

Effectiveness and legality of dispute resolution mechanisms under rera: Adjudicating officers and appellate tribunals

Dr. Madhulika Mishra¹, Prof. (Dr.) Pradeep Kulshreshtha², Ms. Arushi Sharma³, Mr. Yogesh Chandra Gupta⁴, Mrs. Varalika S. Parashar⁵, Mr. Sourabh Batar⁶

¹Assistant Professor of Law, Institute of Legal Studies and Research, GLA University, Mathura.

²Professor & Dean, School of Law, Bennett University.

³Ph.D. Scholar, Symbiosis International University, Pune.

⁴Assistant Professor, Teerthanker Mahaveer College of Law & Legal Studies, Teerthanker Mahaveer University, Moradabad.

⁵Assistant Professor, Oriental University, Indore.

⁶Assistant Professor, Teerthanker Mahaveer College of Law & Legal Studies, Teerthanker Mahaveer University, Moradabad.

1. Introduction

The Real Estate Act of 2016 represents a significant transformation in the Indian real estate sector by introducing a clear regulatory mechanism to address consumer's grievances and ensure expeditious resolutions ([Raju, 2007](#)). This law also provides for the adjudicating officers and the appellate tribunals which are crucial mechanisms for resolving the disputes arising among the promoters, allottees, and the real estate agents. The intent is place the industry under the needful expose-plus-control spotlight ([Gould & Linneman, 2008](#)). The success of the Act largely depends on the ability of these quasi-judicial bodies to manage complaints and enforce the law in an efficient, fair, and legal way ([Ndekugri & Russell, 2005](#)). This article will explore in practical terms the stand of different dispute resolution institutions, focusing on the powers, practice and the general impact of these on the estate industry. The success/ability of RERA to achieve its avowed objectives largely depends on the proper and efficient functioning of the adjudicating officers and the appellate tribunals.

1.1. Background of RERA and Dispute Resolution

Before the establishment of RERA, the real estate space in India was largely unregulated and consumers had grievances galore and project delays a norm ([Mequanent, 2016](#)). These problems were further compounded by the lack of a formal resolution process, with little recourse for consumers who had been cheated by fly-by-night developers. The RERA was introduced to deal with these structural issues in the real estate by creation of regulatory structure and special tribunals for dispute redressal. Under RERA, real estate authorities are to be set up in every state, with adjudicating officers and appellate tribunals, to hear disputes in a time-bound manner ([Alam & Ahmad, 2011](#)). Such compensation for contravention of the Act is awarded primarily by the adjudicating officers, and the appellate tribunals entertain appeals that may be filed aggrieved by orders of the authorities and by the adjudicating officers. This multi-tier architecture has been devised in order to have an elaborate system of redressal and it should be accessible and time bound. Debt Recovery Tribunals Establishment and working of Debt Recovery Tribunals (DRTs) will facilitate speeding up of recovery of debt ([Jain, 2015](#)).

1.2. Statement of the Problem

Despite being hailed as the transformation tool that will revolutionize the real estate sector; there are still doubts on the effectiveness and legality of its dispute resolution mechanisms. One key question is whether adjudicating officers will be able to handle complex real estate disputes. These officers' competence and fairness are essential to the production of just results. The pace at which appeals are disposed of by appellate tribunals is also pertinent, as RERA would stand defeated in case of undue delay. Another is the manner in which orders are implemented by these institutions, if implementation is weak; the existence of the dispute resolution process is of no consequence. Recovering money through legal means like Debt Recovery Tribunals is a possibility, but its effectiveness in resolving real estate disputes needs further assessment.

1.3. Research Questions

- a) To what extent are adjudicating officers and appellate tribunals effective in resolving real estate disputes under RERA?
- b) What are the key challenges faced by these bodies in terms of capacity, expertise, and enforcement?
- c) How do the procedures and practices of adjudicating officers and appellate tribunals align with principles of natural justice and fairness?

1.4. Objectives of the Study

Evaluate the effectiveness of adjudicating officers and appellate tribunals in resolving real estate disputes under RERA, by assessing the number of cases filed, disposed of, and pending before these bodies, analyzing the average time taken for dispute resolution, and examining the rate of compliance with orders passed by these bodies. Identify the challenges faced by adjudicating officers and appellate tribunals in terms of infrastructure, staffing, and training. Interrogate the rules of procedure; consider case law involving RERA; and interview stakeholders to evaluate the degree of adherence by the procedures and methods adopted by adjudicating officers and appellate tribunals to principles of natural justice and fairness.

1.5. Scope and Methodology

This study intends to explore the dispute redressal mechanism under RERA which is governing the working of the adjudicating officers and the appellate tribunals. It will examine the legal structure, rules and operation of these bodies and evaluate their power to settle real estate cases. The research adopts a qualitative method using a doctrinal research and involved secondary data collection-secondary data in this case is based on description from online published journal, online reported law cases, and books ([Mustafa et al., 2020](#)). Data collected will be analyzed thematically to address the research problem.

1.6. Significance of the Study

This research offers valuable results with respect to the efficacy and legitimacy of selected mechanisms of dispute resolution under RERA. The results will be applicable to policymakers, regulators, developers, homebuyers and legal experts. Through the identification of the problems and flaws in the current system, this research can be of benefit in the creation of more efficient and effective dispute resolution in one of the major industries in the market in the country-the real estate industry-and in the promotion of transparency, accountability, and consumer protection.

2. Literature Review

2.1. Overview of RERA

The Real Estate Act-2016 was enacted to protect the interest of homebuyers and to enhance transparency and efficiency in the real estate sector ([Mujumdar et al., 2020](#)). Before RERA, the Indian real estate sector did not have a proper regulatory mechanism in place, which resulted in information asymmetries, project delays and developers who were not accountable to customers. ([Saini et al., 2021](#)) RERA is the response to address these exactly by setting up regulatory authorities in states, uniformity with the registration of real estate projects and punishment (penalties) for disposing non-regulated projects. ([Ranadive & Dare, 2019](#)) It also mandates (i) the registration of a real estate project with the Real Estate Regulatory Authority (“RERA”); and (ii) that the developers disclose necessary information pertaining to the projects like details of the project plan, layout, government approvals, land status, to name a few ([Ullah et al., 2018](#)).

2.2. Adjudicating Officers: Powers and Functions

Adjudicating officers are appointed by the Real Estate Regulatory Authority under RERA to adjudicate disputes and grant relief to the aggrieved ([Mujumdar et al., 2020](#)). They form the cadre of officers who are mandated to decide the amount of money builders have to pay to homebuyers for different violations of the Act: failure to finish project within stipulated time, structural flaws and hollow promises ([Li et al., 2018](#)). The adjudicating authorities are vested with quasi-judicial powers and are to hold the hearings, record evidence and pass reasoned orders. They are bound by the principles of natural justice and must provide an opportunity to both parties to present their case ([Hamid et al., 2021](#)).

2.3. Appellate Tribunals: Structure and Jurisdiction

RERA establishes Real Estate Appellate Tribunals to hear appeals against the orders of the Real Estate Regulatory Authority and adjudicating officers. ([Ranadive & Dare, 2019](#)) These tribunals are headed by a chairperson, who must be a retired High Court judge, and comprise judicial and technical members. The appellate tribunals have the power to confirm, modify, or set aside the orders of the regulatory authority and adjudicating officers. ([Samanta, 2007](#)) They are expected to provide a speedy and effective remedy to aggrieved parties.

2.4. Effectiveness of Dispute Resolution Mechanisms

RERA has undoubtedly brought about greater transparency and accountability in the real estate sector. However, the effectiveness of the dispute resolution mechanisms established under the Act has been a subject of debate. ([Ranadive & Dare, 2019](#)) While RERA mandates registration of projects and disclosure of information, delays in project completion, consultant-and design-related challenges have contributed significantly to the delay of projects in addition to the other factors associated with clients, contractors, materials, investments and regulations ([Das & Emuze, 2021](#)).

2.5. Legality and Constitutional Validity

The constitutional validity of RERA has been challenged in various High Courts across the country. ([Saini et al., 2021](#)) The primary grounds for challenge have been that RERA encroaches upon the legislative domain of the states and violates the fundamental rights of developers. However, the Supreme Court has upheld the constitutional validity of RERA, holding that the Act falls within the legislative competence of Parliament and does not violate any fundamental rights. ([Ranadive & Dare, 2019](#))

2.6. Comparative Analysis with Other Jurisdictions

A comparative analysis with other jurisdictions such as the United States, the United Kingdom, and Singapore, which have well-established real estate regulatory frameworks, can provide valuable insights into best practices and potential areas for improvement in the Indian context. ([Ranadive & Dare, 2019](#)) For example, the US has a fragmented real estate regulation system, with the regulation in each state carried out by local regulators due to its fragmented nature. There is something of a continuum here with the UK having a very centralized contract system in place with a powerful institution (the Royal Institution of Chartered Surveyors) that sets standards for it ([Hassan, 2015](#)). These factors directly affect the market value of a property.

3. Analysis and Findings

3.1. Efficiency of Adjudicating Officers

As a result, the efficiency of the Adjudicating officers in solving RERA-related disputes is critical to the success of the Act. The foremost among them is having too much work and too few adjudicating officers, who leads to delayed disposal of cases. And it cynically builds on the back of poor infrastructure and support provided to the staff. Besides, it has also been alleged that the orders passed by adjudicating officers suffer from poor quality considering inter alia their domain of law and overall understanding of real estate matters ([Araloyin, 2021](#)). Such shortcomings can lead to consumer dissatisfaction and threaten the very purpose of the RERA to protect the interest of the homebuyers.

3.2. Effectiveness of Appellate Tribunals

Another significant aspect of the dispute resolution mechanism under RERA is that the appellate tribunals are required to be functional in providing the relief to the aggrieved party or parties in a timely manner. Appellate authorities have been empowered to affirm, modify or annul orders of the regulatory authority and adjudicating officers, but in practice they have been heavy to operate. The tribunals have very long lists to be heard and they take time to dispose of the appeal. There were also concerns that the members of the tribunal lacked requisite technical expertise, leading to ad hoc decisions. This problem is further exacerbated by the routine vacancies that occur in tribunals, resulting in the piecemeal nature in which this case must be dealt with and in the backlog.

3.3. Compliance with Legal Principles

The adjudicating authorities as well as appellate tribunals are the quasi judicial authorities and are supposed to follow the principles of natural justice – right to fair hearing and reasoned decision ([Mishra, 2022](#)). There have been occasions though, where natural justice dictates have been breached and the accused claimed that they were not given time to present their side, or that the verdict was a biased one. This sows uncertainty as to the method of settling the dispute, and can lead to further litigation ([Sabarinathan, 2010](#)).

Alternative Dispute Resolution: a mechanism to settle disputes without reference to the courts, also used in more contemporary, commercial dispute resolutions Analogue A film process not yet digitized ([Hamid et al., 2021](#)). Opting early for a dispute resolution process reduces costs and cycle time; however, the role of arbitrators in driving settlement has not been given much attention ([Stipanowich & Ulrich, 2014](#)). Customized ADR methods such as partnering and dispute review boards can substantially mitigate the effects of the ‘standard’ dispute resolution process, although their application remains limited ([Kabir et al., 2020](#)).

3.4. Stakeholder Perspectives

It is important to look at the views of the different stakeholders such as homebuyers, developers, and the regulators, to see whether the mechanisms under RERA to resolve disputes both work and are legal. Homebuyer's usually complaint about the delayed project, poor quality of construction and lack of transparency on the part of developers. For their part, the developers claim RERA is extremely harsh and takes no cognizance of their issues such as delays in getting approvals and policy changes by government. Bureaucrats must tread the fine line between protecting homebuyers and managing aspirations of growth in real estate sector. Amateur Efficient arbitral resolution of disputes can be facilitated by recourse to "judges" with relevant technical expertise and industry knowledge, leading to more consistent outcomes and consistently lower costs and timing risks ([Galloway & Nielsen, 2011](#); [Mazur, 2013](#)).

3.5. Challenges and Bottlenecks

Even though the RERA emerged as a game-changer, there are a few hurdles and bottlenecks that derail the smooth operations of dispute resolution under it all. These include low number of competent adjudicating officers and staff availability, lack of proper infrastructure, delay in disposal of cases, and lack of awareness among stakeholders about their rights and duties under RERA. Solutions to these issues must be sought, if RERA is to serve its purpose and offer a fair and speedy dispute redressal process for the real estate industry. It is in the context of financial technology (Fintech) that disputes frequently emerge because of lack of clarity in respect of the rates of interest, administrative charges and the mode of billing, signifying a demand for simpler, cheaper and expeditious online dispute resolution systems ([Kharisma & E.Ar, 2022](#)).

4. Discussion

4.1. Interpretation of Findings

The study finds out that the implementation of RERA has created the infrastructure of a systematic redressal mechanism of disputes in the real estate sector, but at many places many more have to be done ([Saini et al., 2021](#)). The adjudicatory bodies and appellate authorities also need to be enhanced in terms of infrastructure, manpower and competence. Till the time the company law board has some positive load /vacancy ratio, the focus shall be to provide for the encroachment of alternate dispute resolution mechanism i.e. mediations & conciliations to help reduce the burden on adjudicating officers & tribunals ([Baboolal-Frank, 2020](#)). More in general we have the necessity of simplifying the different categories of the (branches of) the public administration to make accelerate the administrative procedures as for real estate intersetiments ([Sobieraj, 2020](#)). It is also crucial to see that principles of natural justice are not violated and all parties get a fair opportunity to present the case. Correcting such anomalies will enhance the effectiveness as well as the credibility of the dispute resolution mechanisms under RERA, and help to restore confidence in the real estate sector.

4.2. Comparison with Existing Literature

Existing models of real estate industry legislation and dispute resolution beyond regular review also suggest that RERA is a good step in the right direction but, like with FRAC, its efficacy will depend on enforcement ([Adebayo et al., 2020](#)). It has been submitted that correct regulation would result in transparency, protect the welfare of the common mineral consumers, and instill confidence in the real estate market PLC Open-Ended Funds can be

structured to address certain of these challenges ([Das & Emuze, 2021](#)). Demand-driven Although, the construction industry in India is growing with the increase in the demand of house and commercial buildings, the construction industry on a wider scale is devastated as generally, the real estate companies do not construct the buildings on time and it would amount in a huge dissatisfaction of the consumer and litigation as well. Mediation and Arbitration are cheap and speedy ([Adebayo et al., 2020](#)).

4.3. Implications for Policy and Practice

The findings have some policy and practice implications. The policymakers can never take their eyes off the fact that RERA such have to be grounded on the field, and the adjudicating officers and the appellate tribunals need to have sufficient power and capability. Developers will have to operate in an honest and transparent manner and buyers will have to know their rights as well as liabilities under RERA ([Singla & Bendigiri, 2019](#)). All this is to build a real estate market that is transparent, accountable and efficient and in which everyone – buyers and sellers, and landlords and tenants is more confident.

4.4. Recommendations for Improvement

Enhancing the efficacy of dispute resolution under RERA still requires a multifronted strategy and a response to the key issues and pinch points. It includes more and more adjudicating officer and staff, there training& tools of trade, use of ADR route, creation of awareness among all stake holders the duties and rights under RERA. Such acts would streamline the disputes process, improve productivity and help ensure a fairer, more accountable property sector.

5. Conclusion

5.1. Summary of Key Findings

This study is an exhaustive analysis of the efficacy and the legality in the adjudicating officers and the appellate tribunals under RERA. The study has shown that although RERA has put in place a grievance resolution mechanism, there are grey areas that need refining. These amendments will help in realizing the objective of RERA and contribute towards a more equitable and efficient real estate sector. Mediation may be capable to resolve conflict between family members in a better way then highlighting is the case and to preserve the relationships that may otherwise be destroyed by litigation ([Olapade et al., 2019](#)).

5.2. Answers to Research Questions

The key questions posed need to be answered as outlined at the start of this paper and have been answered through an extensive analysis of the legal approaches, empirical evidence and stakeholder opinions. The study has highlighted the gap of dispute resolution under RERA in terms of the good and worst practices of dispute resolution and has made recommendations, thereby calling for amendments in the RERA so as to demonstrate that amendments are inevitable in order to achieve the goals of RERA and cultivate a more equitable and sustainable real estate industry.

5.3. Suggestions for Future Research

More research could be conducted in terms of anything which can improve the Real Estate industry and the PAC process. Analysis as to how it impacted the market dynamics, the consumers' confidence, and the speed, at which projects got completed, would be an interesting read. Furthermore, it is important to assess how dispute settlement mechanisms of

a non-adjudicatory nature, such as mediation and conciliation the role of technology (Blockchain / AI) for optimizing transparency and efficiency of dispute resolution also deserve exploration. These research agendas can help improve policy and practice and eventually lead to a healthier, more equitable real estate landscape.

References

1. Adebayo, A. A., Adewale, P. O., & Adebayo, A. A. (2020). Performance Evaluation of Alternative Dispute Resolutions (ADR) Among Stakeholders in Property Management in Ibadan Metropolis, Nigeria. *International Journal of Innovative Research and Development*, 9(8). <https://doi.org/10.24940/ijird/2020/v9/i8/jul20048>
2. Alam, M. J., & Ahmad, M. M. (2011). Impacts of environmental laws on land development and developers in Dhaka City, Bangladesh. *International Journal of Environment and Sustainable Development*, 10(2), 169. <https://doi.org/10.1504/ijesd.2011.041972>
3. Araloyin, F. M. (2021). A Study of Consumers' Complaints against Real Estate Agents in Lagos Metropolis, Nigeria. *Civil and Environmental Research*. <https://doi.org/10.7176/ceer/13-4-05>
4. Baboolal-Frank, R. (2020). An Analysis of Sectional Title Dispute Resolution in South Africa. *Journal of International Dispute Settlement*, 11(4), 659. <https://doi.org/10.1093/jnlids/idaa023>
5. Das, D. K., & Emuze, F. (2021). Design Delays in Building Projects in India: Effects and Remedies. *Construction Economics and Building*, 21(1). <https://doi.org/10.5130/ajceb.v21i1.7453>
6. Galloway, P. D., & Nielsen, K. R. (2011). Engineer's Study Notes for Understanding the Arbitration Process. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 3(2), 71. [https://doi.org/10.1061/\(asce\)la.1943-4170.0000065](https://doi.org/10.1061/(asce)la.1943-4170.0000065)
7. Gould, N., & Linneman, C. (2008). Ten Years on: Review of Adjudication in the United Kingdom. *Journal of Professional Issues in Engineering Education and Practice*, 134(3), 298. [https://doi.org/10.1061/\(asce\)1052-3928\(2008\)134:3\(298\)](https://doi.org/10.1061/(asce)1052-3928(2008)134:3(298))
8. Hamid, N. 'Adha A., Aziz, T. N. R. A., & Hassim, M. H. (2021). The Setting and Matching of Alternative Dispute Resolution (ADR) Mechanisms: The Compatibility with Disputes. *International Journal of Academic Research in Business and Social Sciences*, 11(6). <https://doi.org/10.6007/ijarbss/v11-i6/10346>
9. Hassan, K. H. (2015). Regulatory Impact Analysis in Legal Research: Way Forward for Malaysian Legislation. *Mediterranean Journal of Social Sciences*. <https://doi.org/10.5901/mjss.2015.v6n3p520>
10. Jain, S. (2015). Recovery of Debts Due to Banks and Financial Institutions: Legal Framework in India. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2808408>
11. Kabir, S., Younas, A., & Paul, M. (2020). Contextualizing alternate dispute resolution: an agile approach to resolve disputes in infrastructure projects. *Общество и Инновации*, 1(2), 104. <https://doi.org/10.47689/2181-1415-vol1-iss2-pp104-116>
12. Kharisma, D. B., & E.Ar, N. T. (2022). Online Dispute Resolution as an Alternative Model for Dispute Settlement in The Financial Technology Sector. *Pandecta Research Law Journal*, 17(1), 137. <https://doi.org/10.15294/pandecta.v17i1.25267>
13. Li, D., Zhang, H., & Fang, X. (2018). The deficiency of dispute settlement mechanism seen in Chinese construction field from FIDIC. *MATEC Web of Conferences*, 251, 5022. <https://doi.org/10.1051/mateconf/201825105022>

14. Mazur, C. (2013). ADR: Faster, Cheaper, Better – and Not Just for EEO Complaints. *Public Administration Review*, 73(1), 61. <https://doi.org/10.1111/puar.12007>
15. Mequanent, G. (2016). The Application of Traditional Dispute Resolution in Land Administration in Lay Armachiho Woreda (District), Northern Ethiopia. *World Development*, 87, 171. <https://doi.org/10.1016/j.worlddev.2016.06.005>
16. Mishra, S. (2022). ‘Cyclic syndrome’ of arrears and efficiency of Indian judiciary. *SN Business & Economics*, 3(1). <https://doi.org/10.1007/s43546-022-00377-1>
17. Mujumdar, Ms. M., Prabhu, S., & Hallur, G. (2020). Qualitative Analysis of Consumer Redressal Practices in Indian Regulated Sectors. *International Journal of Recent Technology and Engineering (IJRTE)*, 9(4), 361. <https://doi.org/10.35940/ijrte.d4987.119420>
18. Mustafa, M. S. A., Othman, Y., Malib, M. A., & Mahat, I. R. (2020). Malaysian Land Tribunal: Necessity or Sheer Hospitality. *International Journal of Academic Research in Business and Social Sciences*, 10(7). <https://doi.org/10.6007/ijarbss/v10-i7/7605>
19. Ndekugri, I., & Russell, V. F. (2005). Insolvency and resolution of construction contract disputes by adjudication in the UK construction industry. *Construction Management and Economics*, 23(4), 399. <https://doi.org/10.1080/0144619042000326747>
20. Olapade, D. T., Olapade, B., & Aluko, B. T. (2019). Premises recovery through adoption of alternative dispute resolution (ADR) techniques. *Journal of Property Planning and Environmental Law*, 11(1), 67. <https://doi.org/10.1108/jppel-06-2018-0015>
21. Raju, Prof. K. D. (2007). Alternate Dispute Resolution System: A Prudent Mechanism of Speedy Redress in India. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1080602>
22. Ranadive, M. S., & Dare, P. D. (2019). Implications of real estate regulatory authority and goods and services tax on the Indian real estate sector. *International Journal of Sustainable Real Estate and Construction Economics*, 1(4), 314. <https://doi.org/10.1504/ijsrece.2019.10028016>
23. Sabarinathan, G. (2010). SEBI’s Regulation of the Indian Securities Market: A Critical Review of the Major Developments [Review of SEBI’s Regulation of the Indian Securities Market: A Critical Review of the Major Developments]. *Vikalpa The Journal for Decision Makers*, 35(4), 13. SAGE Publishing. <https://doi.org/10.1177/0256090920100402>
24. Saini, A., Daddera, S. S., Mondal, D., Sikka, R., & Nagdeve, S. S. (2021). Architect’s Role under the Real Estate Regulation and Development Act, 2016. *International Journal of Students Research in Technology & Management*, 9(4), 16. <https://doi.org/10.18510/ijstrtm.2021.942>
25. Samanta, N. (2007). Administrative Procedure followed in Income Tax Appellate Tribunal. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2507948>
26. Singla, H. K., & Bendigiri, P. (2019). Factors affecting rentals of residential apartments in Pune, India: an empirical investigation. *International Journal of Housing Markets and Analysis*, 12(6), 1028. <https://doi.org/10.1108/ijhma-12-2018-0097>
27. Sobieraj, K. (2020). Implementation of the European Union Requirement to Coordinate Activities of Public Administration Authorities in the Process of the Authorisation, Certification, and Licensing of Renewable Energy Sources Investments. *Review of European and Comparative Law*, 39(4), 121. <https://doi.org/10.31743/recl.4926>
28. Stipanowich, T. J., & Ulrich, Z. P. (2014). Commercial Arbitration and Settlement: Empirical Insights into the Roles Arbitrators Play. *SSRN Electronic Journal*. https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2461839_code894419.pdf?abstractid=2461839&mirid=1

29. Ullah, F., Sepasgozar, S. M. E., & Wang, C. (2018). A Systematic Review of Smart Real Estate Technology: Drivers of, and Barriers to, the Use of Digital Disruptive Technologies and Online Platforms [Review of A Systematic Review of Smart Real Estate Technology: Drivers of, and Barriers to, the Use of Digital Disruptive Technologies and Online Platforms]. *Sustainability*, 10(9), 3142. Multidisciplinary Digital Publishing Institute. <https://doi.org/10.3390/su10093142>