

REAL ESTATE MALPRACTICES

Home-buyer at the Mercy

A real-estate regulator is more important to the citizens than a stock market regulator

I had written a column (*Moneylife* 29 December 2011) about how real-estate contracts are so grotesquely one-sided that they would make the famed 'Tower of Pisa' look like a plumb line! Truth is: The average Indian home-buyer is completely at the mercy of builders. Given that real estate market is far more important to individuals than the stock market, we needed to have a real-estate regulator decades ago.

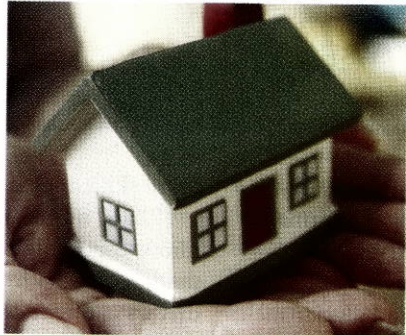
Historically, because most builders are in cahoots with politicians, little sense of urgency may have been felt in this regard. But now that real-estate companies are beginning to access the capital market, borrowing heavily from banks and have been brought under the organised sector, it is about time this need was addressed.

The Competition Commission of India (CCI) did provide some respite to home-buyers against DLF some time back. However, CCI is hardly a real-estate regulator and it would be unfair to expect too much succour from the Commission for the day-to-day travails home-buyers suffer at the hands of corporate builders, leave alone the lesser ones.

Consider this: You are buying into a scheme of the Prestige group, a large and respectable builder. You sign an 'Agreement for Sale', which specifies the development of 182 specific houses, with a clubhouse, cooperative store, various common areas and what have you. The contract is as one-sided as it gets, but you have few options. Four years later, after the full payment has been made, the property is developed on

time and handed over to you. You thank your stars that the deal went through, without hiccups.

But wait! You thanked your stars too soon! The 'Sale Deed', now has a new clause, inserted unilaterally without a 'by your leave', namely, 'Right to Integrate', which states, out of the blue, that "The Seller/Builder



is in the process of acquiring lands abutting the Schedule 'A' Property for the purpose of extending the layout Prestige Oasis wherein similar type of development will be undertaken by the Builder and integrated with the development on the Schedule 'A' Property and the Purchaser/s shall not object for such integration... All internal roads and common facilities can be used by the owners of the extended layout and Purchaser/s shall have no objection to the same." In short, even when you have 'paid through your nose' for all the common areas in the original scheme,

you are now supposed to sign away your cheerful willingness to share these with hundreds more.

This, when the Agreement for Sale was based exclusively for 182 houses; when it never made any provision for any 'integration'; and when the purchasers have no way of contacting the other purchasers for consultation. Repeated communications to the Prestige management seeking clarification to these questions remain unanswered.

Interestingly, the 'Sale Deed' also asks the purchaser to "agree and undertake to be a Member of the proposed Owners' Association to be formed." And, yet, when asked to provide the group email id of the other home-buyers so that one could seek their opinions, for instance, in the matter of 'Right to Integrate', the management provided no response whatsoever.

This, perhaps, falls within CCI's domain because it pertains to anti-competition. Why should builders be permitted to actively prevent, leave alone actively promote, formation of common email id for all the home-buyers? Virtually through every stage of negotiating with the builders—quality of construction, the woodwork, maintenance rates the split between the cost of the land and the cost of construction—the home-buyer has to simply go by what the builder dictates and has no benefit of consultations with the other home-buyers. Can CCI please make it mandatory that every builder must provide a group email id for other buyers to which every home-buyer must be given access? Is that asking for too much? ■



The author was professor at IIM-Ahmedabad, was president of ING Vysya Bank and has been working in the area of corporate social responsibility. He has written several popular books and is an adjunct professor with Bocconi University, Milan. His website is www.vraghunathan.com.