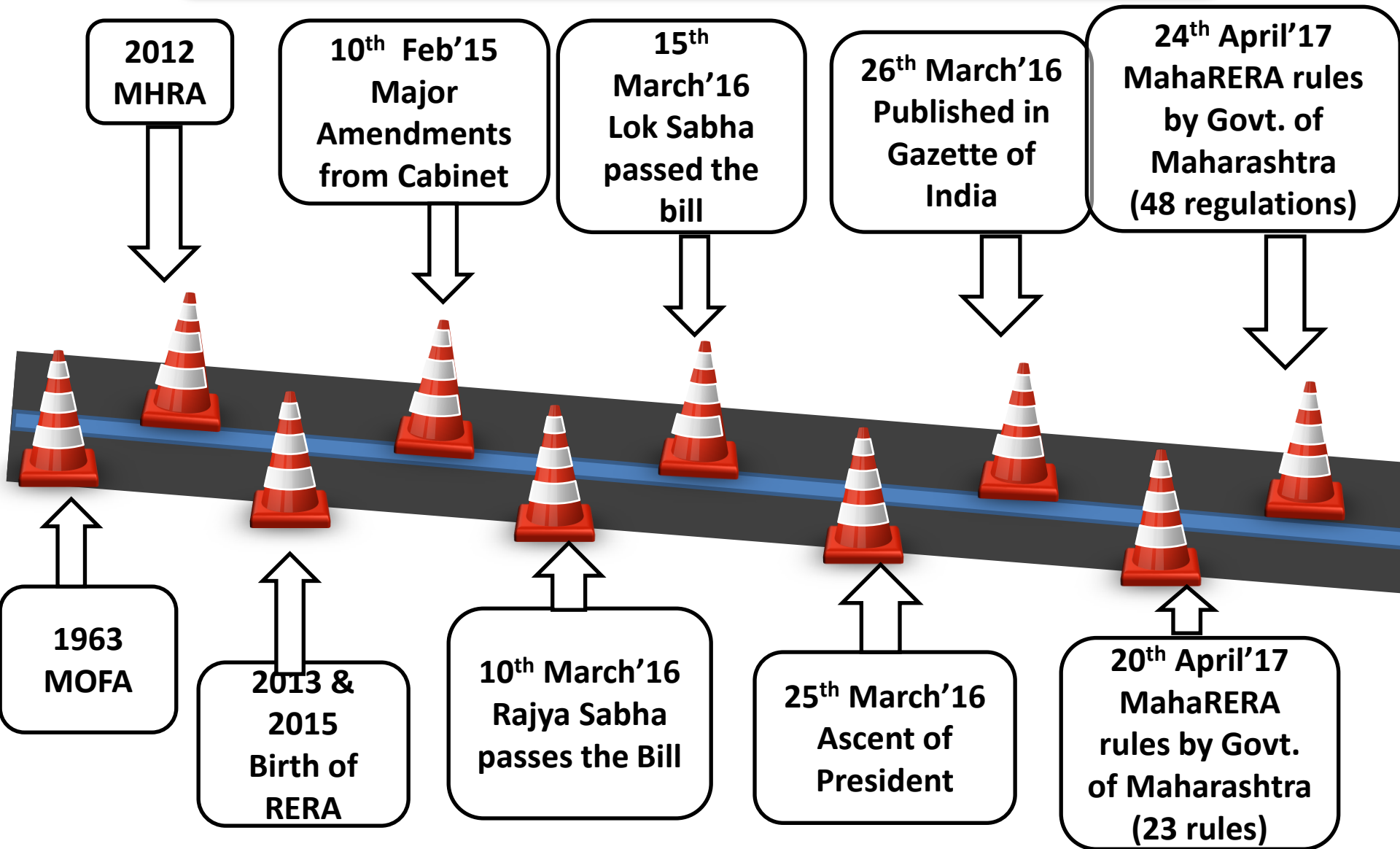


# **NAGPUR BRANCH OF WIRC OF ICAI**

## **Real Estate (Regulations & Development) Act, 2016, CA CERTIFICATE AND AUDIT**

Presented **by CA.Ramesh Prabhu, Chairman,**  
**MahaSeWA/ 09820106768**  
**Tel: 022-42551414/ rsprabhu13@gmail.com**

# “ I: RERA JOURNEY ”



# WHY THIS Act IS REQUIRED..??

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**HIGHLY  
UNREGULATED**

**NO TRANSPARENCY**

**NO INFORMATION**

**NO EASY  
REDRESSAL**

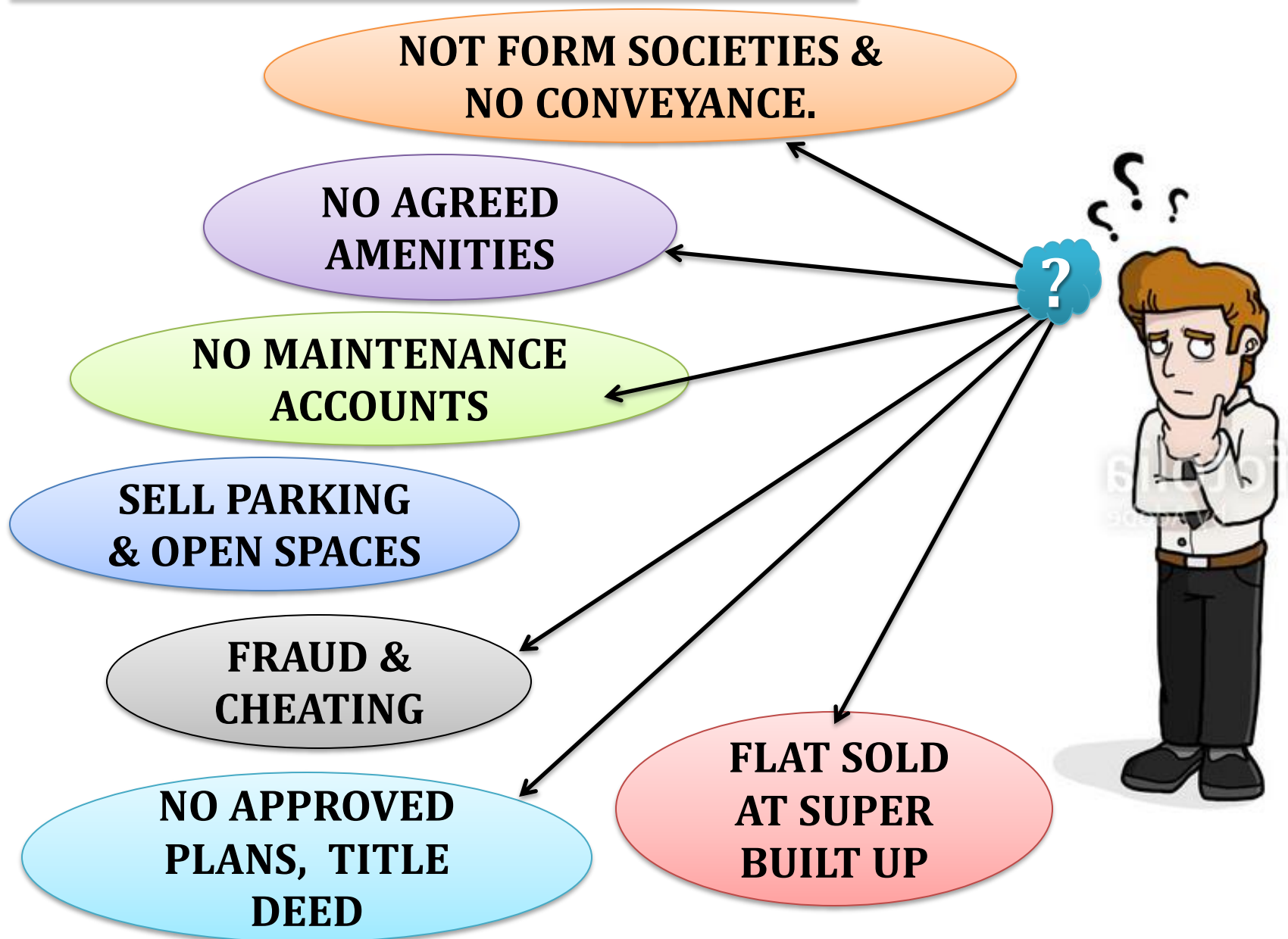
**DELAY in  
POSSESSION**

**NO OC & BCC**

**DEMAND IN CASH**

# WHY THIS Act IS REQUIRED..??

---



# WORKING OF MOFA 1963

**DUTY OF BUILDER TO DISCLOSE  
VARIOUS DOCUMENT,  
PLANS ETC.**



Court Orders  
or Punishment

State Government  
Direction or Action



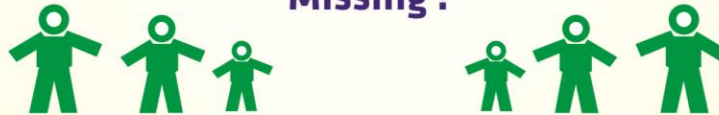
सत्यमेव जयते

1

**Enforcement & Delivery Mechanisms  
are Missing !**

2

**Compliance is  
Missing !**



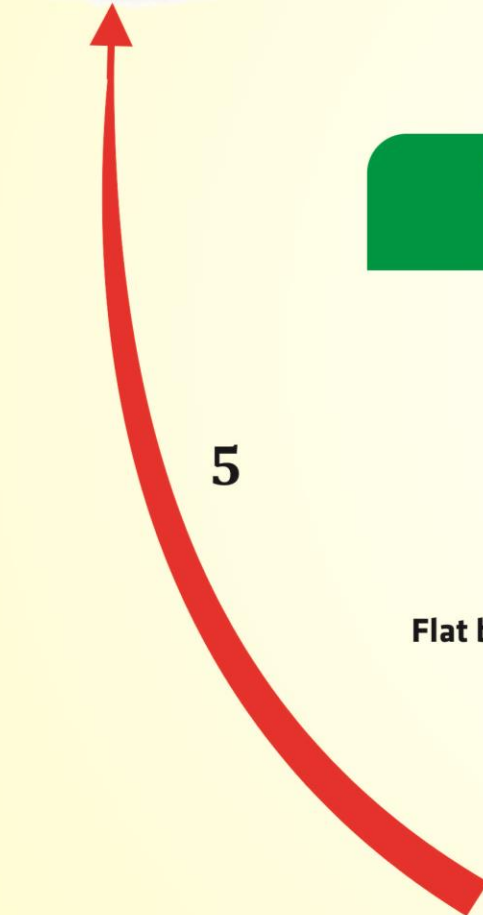
Flat buyer, RTI activist & common man may file RTI applications  
& write complaints to **GOVERNMENT**,  
and struggles to get orders passed against builder.

and / or

**Engages LAWYER and fights in  
COURT for several years**

5

3



# OBJECTS OF THE REAL ESTATE (R & D) ACT, 2016

---

APPELLATE TRIBUNAL

4

OBJECTS

Regulatory Authority

1

Regulation &  
Development

2

Transparency  
and Efficiency



3

Protecting  
Consumer  
Interest


# **Intro: The Real Estate (Regulation and Development) Act, 2016**

---

**The Central and state Govt to notify the Rules in six months and Establish the Real Estate Authority & Appellate Tribunal in 1 yr.**



**Regulator: RERA- To register RE projects, RE Agents, Monitor, supervise, redress disputes, Control & protect all stakeholders.**



**The law is not Retrospective but applicable to all on going projects and new projects- Commercial, residential, plotting etc..**

# MOTHER OF REAL ESTATE DEVELOPMENT LAW -

**Real Estate (Regulation & Development) Act, 2016**

**Applicable All Over  
All Over India  
Except J & K**

**Implemented through  
All the connected  
Central & State  
Law applicable**

**Related to  
Owning / acquiring  
Rights**

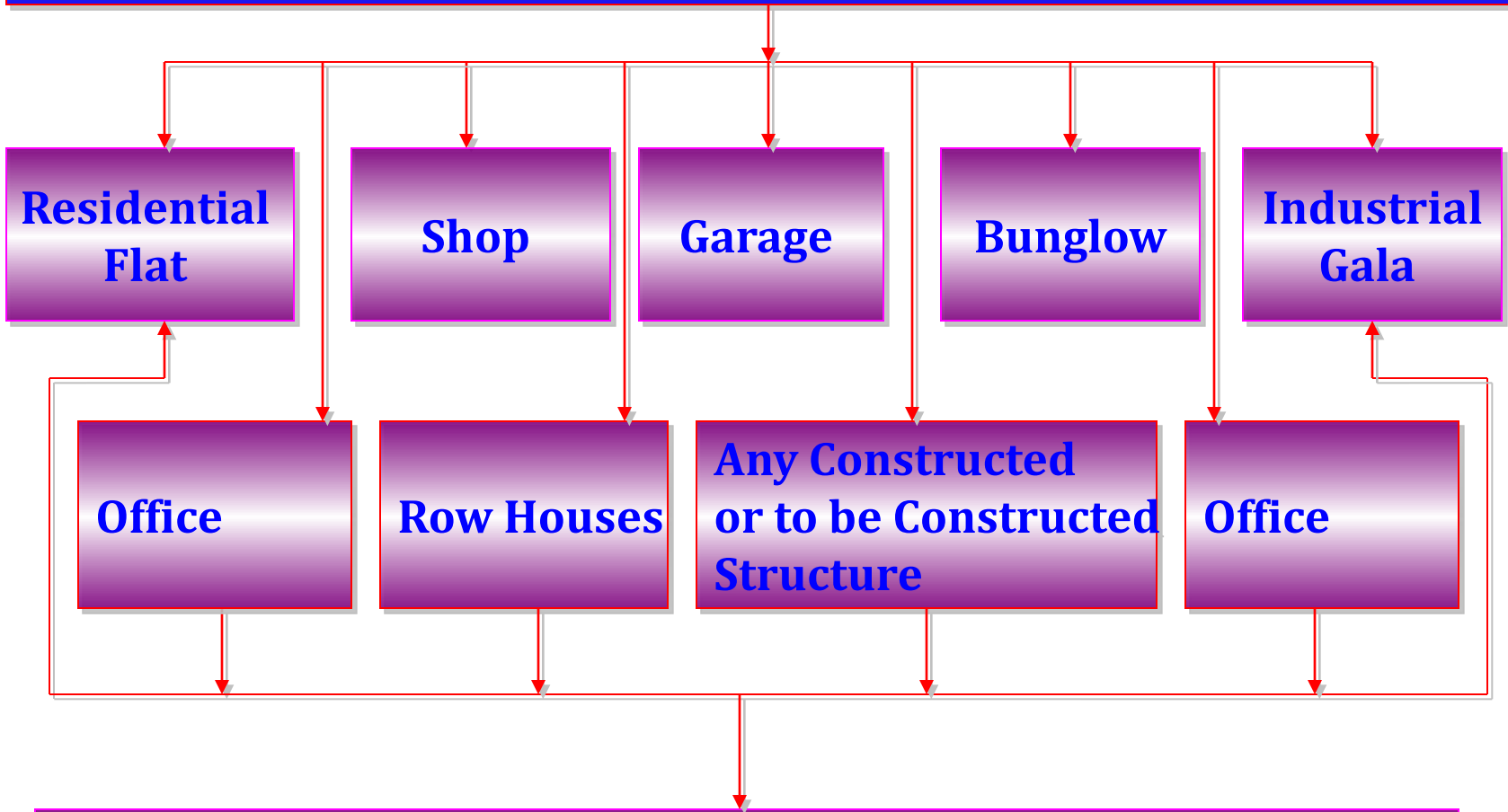
**Freehold Rights**

**Concerned with :**  
**(1) Apartments**  
**(2) Plotted development**  
**(3) Buildings**

**Leasehold Rights**



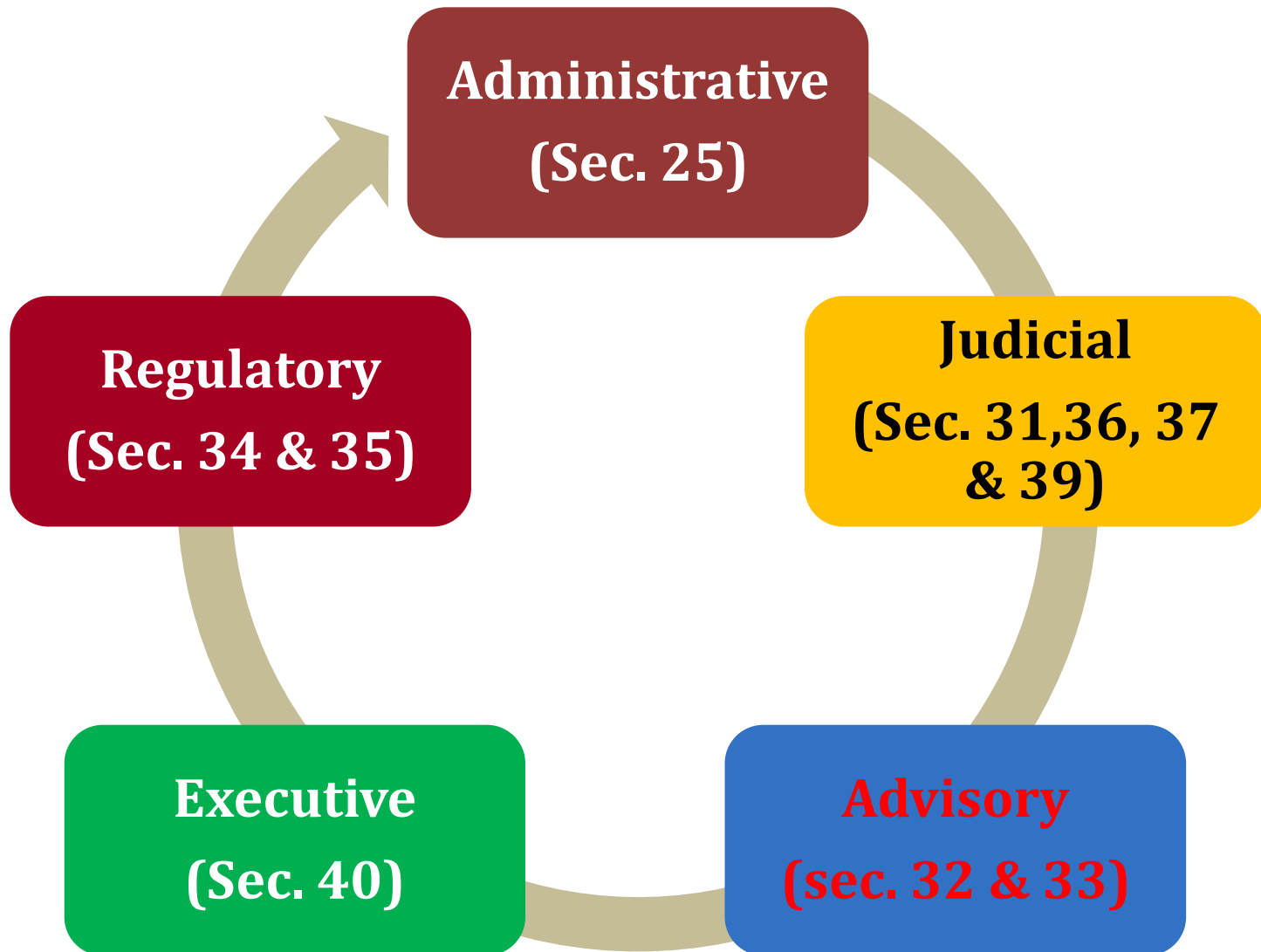
# APARTMENTS = INDEPENDENT UNIT/FLAT



**Provided or agreed to be provided by the Promoter  
To the Purchaser for a Consideration**

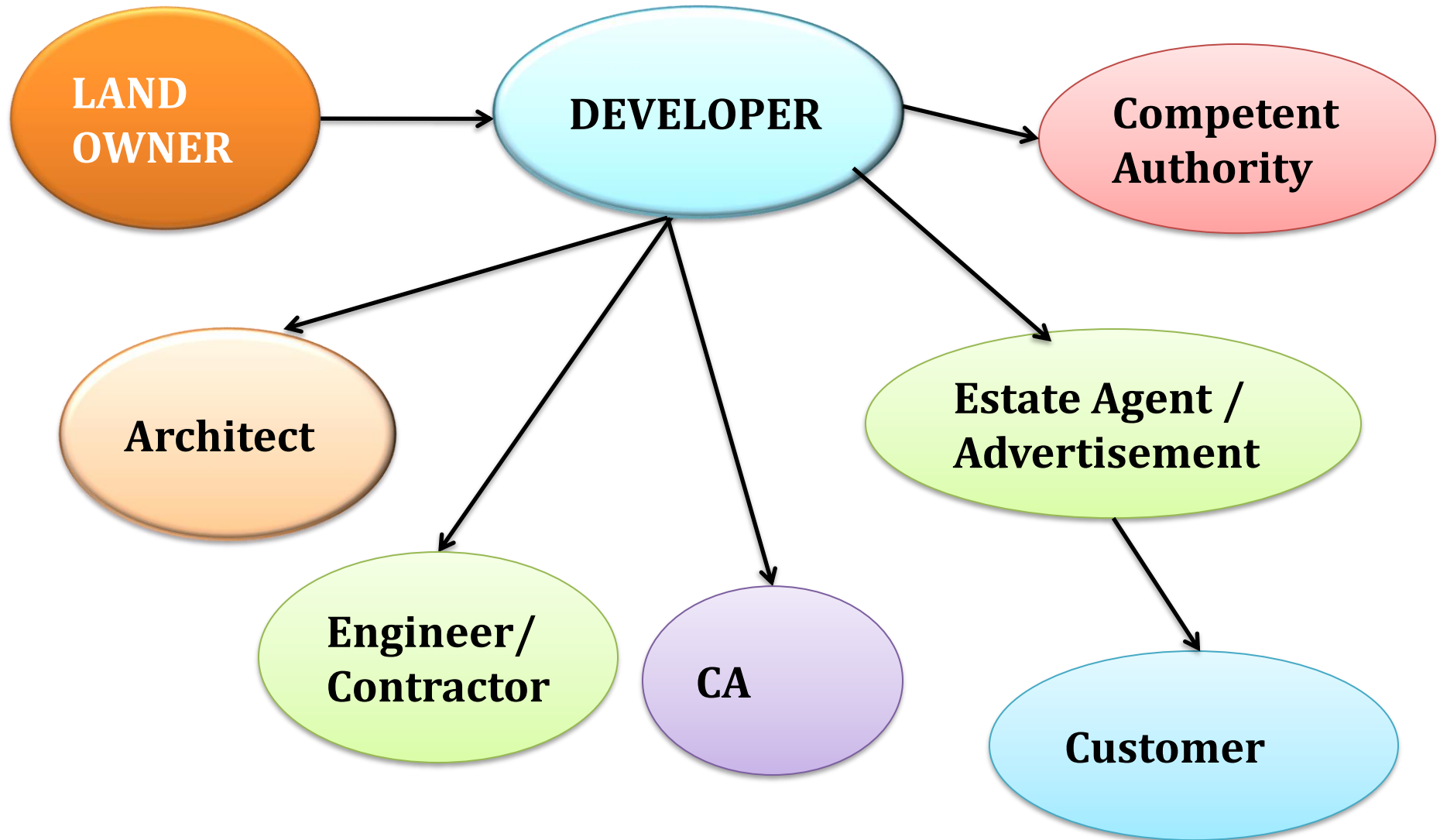
# FUNCTIONS OF RERA

---

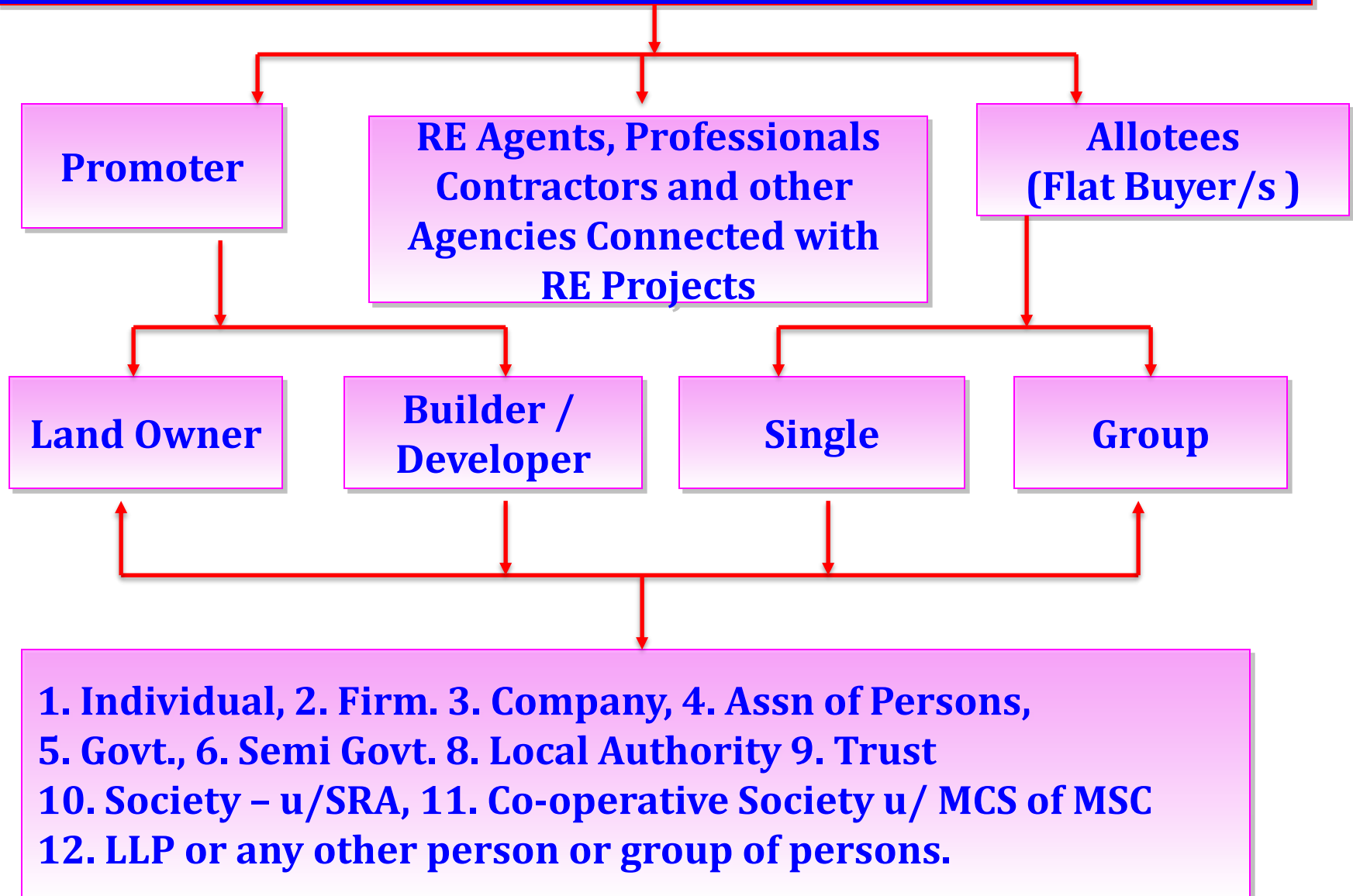


# PARTIES ACCOUNTABLE UNDER RERA

---



# PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE under RERA



# WORKING OF MOFA 1963

**DUTY OF BUILDER TO DISCLOSE  
VARIOUS DOCUMENT,  
PLANS ETC.**



Court Orders  
or Punishment

State Government  
Direction or Action



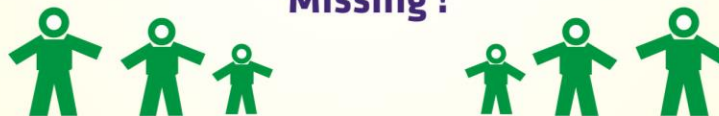
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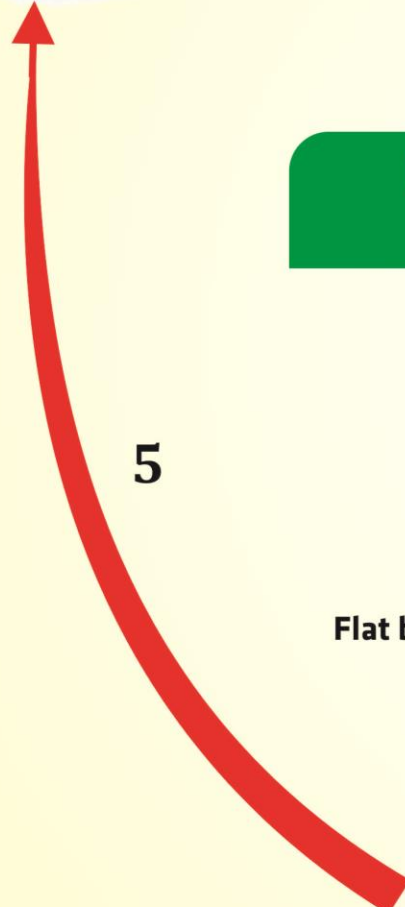
Flat buyer, RTI activist & common man may file RTI applications  
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and struggles to get orders passed against builder.

and / or

**Engages **LAWYER** and fights in  
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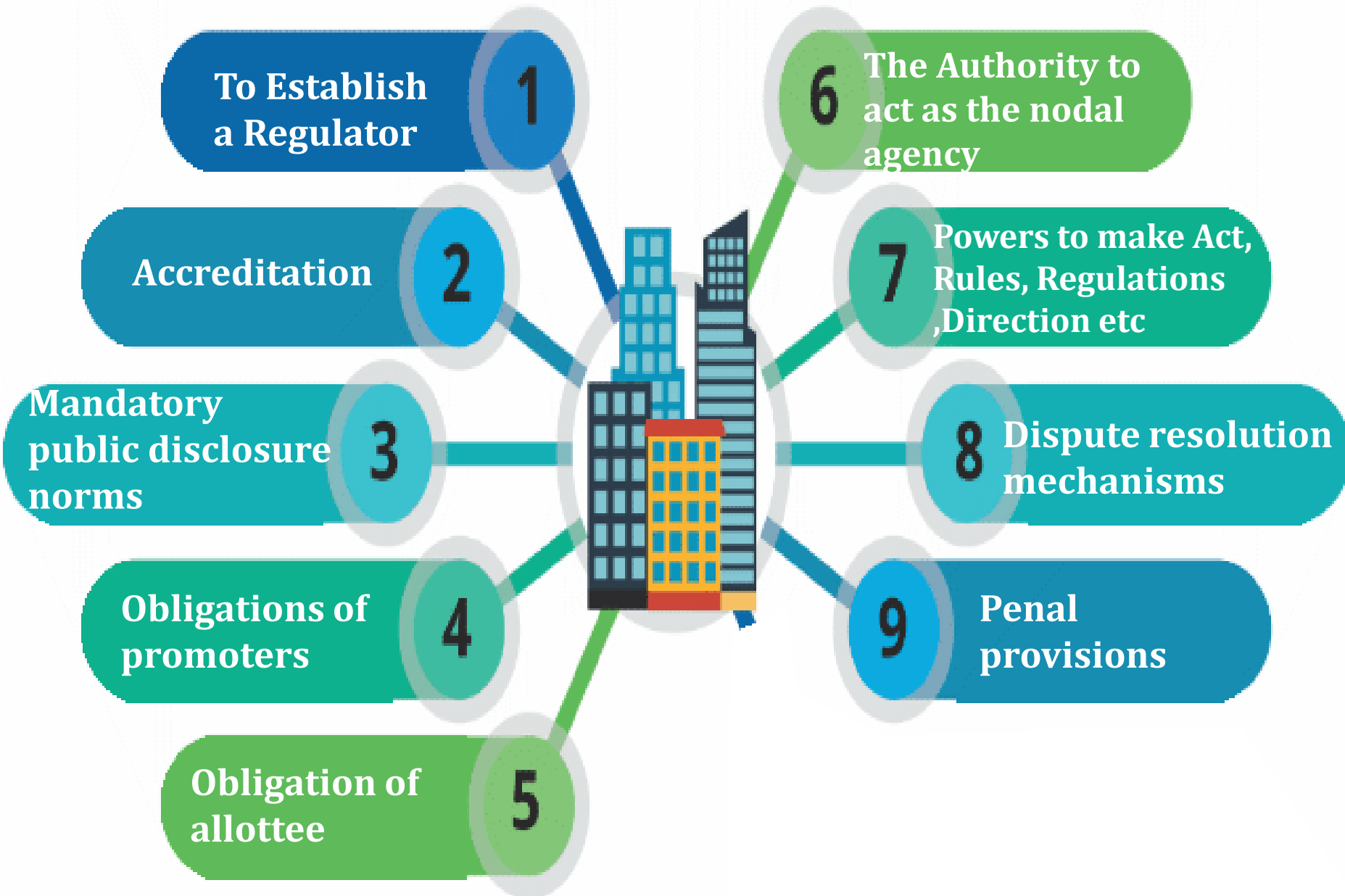
5

3



# THE SALIENT FEATURES OF THE RERDA-2016

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# **SALIENT FEATURES OF THE ACT**

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**Real Estate Project Registration**



**Real Estate Agent Registration**



**Filing of Complaints**



**Financial Discipline**



**Transparent & Consumer-oriented**

# RESPONSIBILITIES OF PROMOTER

---



REGISTRATION

Registration of project with RERA



Declaration by promoter



70% amount to be deposited in bank A/C



No ads without registration



Obligations of promoter for veracity of ads

**Sec. 2 (zk) defines promoter. In layman's language it means Builder**



# REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

---



# **U/S. 3 COMPULSORY REGISTRATION OF REAL ESTATE PROJECT**

**FOR DEVELOPMENT OF ANY IMMOVABLE PROPERTY IN PHASES OR OTHERWISE And All Pending Projects where OC is not received within 3 months And New Project before offer for sale.**

**REGISTRATION EXEMPTED**

**AREA DOES NOT EXCEED 500 SQ.METERS OR Less than 8 Units**

**All Completed Projects Where OC is Granted.**

**RENOVATION OR REPAIRS WHICH DOES NOT INVOLVE REALLOTMENT & MARKETING**

# U/S. 4 DISCLOSURE OF INFORMATION BY THE PROMOTER

By Registration of the Project for development of immovable property in specified form by paying prescribed fees and by submitting information.

No & Size of Layout, phases

Proposed Project & facilities

Approvals for each phase

Declaration by Promoter

He has Title & land is free from Encumbrances & Specimen of Agreement for sale Conveyance deed Allotment letter etc

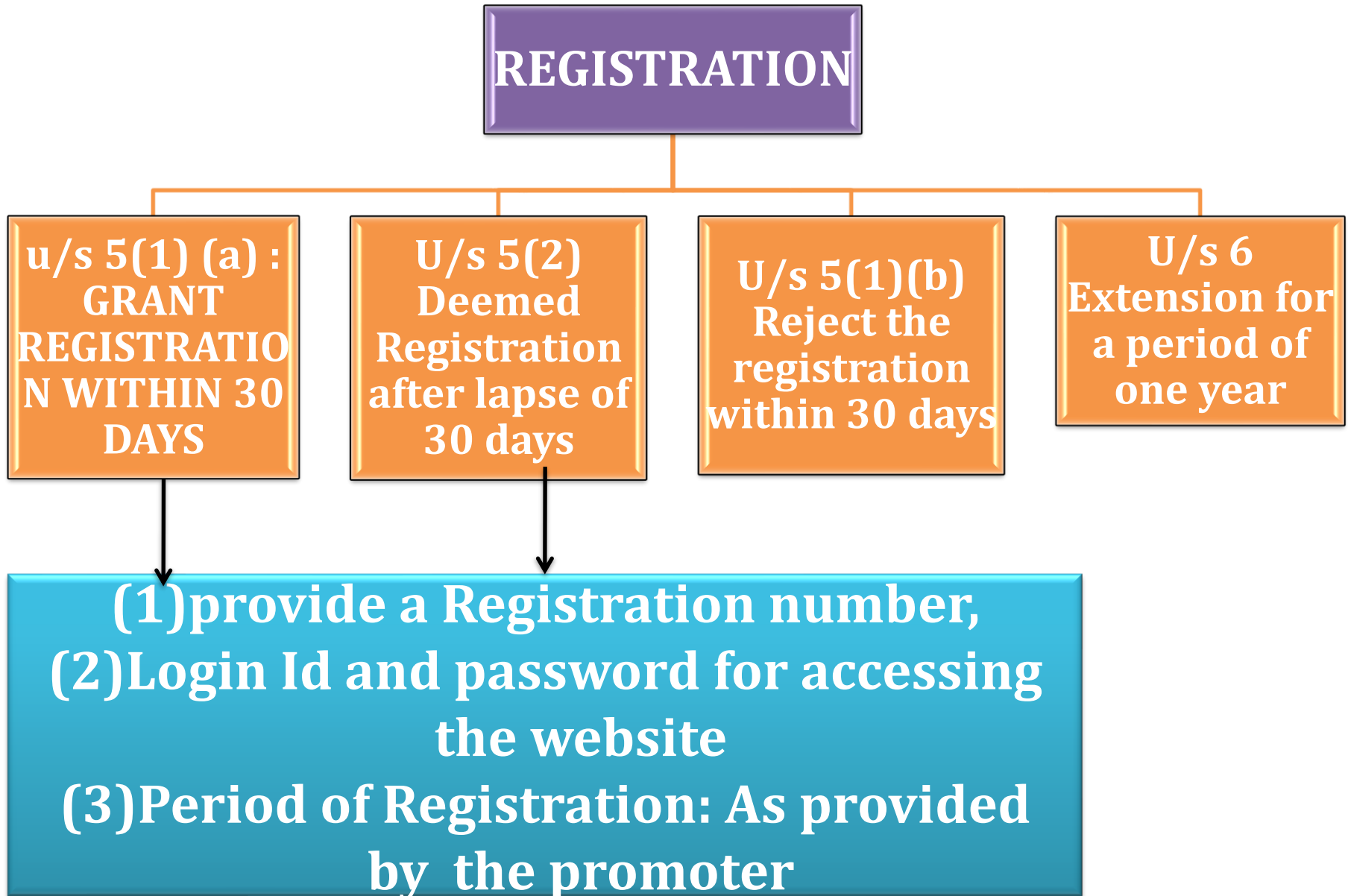
Project to be Completed as per Terms Of Registration And schedule of completion

Project to be Completed Within the period Of sanction by Competent Authority

70% of Realized amt to be deposited in a separate a/c In Sch. Bank For meeting cost Of project

# U/s 5 GRANT AND U/s 6 EXTENSION OF REGRN

---



# U/S. 7 RECOVACTION OF REGISTRATION OF REAL ESTATE PROJECT

**On complaint  
by  
any Stakeholders**

**Suo moto based  
on any information,  
Audit Report etc**

## U/s8 :Consequence of Revocation or Lapse

**Debar  
the  
promoters  
From  
Execution &  
Accessing  
Website**

**Complete the  
Project  
by the  
association  
of allottees or  
in any other  
manner.**

**Declare as  
Defaulter  
And  
Display  
Photographs  
In All States  
Website.**

**Freeze the  
Dedicated  
account and  
Transfer the  
balance  
To complete the  
project**

# **U/S. 9 COMPULSORY REGISTRATION OF REAL ESTATE AGENT & U/s 10 Functions.**

**U/s 9 No unregistered Real Estate Agents shall facilitate sale of registered projects with RERA.**

**U/s 10 Functions of Real Estate Agent**

**Not to Facilitate sale of unregistered projects**

**Maintain the books of a/c**

**Not to involve in any unfair trade practices.**

**Facilitate for all information & Docs**

**Any other functions prescribed**

# **OBLIGATIONS OF PROMOTERS :**

---

## **Sec-3**

- **Register the project with the authority before offer to sell.**

## **Sec- 4**

- **Upload 5 yrs track record and project details on website.**

## **Sec 4**

- **deposit 70% of buyers in a separate scheduled bank account, to be used for land cost and construction after certified by Architect , Engineer and Chartered Accountants. & Audit .**

## **Sec 11**

- **Disclose all the details of the project to customer**

# **OBLIGATIONS OF PROMOTERS :**

---

## **Sec-11**

- **Form the society on booking majority flats**

## **Sec- 12**

- **Liabe for damages for any misinformation in Advt.**

## **Sec -13**

- **Register the agreement before receiving more than 10%**

## **Sec 14**

- **Adhere to approved plans & project specifications  
Promoter is liable for 5 years defect liability**



# **OBLIGATIONS OF PROMOTERS :**

---

## **Sec-15**

- **NOC from 2/3<sup>rd</sup> and Authority to create third party interest**

## **Sec- 16**

- **Take insurance of Title and building**

## **Sec -17**

- **Transfer the title within 3 months of OC**

## **Sec 18**

- **Refund , compensation and interest on default.**



# **REAL ESTATE Regulatory Authority : Not a separate Approval Authority**

**1**

**Promoters:  
To get approval from  
Competent Authority:  
Planning and local  
Authority like PMC,  
MCGM etc.**

**2**

**Screening Authority  
between Promoter &  
Purchasers  
Collect all the  
Information ,Approval,  
Documents & persons  
involved in the  
execution of RE Project  
& Grant Registration &  
Redress Disputes**

**3**

**Flat  
Purchasers  
and  
Consumer to  
transact with  
Promoters.**

# **RERDA- 2016**

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**Chapter I : Preliminary : Sec 1 and 2**

**Chapter II: Registration Of Real Estate Project And  
Registration Of Real Estate Agents – Sec 3 to 10**

**Chapter III : Functions And Duties Of Promoter – Sec 11 to 18**

**Chapter IV : Rights And Duties Of Allottees - Sec 19**

**Chapter V: The Real Estate Regulatory Authority- Sec 20-40**

**Chapter VI : Central Advisory Council - Sec 41 and 42**

**Chapter VII : The Real Estate Appellate Tribunal : Sec 43 to 58**

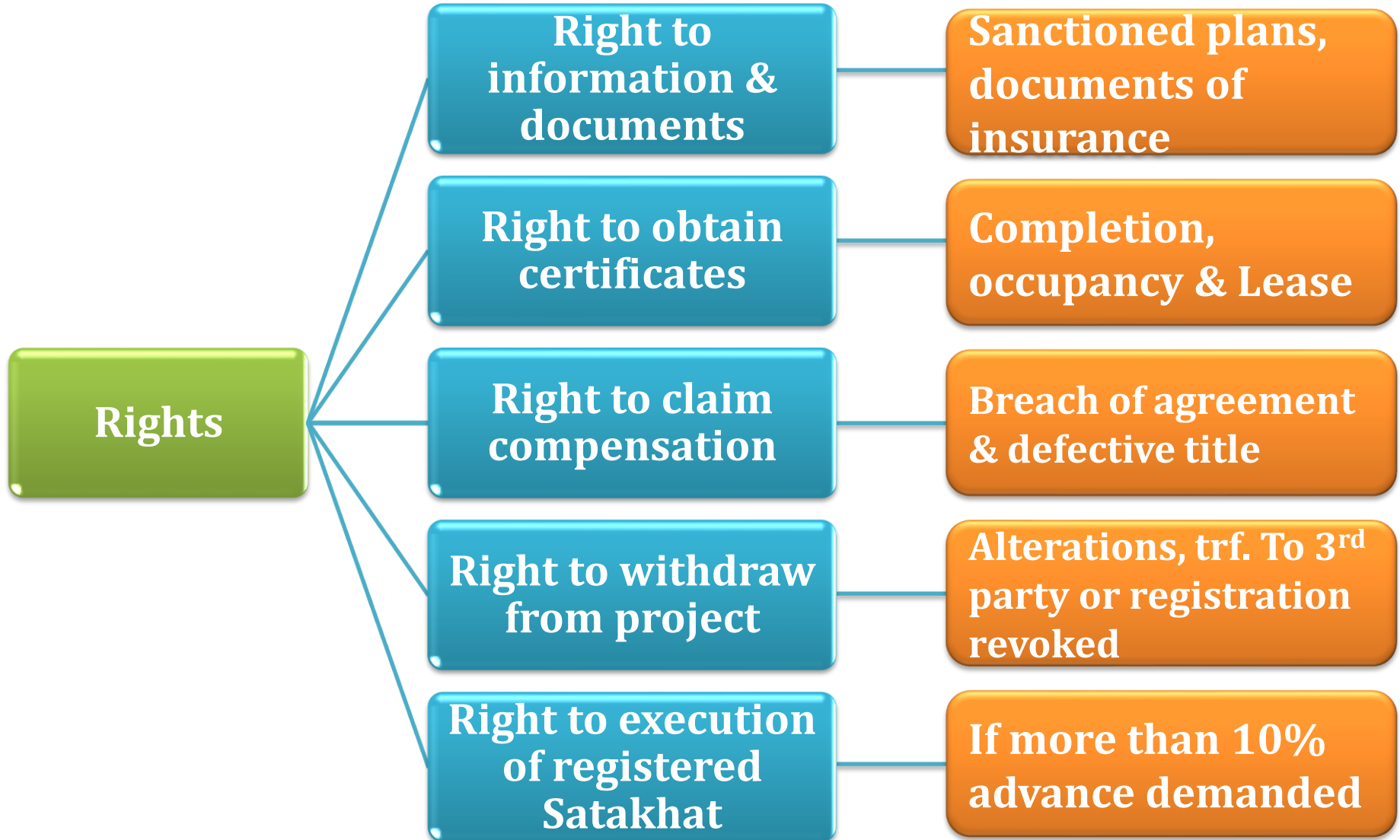
**Chapter VIII : Offences, Penalties And Adjudication: 59 to 72**

**Chapter IX : Finance, Accounts, Audits And Reports: 73 to 78**

**Chapter X : Miscellaneous : Sec 79 to 92**

# RIGHTS OF ALLOTTEES

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# **DUTIES OF ALLOTTEES**

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**Before booking, verify builder's registration**

**Not to buy apartment in unregistered projects**

**Not to pay more than 10% of cost before agreement and payment should be made by banking channels only.**

# **DUTIES OF ALLOTTEES**

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**To make necessary payments as per Agreement & interest for delay thereon**

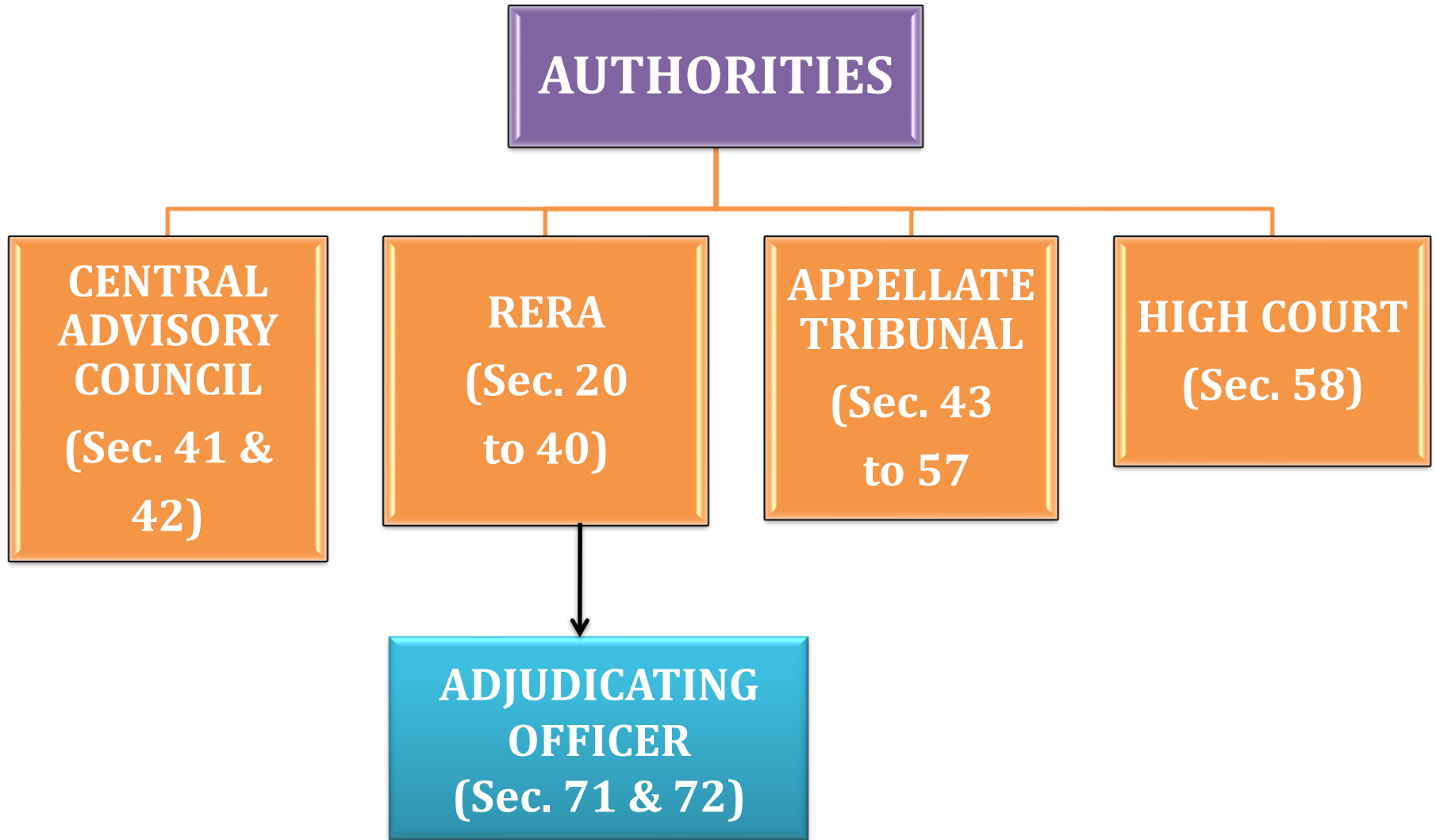
**To participate in formation of association**

**To participate in registration of conveyance deed**

**To take physical possession within a period of 2 months receiving occupancy certificate**

# REGULATORY SYSTEM

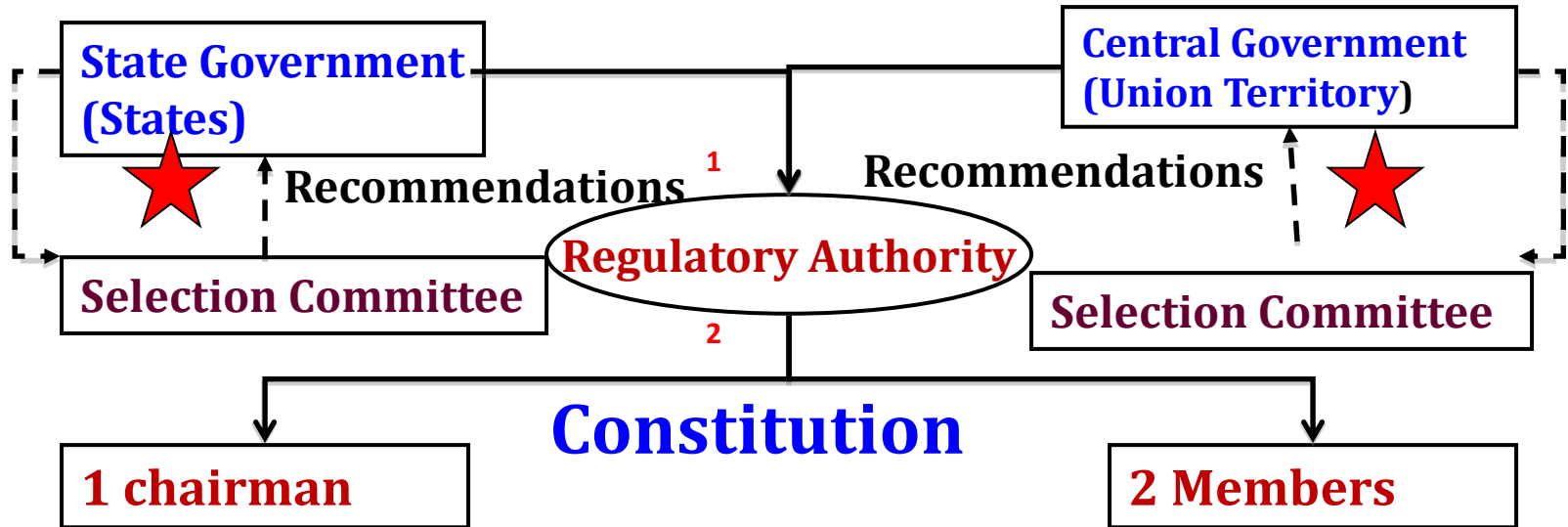
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# CH-V ESTABLISHMENT OF REGULATORY AUTHORITY

## APPROPRIATE GOVERNMENT



A person with at least 20 yrs of experience  
Or  
Secretary to CG or any equivalent post in CG or SG

A person with at least 15 yrs of experience  
Or  
Secretary to SG or any equivalent post in CG or SG

# FUNCTIONS OF REGULATORY AUTHORITY

**ADJUDICATION**

Settle disputes amongst allottee themselves

Settle disputes b/w allottee & promoters

Recovery of Penalties

**PROMOTER**

Granting Registration

Maintain Website

compliance of obligations

Enter names of Defaulter Developers on the website

Functions of RA

**REGULATOR & RULE MAKING**

Ensure compliance of Directions

Recommendations

Advise to Appropriate Govt.

Making Enquiries

**CONSUMERS**

To fix charges levied on allottee

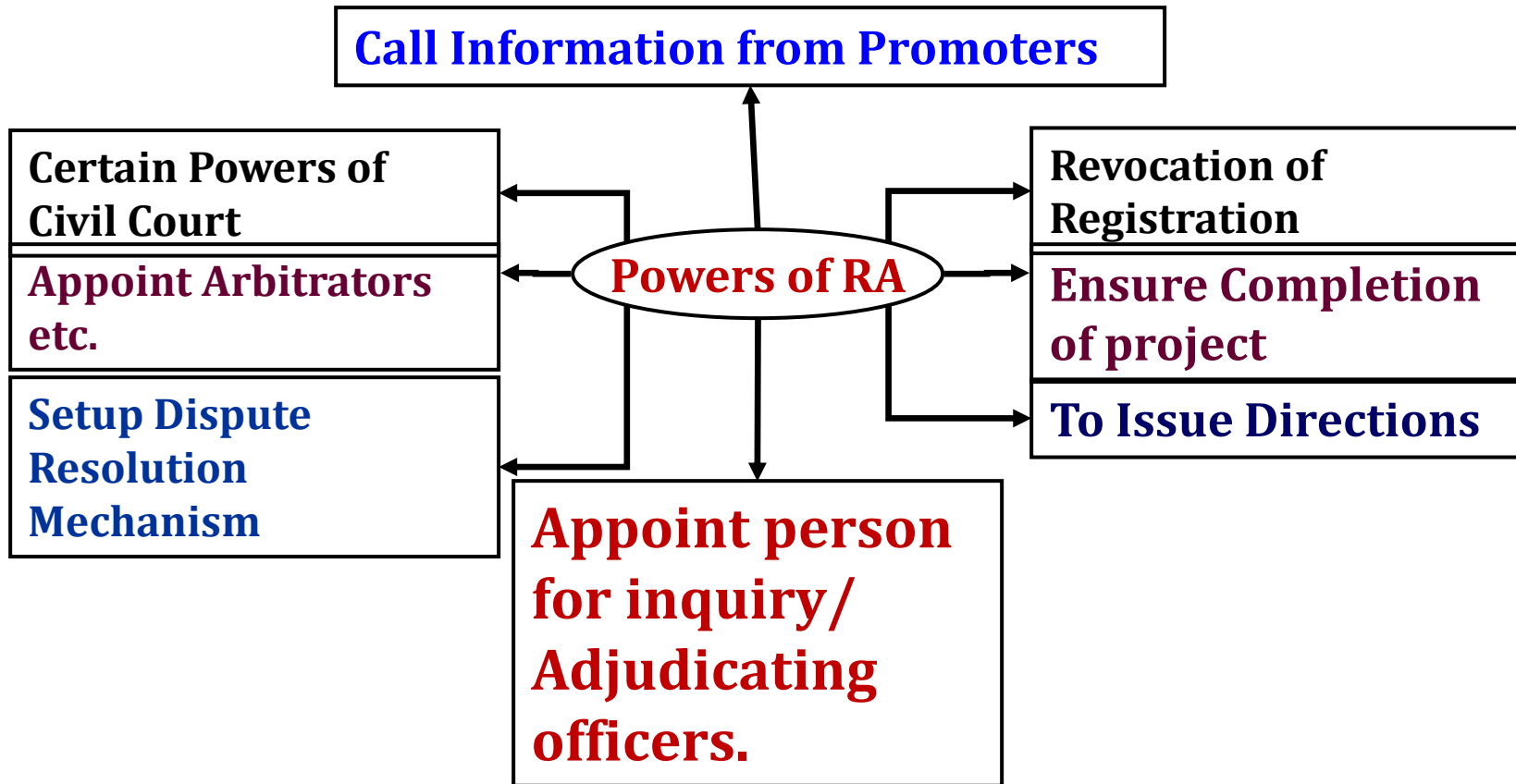
Ensure construction of Affordable Housing

Standardization of construction

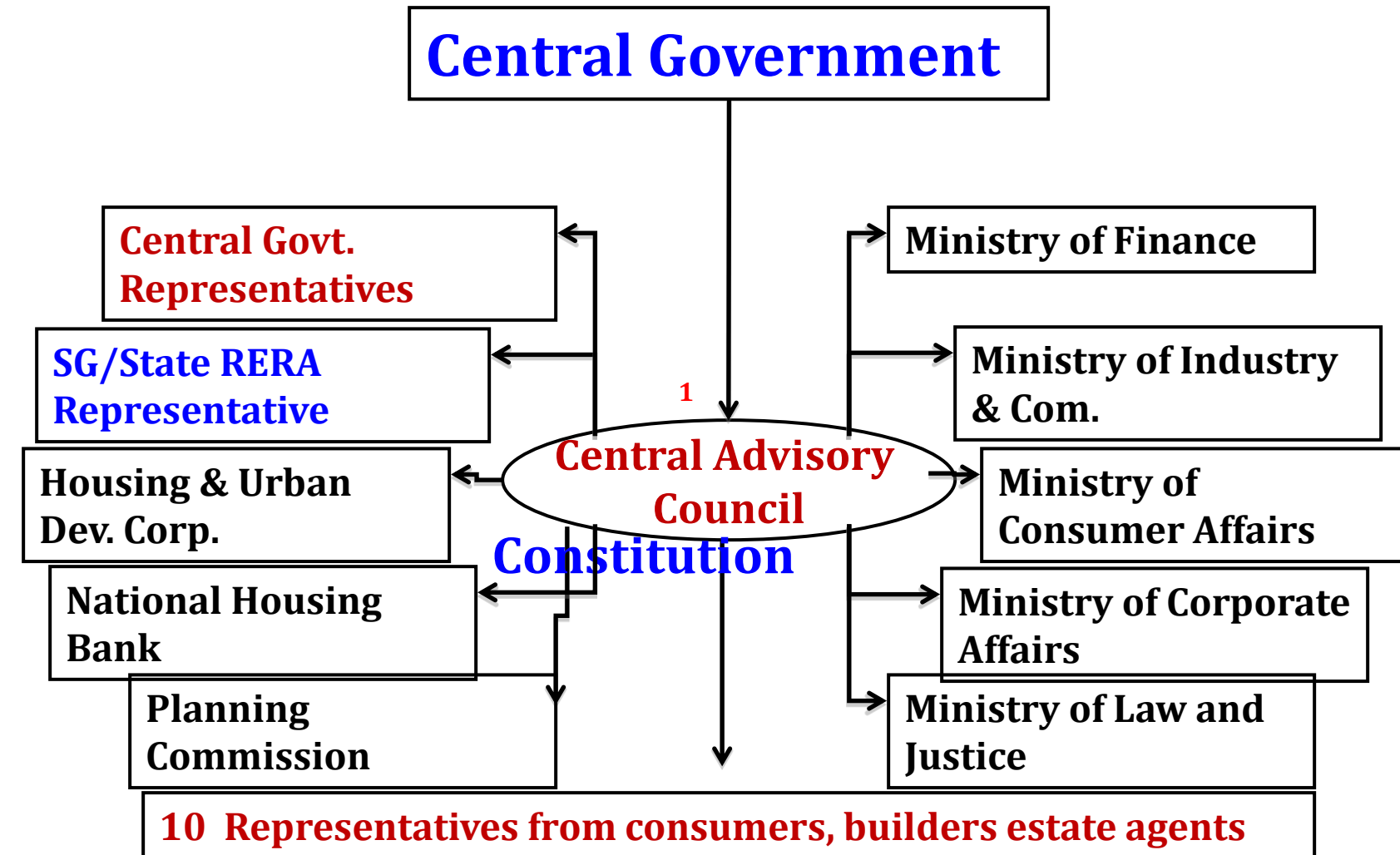
Promote transparent, efficient & competitive real estate sector

# POWERS OF REGULATORY AUTHORITY

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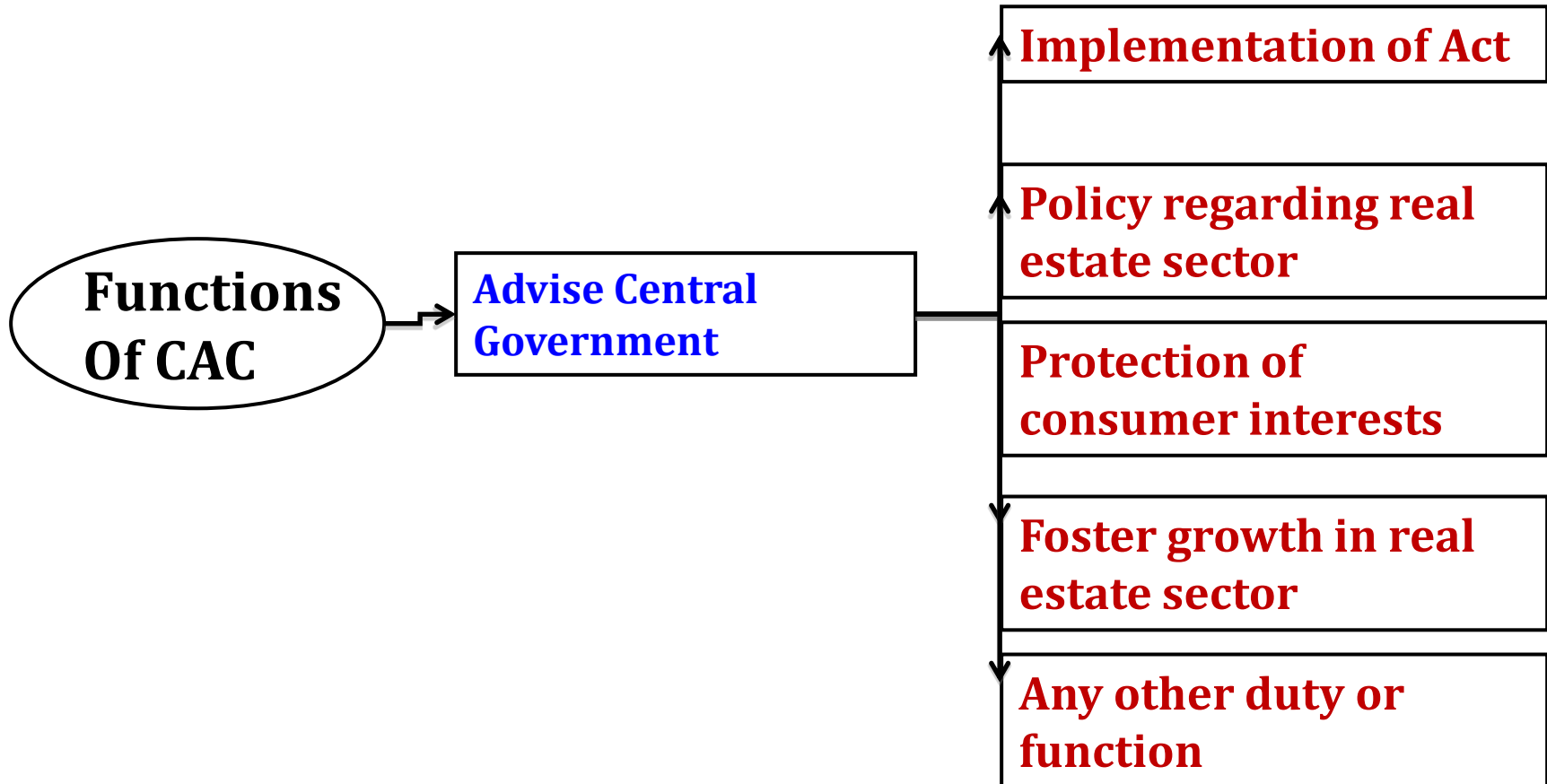
# ESTABLISHMENT OF CENTRAL ADVISORY COUNCIL



1. Central Government to appoint Central Advisory Council.

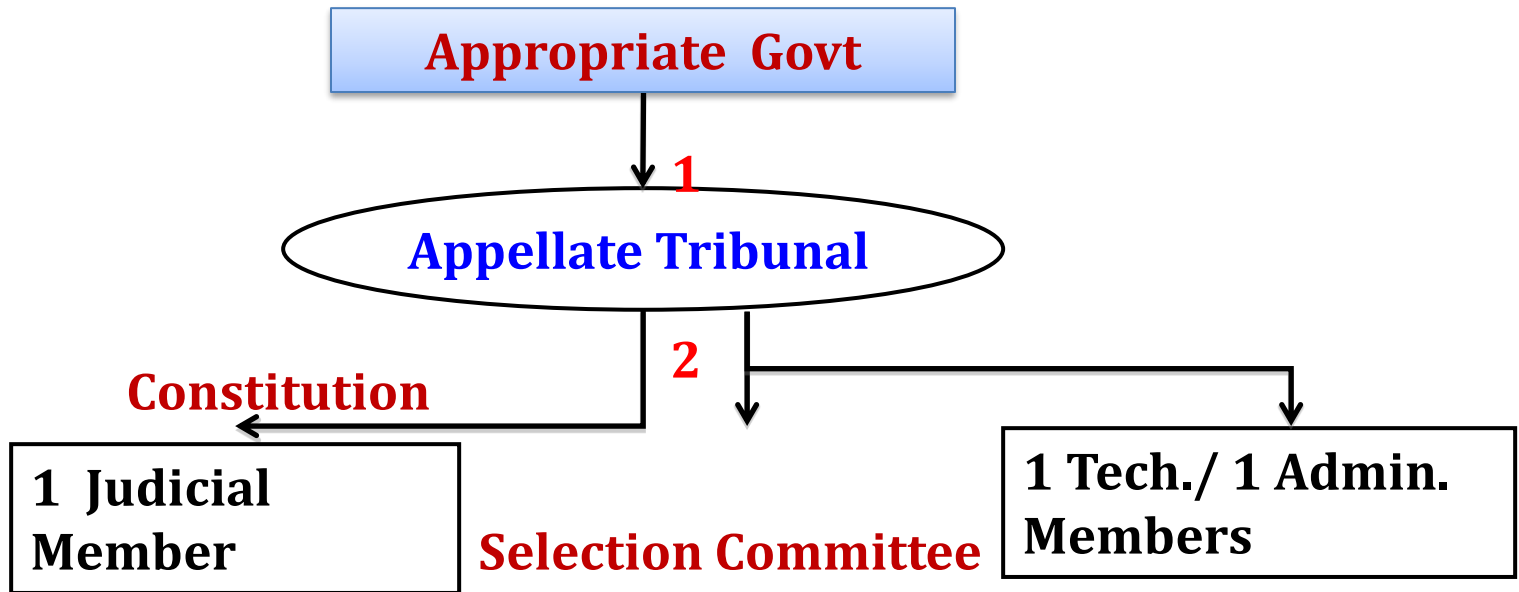
# ESTABLISHMENT OF CENTRAL ADVISORY COUNCIL

L-1



# ESTABLISHMENT OF APPELLATE TRIBUNAL

---



**Judge of High Court**

**Judge of Supreme Court**

**Or**

**Chief Justice of High Court**

**Selection Committee**

**Recommendations of SC**

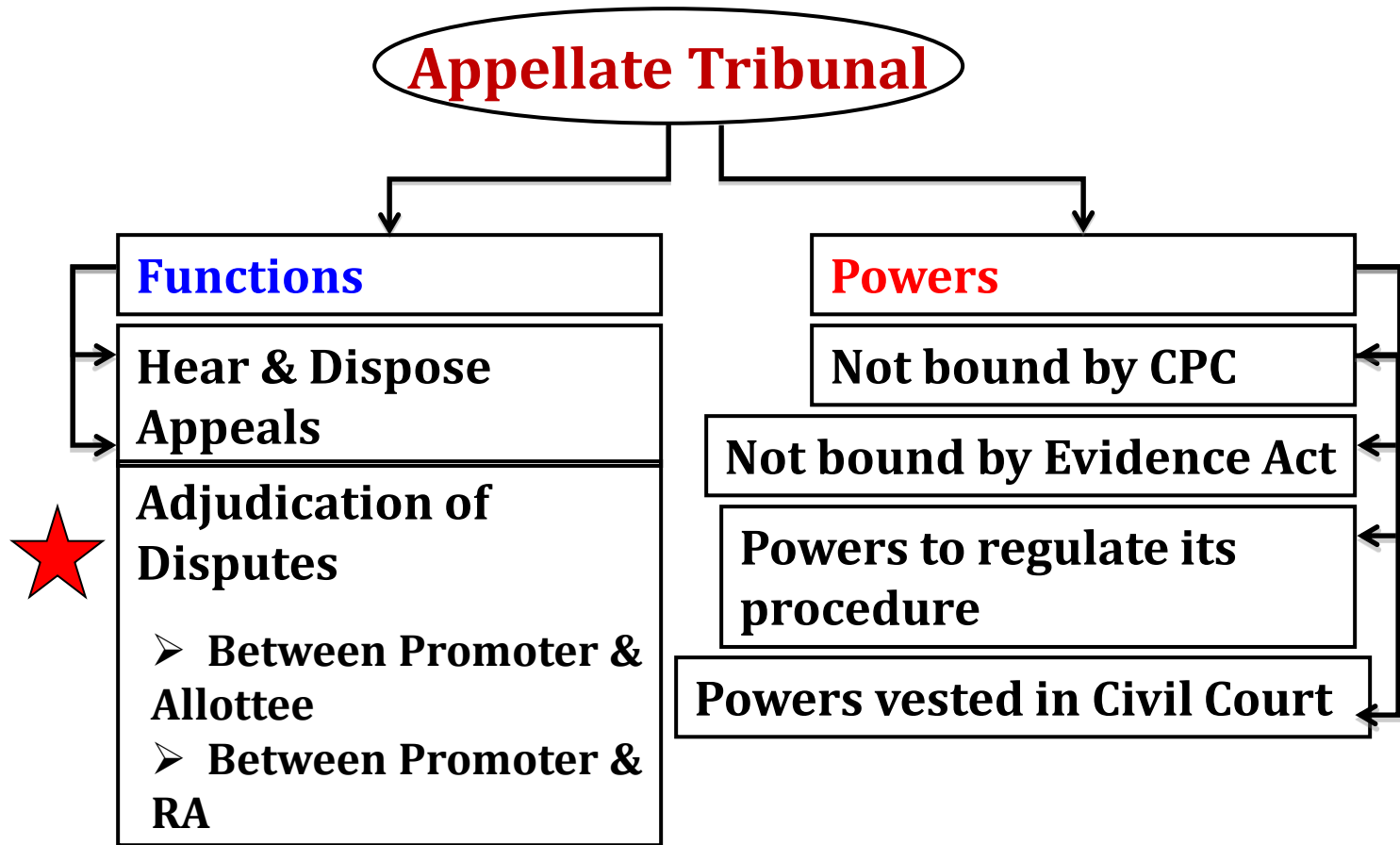
**A person with 20 yrs experience in field of urban development, housing, real estate etc.**

**Or**

**Secretary to GOI or an equivalent post in CG or SG**

# POWERS & FUNCTIONS OF APPELLATE TRIBUNAL

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Appeal to be preferred to AT against order of RA (within 60 days).  
Appeal to be decided by AT within 60 days. Order of AT to be executed as Decree of civil court.

# **RIGHT TO LEGAL REPRESENTATION**

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**As per Section 56  
of the Act**

```
graph TD; A[As per Section 56 of the Act] --- B[Chartered Accountant]; A --- C[Cost Accountant]; A --- D[Company Secretary]; A --- E[Advocate];
```

**Chartered  
Accountant**

**Cost  
Accountant**

**Company  
Secretary**

**Advocate**

Are authorized to appear on behalf of applicant or appellant before Appellate Tribunal or a Regulatory Authority or Adjudicating Officer as the case may be



# **RIGHT TO LEGAL REPRESENTATION**

---

**Thus only above professionals are authorised under the Act to :**

- ✓ Represent a person (promoter) before any real estate regulatory authority for registration of real estate project,
- ✓ Represent a person before real estate appellate tribunal.
- ✓ Represent a person before any other competent authority for any other purpose under Real Estate (Regulation and Development) Act, 2016.

# **OFFENCES AND PENALTIES**

---

<b>Section</b>	<b>Offence</b>	<b>Penalty</b>
<b>59(1)</b>	<b>Contravention of S-3 i.e. failure to obtain registration.</b>	<b>Upto 10% of cost of project as per RERA.</b>
<b>59(2)</b>	<b>Contravention of any other provision of (other than S-3) or of rules made there under.</b>	<b>Punishable with a term extended upto 3 yrs. Or with fine which may extend upto further 10% of the cost of project or with both.</b>

# OFFENCES AND PENALTIES

---

<b>Section</b>	<b>Offence</b>	<b>Penalty</b>
<b>60</b>	<b>Provides false information or contravenes the provisions of sec.4 – Application for registration with RERA</b>	<b>Penalty upto 5% of cost of project.</b>
<b>61</b>	<b>Contravention of any other provisions of the Act.</b>	<b>Penalty upto 5% of cost of project.</b>

# OFFENCES AND PENALTIES

---

<b>Section</b>	<b>Offence</b>	<b>Penalty</b>
<b>62</b>	<b>Non Registration by Estate Agents or contraventions of section 9 and 10 regarding registration of estate agents with RERA</b>	<b>Rs.10,000/- during which such default continues which may cummulative extend upto 5% of cost of plot/flat/ Apt for which sale and purchase has been facilitated as per RERA.</b>
<b>63</b>	<b>Failure to comply with the orders of Authority by the Promoter</b>	<b>Penalty for every day during which the default continues, which may be cummulative upto 5% of cost of project.</b>

# **OFFENCES AND PENALTIES**

<b>Section</b>	<b>Offence</b>	<b>Penalty</b>
<b>64</b>	<b>Failure to Comply with the Orders of Appellate Tribunal by Promoter</b>	<b>Punishable with imprisonment for a term which may extend upto 3 years or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost of project.</b>
<b>65</b>	<b>Failure to comply with the orders of Authority by the Real Estate Agent.</b>	<b>Penalty for every day during which the default continues, which may be cummulatively upto 5% of cost of plot/flat as the case may be for which sale /purchase done.</b>

# **OFFENCES AND PENALTIES**

---

<b>Section</b>	<b>Offence</b>	<b>Penalty</b>
<b>66</b>	<b>Failure to Comply with the Orders of Appellate Tribunal by real estate agent</b>	<b>Punishable with imprisonment for a term which may extend upto 1 year or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost of flat/Apt as the case may be done.</b>
<b>67</b>	<b>Failure to comply with the orders of Authority by the Allottee.</b>	<b>Penalty for every day during which the default continues, which may be cummulatively upto 5% of cost of plot/flat as the case may be for which sale /purchase done.</b>

# **OFFENCES AND PENALTIES**

---

<b>Section</b>	<b>Offence</b>	<b>Penalty</b>
<b>68</b>	<b>Failure to Comply with the Orders of Appellate Tribunal by the allottee.</b>	<b>Punishable with imprisonment for a term which may extend upto 1 year or with fine for every day during which such default continues, which cumulatively extend upto 10% of the estimated cost of flat/Apt as the case may be.</b>
<b>69</b>	<b>Offence committed by Company- Every officer at the relevant time and also the company shall be liable to pay the penalty.</b>	<b>Every Director officer or manager who is liable to discharge the duties shall be considered as committed the offence and shall be accordingly committed.</b>

# RERDA- 2016

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## Sec 70

- **Compounding of offence by court by levying penalty as per Rules**

## Sec 71

- **Adjudication on Sections 12,14, 18 and 19**

## Sec 72

- **Factors to be considered for Adjudicaiton**



# ARRANGEMENT OF CLAUSES

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## CHAPTER IX

### FINANCE, ACCOUNTS, AUDITS AND REPORTS

73. Grants and loans by Central Government.
74. Grants and loans by State Government.
75. Constitution of Fund.
76. Crediting sums realised by way of penalties to Consolidated Fund of India or State account.
77. Budget, accounts and audit.
78. Annual report.

## **CHAPTER IX**

### **FINANCE, ACCOUNTS, AUDITS AND REPORTS**

73. Grants and loans by Central Government.
74. Grants and loans by State Government.
75. Constitution of Fund.: Grants, Fees, Int and applied for salaries, Allowances, Members and all administrative expenses.
76. Crediting sums realised by way of penalties to Consolidated Fund of India or State account.
77. Budget, accounts and audit. : to be prepare by the RERA, Audited by Comptroller and Auditor General of India -Annually and lay before Parliament or the State Assembly.
78. Annual report. In such form and such items as may be prescribed by the Appr.Govt.

## **CHAPTER X – MISCELLANEOUS**

79. Bar of jurisdiction : Bar of Civil Court
80. Cognizance of offences. : Not Court other than Authority and Not court inferior to Metropolitan Magistrate or Judicial Magistrate of First Class.
81. Delegation. Power other than Rules making may be delegated to any officers for any purpose.
82. Power of appropriate Government to supersede Authority.
83. Powers of appropriate Government to issue directions to Authority and obtain reports and returns.
84. Power of appropriate Government to make rules.

85. Power to make regulations with Authority
86. Laying of Rules –Central Govt before Parliament and for state Govt – before assembly for 30 days.
87. Members, etc., to be public servants-U/s. 21 of Indian Penal Code.
88. Application of other laws not barred: This is in addition to and not derogation of the Provisions of any other law for the time being.
89. Act to have overriding effect.
90. Protection of action taken in good faith.
91. Power to remove difficulties.: Central Govt may notify any order for 2 years to remove difficulties.
92. Repeal.. Mah. Hsg(R&D) Act, 2012









**HON'BLE SHRI. PRITHVIRAJ CHAVAN, CM, Govt. of Maharashtra, Releasing a Book on Conveyance & Deemed Conveyance in Marathi, Authord By CA. RAMESH S. PRABHU,Chairman, MSWA on the Occasion of Housing Melava on June13, 2012 at Shanmukhanand Hall in Matunga**





**Presenting a Deemed Conveyance Book to**  
**Hon'ble Shri. GAUTAM CHATTERJEE, IAS**, Principle Secretary,  
Hsg. Dept., Govt. of Mah. & **Hon'ble Shri. Sitaram Kunte, IAS**,  
Municipal Commissioner of Greater Mumbai.

**By Author CA. Ramesh S. Prabhu**



# **DISCLAIMER**

**All the efforts are made to cover the important provisions of the law. The material contained herein is not exhaustive, and contains certain generalizations. The latest Provisions and Notifications must be viewed. The presenter is not responsible for any loss incurred on the actions taken based on the material presented.**

**-----CA. Ramesh S. Prabhu**



**Let us be Partner in Nation Building**

**CA.Ramesh S. Prabhu, FCA, CISA(USA)**

**09820106768/ [rsprabhu13@gmail.com](mailto:rsprabhu13@gmail.com)**

**Let us empower each one of us by sharing knowledge. Let us Innovate, Get involved & Solve issues collectively within four corners of Law.**

**Thank you for Getting involved in the discussion!**

**CA RAMESH PRABHU ,**

**- 09820106768**

**EMAIL:rsprabhu13@gmail.com**

**CHAIRMAN**

**MAHARASHTRA SOCIETIES WELFARE ASSOCIATION, CO-OPTED MEMBER OF TASK FORCE FOR NPOS & CO-OPS OF MAHARASHTRA, CONVENER TO PREPARE GUIDANCE NOTE ON AUDIT OF DISTRICT AND STATE CO-OP BANKS –PUBLISHED BY PDC OF ICAI, CO-OPTED MEMBER OF CO-OP COMMITTEE (MAHARASHTRA) OF WIRC OF ICAI.**