Company Limited on acquisition/ setting up of wind farm projects land parcel at different locations situated at Rajasthan, Tamil Nadu and Andhra Pradesh. In the regard, the Firm was instructed to undertake due diligence on the 8 project sites offered by the bidders having an aggregate project capacity of 200 MW.

DHIR & DHIR ASSOCIATES ARE LENDERS' LEGAL COUNSEL TO SREI INFRASTRUCTURE FINANCE LIMITED

The firm acted as Lenders' Legal Counsel to SREI Infrastructure Finance Limited in relation to the financial assistance comprising of rupee term loan facility of INR 450 Million for refinancing the existing outstanding debt availed by Orient Green Power (Maharashtra) Private Limited for its bagasse based power project.



Select Speakerships



Mr. Girish Rawat, Partner, speaking at the Lex Witness Real Estate & Construction Legal Summit 2017 on 26th May, 2017 at Le Meridien, Delhi



Mr. KPS Kohli, Associate Partner, speaking at the Lex Witness Real Estate & Construction Legal Summit 2017 on 26th May, 2017 at Le Meridien, Delhi



Ms. Maneesha Dhir, Managing Partner, speaking at the launch of IWIRC India on 31st May, 2017 at India Habitat Centre, New Delhi



Mr. Girish Rawat, Partner, speaking at the Lex Witness Banking & Finance Legal Summit 2017 on 23rd June, 2017 at JW Marriot, Juhu Mumbai



Mr. Siva Gopinatham, Partner speaking at The Lex Witness fifth Annual IT Legal Summit 2017 on 16th June, 2017, at Le Meridien, Bengaluru

Making Headlines

Business Standard

Who Among The 353 Resolution Professionals Can Manage 12 Large Insolvencies?

Jun 19, 2017-Alok Dhir, managing partner at law firm Dhir & Dhir Associates and director at IRR Insolvency Partners, says it will be extremely difficult for insolvency professionals to deliver efficient services to medium and large scale companies on their own. Dhir makes the case for IPEs over external advisors early in the process. [Bloomberg Quint](#)

Bloomberg | **Quint**^{beta}

Stressed Assets open Floodgates for Insolvency Professionals

June 19, 2017-Alok Dhir of Dhir & Dhir, Bahram Vakil and Dushyant Dave are among the registered insolvency professionals. These would have established infrastructure and people to support their functions. Also, the insolvency law provides for Insolvency Professional Entities (IPEs), which are corporate structures where two or more professionals can come together as partners or directors. However, there are only seven such registered IPEs as of today, according to the IBBI website. These are IRR Insolvency Professionals, a firm floated by Delhi-based lawyer Alok Dhir. [Business Standard](#)

Boom time for law firms in the age of insolvency

June 26, 2017-Leading names in corporate practice such as Shardul Amarchand Mangaldas & Co, Cyril Amarchand Mangaldas, Khaitan & Co, AZB & Partners, Trilegal, **Dhir & Dhir Associates**, and Kesar Dass B & Associates have created separate verticals or business divisions and are deploying over 100 top-notch lawyers between them to tap new opportunities thrown up in the stressed asset resolution space. [Business Standard](#)

Essar Steel vs RBI: Testing the Insolvency and Bankruptcy Code in courts

July 10, 2017-Even as the first legal challenge to the new Insolvency and Bankruptcy Code (Essar Steel vs the Reserve Bank of India) plays out in the Gujarat high court, experts appear divided over the impact that litigation would have on the efficacy of the nascent insolvency resolution process. This comes at a time when more such companies that are involved in insolvency proceedings are likely to put the Code to test in the courts. "The Code is as litigation-prone as any other new law," says Alok Dhir, managing partner, Dhir & Dhir Associates. [Business Standard](#)



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