

A Review on Indian Real Estate: Trends, Challenges and Prospectus

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Abstract

The real estate sector in India is presently worth USD15 billion and it is growing at a phenomenal rate of 30% per year. This sector is the second largest employer in India, after the agricultural sector. Having attained maturity, the real estate sector is attracting huge investments, especially FDI. Today, real estate in India addresses the demand for built-up space, from a variety of property segments such as offices, residential units, shopping malls, hospitality industry, manufacturing sector and logistics parks, to name a few. The real estate sector is also active in the establishment of SEZs and the building of townships; it is spreading to the smaller cities and underpins their growth. The concept of “green” buildings is being adopted by the sector, testifying to a significant emphasis on sustainability considerations. Infrastructure developments closely parallel real estate developments. This paper presents a panoramic view of the operations of Indian real estate sector in various property segments, the challenges faced by the sector and its prospects. The contents of this paper are based on research reports and other eminent published sources. This paper will be useful to a cross-section of readers, more particularly so to those associated with the real estate sector.

Keywords: FDI, Infrastructure, Real Estate, Township.

I. INTRODUCTION

The term ‘real estate’ is defined as land, including the air above it and the ground below it, and any buildings or structures on it. It is also referred to as realty. It covers residential housing, commercial offices, trading spaces such as theatres, hotels and restaurants, retail outlets, industrial buildings such as factories and government buildings. Real estate involves the purchase, sale, and development of land, residential

and non-residential buildings. The main players in the real estate market are the landlords, developers, builders, real estate agents, tenants, buyers etc. The activities of the real estate sector encompass the housing and construction sectors also. The real estate sector in India has assumed growing importance with the liberalization of the economy. The consequent increase in business opportunities and migration of the

labour force has, in turn, increased the demand for commercial and housing space, especially rental housing. Developments in the real estate sector are being influenced by the developments in the retail, hospitality and entertainment (e.g., hotels, resorts, cinema theatres) industries, economic services (e.g., hospitals, schools) and information technology (IT)-enabled services (like call centers) etc. and vice versa. The real estate sector is a major employment driver, being the second largest employer next only to agriculture. This is because of the chain of backward and forward linkages that the sector has with the other sectors of the economy, especially with the housing and construction sector. About 250 ancillary industries such as cement, steel, brick, timber, building materials etc. are dependent on the real estate industry.

I.I International Trends In The Real Estate Growth

I.I.I Canada

Canada barely experienced recession and jolted into a V-shaped recovery, now, 2011 promises slowing, steady growth and decent prospects for real estate investors as long as the U.S. economy does not drag them down. “Relieved” Canadian property owners and financial institutions cannot help contrasting their reasonably healthy condition with parlous U.S. markets. Recent experience puts “Canada in a better place” and boosts confidence “that we can escape U.S. problems.” Always linked to its more populous southern neighbor, the nation “tries to diversify” beyond a dependence on U.S. exports, extending trading relationships to Europe and Asia, particularly China. Still,

a weak U.S. greenback and sputtering U.S. economy dampen cross-border commerce, hurting especially Ontario industrial markets, which serve Midwest manufacturing centers. Except in Calgary, Canada’s version of Wild West hot growth, builders have not overstepped, North America’s largest condominium market, Toronto keeps erecting high rises, but a greenbelt boundary to encourage denser neighborhoods helps support urban residential development. Toronto probably needs to take a breather in new office construction: four major new buildings come on stream. And the country does not need much additional retail space. Ontario typically provides good industrial development opportunities, but until the U.S. economy strengthens, sluggish demand does not support much new building. Canadians admirably restrain any national gloating, but they can lay claim to having one of the world’s healthiest capital markets.

I.I.II Mexico

Mexico offers obvious positives—a hard-working population, an expanding middle class, and the resulting increased demand for homes and consumer goods. But everybody reads about mind-blowing drug wars, police corruption, and political assassinations. In addition, real estate markets hit the skids when the U.S. economy tanked. Prices declined 30 to 35 percent and now recover—more than “halfway back”—but it’s been “tough sledding. Mexican investors did not over borrow, patient equity players “take a patrimonial view” and count on long-term returns, relying on healthy demographics and controlled development. In fact, most cities and property sectors have

avoided overbuilding. Boosters suggest that “markets now align” for significant growth from pent-up demand, and highlight opportunities to fill the remaining capital gap. “There’s a large hole to fill,” especially for construction loans. New laws allow domestic pension funds to invest in real estate and infrastructure, which could increase property market liquidity and demand for product. Most multifamily housing is owner occupied and heavily government subsidized. Developers receive a guaranteed return over ten-year periods without much upside. For-sale housing remains supply constrained by lack of construction financing, while the second-home market “went off the cliff” when U.S. retiree demand evaporated. Government planners encourage future development to focus on more urban concepts and city centers, getting away from expanding suburban envelopes. The road-dependent sprawl model, copied from the United States, reaches the point of diminishing returns, creating hardships for many Mexicans who cannot afford cars or cannot support multi car households.

I.II The Growth of the Real Estate in India:

Indian present realty is growing at 30%, particularly in Tier II and Tier III cities. The rise of the middle class (500 million), Non Resident Indians investing in Indian realty, Foreign Direct Investment entering the market, expansion of MNCs and Indian multinationals, proliferation of educational institutions, growth of IT, BPO, food processing & health care & increase in the income of middle class - all these are the factors responsible for the growth of Indian

realty. Chandigarh, Gurgaon, Vizag, Coimbatore, Kochi, Jaipur, Nagpur are some Tier II cities witnessing unprecedented boom. Real estate prices are now not affordable to the common man. NRIs, traders, well settled doctors, lawyers, engineers are ready to spend crores for their dream lands. After purchasing these lands, they spend lot of money on construction. It is not possible for common man to arrange so much capital/ amount for purchasing & developing such a house or properties. Trading is one of the reasons for the rise in prices, as a high potential nation industrializes slowly and steadily. Many builders have stepped in the realty sector and they are buying old houses, renovating them and selling them off at a huge profit. Across the length and breadth of India, real estate prices are skyrocketing, as NRIs and foreign firms fuel the demand of residential and business space.

I.III Realty on the upsurge

BANGALORE: India's real estate investment market has grown rapidly over the past three years. Average return of around 50 percent per annum in the sector for last four years has attracted huge investments from various quarters. The main sources of investments in the sector are high net worth individuals (HNI), private equity funds and now the foreign direct investments (FDIs) as the government has partially relaxed FDI regulations in Feb 2005. According to global consultancy firm CB Richard Ellis, the response from foreign investors is overwhelming. In a report, the firm says that by varied estimates, more than \$15 billion (Rs 70,000 crores) of foreign funds are awaiting investments into India.

In the last one and a half year, domestic realty funds have also raised \$4.5 billion (Rs 20,500 crores) to invest in the real estate sector. However, there is no official estimate made on the investment from HNI group. But according to banking sources the amount could be anywhere around Rs 1 lakh crore.

NEW DELHI: Mumbai slipped by one place to sixth in the list of the world's most expensive office locations in 2011, according to global realty consultant Cushman & Wakefield. The 2011 list was topped by Hong Kong, while London and Tokyo came second and third in the rankings, which valued Mumbai's office occupancy cost at USD 114 per square foot a year. India's financial capital occupied the fifth position in 2010, Cushman & Wakefield (C&W) said. Apart from being overtaken by Rio de Janeiro, Mumbai CBD (Central Business District) lost one position on the global ranking also because of the fact that it has not seen any change in the rental values over the previous year.

I.III. Employment in Real Estate Sector:

Real estate industry is one of the flourishing and dynamic sectors in India. This sector has witnessed constant growth in India. The real estate sector is the second biggest employment generator in India. Real estate business covers various activities such as development, appraising and selling of buildings. The scope of employment for estate brokers & agents are very bright in India. Career in real estate development covers various areas such as residential brokerage, commercial brokerage, industrial and office brokerage, property management,

land development, real estate appraising, urban planning, real estate counseling and real estate research. Land development is one of the most significant specialties in real estate industry. The developers use the vacant land to construct the government offices, industrial estate, commercial offices, residential townships, multiplexes, factories, hotels and restaurants, entertainment centers and shopping malls. The residential and commercial brokers help the people to sell and buy homes and income-producing properties. The urban planners work with local government to anticipate the future growth of the city. The main task of real estate counselors is to give advice about property. There is a constant need for the skilled employees in government agencies and private firms related to appraising, developing, merchandising and financing the residential, industrial and commercial real estate.

I.IV Foreign Direct Investment (FDI) in Real Estate:

The decision to liberalize the FDI norms in the construction sector is perhaps the most significant economic policy decision taken by the Government of India. Until now, only Non-Resident Indians (NRIs) and Persons of Indian Origin (PIOs) were permitted to invest in the housing and the real estate sectors. Foreign investors, other than NRIs, were allowed to invest only in development of integrated townships and settlements, either through a wholly owned subsidiary or through a joint venture company in India, along with a local partner. However, the guidelines prescribed via Press Note 2 (2005) series, issued by Ministry of Commerce & Industry, have further opened

out FDI in townships, housing, built-up infrastructure and construction-development projects. Major corporations are taking initiative and are wooing international players soliciting investments for major projects.

I.V Indian Real Estate-Opportunities and Challenges

Indian real estate boom has been partly backed by the revolution brought about by private banks in the Home Loans business as it has proved to be the most lucrative segment for the Indian banking industry as well. **Firstly**, it is the sustained high growth rate of GDP and increasing GDP per capita in the country providing an impetus to the real estate demand across segments. According to the recent FICCI report: the last three years have seen real GDP rise a cumulative 26 per cent, with impressive increases of 8.5per cent in 2003/04, 7.5per cent in 2004/05 and 8.4per cent in 2005/06 on the back of the robust growth across industries. Thus, setting into motion the demand for commercial / industrial as well as residential real estate. **Secondly**, the huge demographic shift being witnessed in the country in the last decade is cited as one more reason behind the sector's exponential growth. The increasing rate of life expectancy, declining infant mortality and a high but falling birth rate in the country have created an additional demand for housing and infrastructure for the ever-increasing burgeoning population. An estimate shows that the present 1.1 billion India's population would touch 1.5 billion by 2030, thus edging out China as the most populous country in the world. Coupled with the significant rise in the working population

and dependency ratio below 50per cent, it is expected it would generate higher personal savings and stronger investments, resultantly boosting the growth of real estate further. Urbanization is seen as another underlying macroeconomic factor that is fostering the growth in India. According to the estimates of United Nations Population Division, the urban population of India will grow at a rate of 2.5per cent per annum for the next two and a half decades, doubling it to 600 million people by 2030. And according to Census of India estimates, 41per cent of the total population will be living in the urban areas by 2011, thus triggering an increase in demand for space in these areas.

Besides these, favorable reforms ensuring easy project financing, increased fiscal incentives to developers and simplification of Government procedures are the few of the bottom factors that have catapulted the growth in this sector. In pursuance of the expected growth that this sector will take, the future is full of challenges. In the commercial office segment, in spite of the huge demand, the developers may have to face heat from the ups and down of other sectors since this segment, in particular, is highly dependent on the performance of the Indian IT/ITES. Any unforeseen downturn in the business prospect of IT/ITES industry would have a significant impact on the vacancy levels of the upcoming commercial office space stock in the country. Secondly, with the introduction of the SEZ policy, it is believed that a significant amount of the office space demand will be targeted in SEZs. Though, the current SEZ policy does not allow the migration of existing units to SEZs, in case such migration becomes

possible, the market will witness supply of a huge stock of un-used office space, which will lead to substantial crash in rental and capital values in the segment. The real challenge for the reality players, therefore, lies in estimating the market demand and validating supply of any additional commercial space. While in the residential segment, if one goes by the Planning Commission report there is a shortage of approximately 9 million units; and this deficit, as per the Asian Development Bank, would escalate to around 22 million units by 2007/08, and up to 10 million units by 2030. The most deterring challenge that would come on the way would be the product differentiation and correct understanding of the consumer needs. These challenges would be applicable to both the national or international players as the consumer preferences in India vary from one location to other and brand value in a highly competitive market would be stiff without substantial product differentiating factors. Another segment that would gain momentum is the hospitality sector. According to the Ministry of Tourism, Government of India, there are an estimated 1.2 million hotel rooms in the country, of which star hotels account for a mere 7 per cent (approximately 80,000 rooms). The Ministry forecasts that there will be a total 2.9 million hotel rooms in India in 2010 and 2020 respectively. From the real estate perspective, the biggest deterrent in the growth in this segment could be the delay in further relaxation for FDI in the sector. Although the expected continuance of consumerism will drive the retail demand, which will be substantially catered by domestic retailers, the market will still be

limited till the entry of global realtors. So far, one point that has come out from the reality boom is that with the entry of global realtors in conjunction with the national players, the industry is poised to experience a landscape change. These players should watch for these trends and suitably define their strategies to succeed in this rapidly emerging market.

II. LITERATURE REVIEW

According to a study conducted by *Louargand (1999)*, a firm's real estate exposure can have a pronounced effect on the way investors value the enterprise in its entirety. However *Pfnuer et al. (2004)* feels that real estate decision making is based upon an insufficient information basis and is dominated by the investment perspective. *(Dewulf et al., 2000)* Suggested in his studies that managing corporate real estate is confronted with more problems than just the changing characteristics of real estate. While operating companies strive for more autonomy, corporate headquarters are increasingly struggling for a synergetic approach to corporate resources and capabilities. Findings by *(Bossink et al., 2007)* revealed that an incremental real estate strategy is ambiguous, and does not support any of the three competitive strategies. According to *(Scheffer et al., 2006)* many corporations still lack sufficient insight into the impact of corporate real estate decisions on corporate performance. Therefore, it is difficult for senior management and other stakeholders to grasp the actual contribution of corporate real estate. While *(Franklin Becker & Arthur Pearce, 2003)* found that as large organizations grow and evolve, they face the

challenge of accommodating change in a manner that contains costs while strengthening the firm's competitive position in the marketplace. Invariably, not only initial capital and long-term operating costs, but the effect of the real estate decision on the firm's ability to attract and retain staff, and their ability to work productively, must be considered. The real estate industry is very broad and diverse in terms of jobs and functions within the industry. Appraisers, loan officers, escrow officers, title associates, real estate lawyers and accountants, agents, and brokers represents some of the diverse work environments in the real estate industry (*Chan & Kleiner, 2005*). A Definition given by (*Liow Kim Hiang & Joseph T.L. Ooi, 2000*) on corporate real estate (CRE) refers to the land and buildings owned by companies not primarily in the real estate business. Given a large concentration of corporate wealth in real estate and that management is committed to increasing shareholders' wealth.

(*Audrey Schrieffer & Jyoti Ganesh, 2002*) says that Tools for real estate planning, acquisition, disposition and portfolio management have improved dramatically over the past several years, creating new potential for corporate real estate executives to deliver workplace solutions in a timelier, cost-effective manner throughout the occupancy life cycle. There are numerous risks involved in the development of real estate (*Atherton et al., 2008*) by allowing the decision maker to contribute to the assessment of these risks, the analysis provides the decision maker with a greater understanding of the critical variables and

their impact upon the viability of the final scheme. However (*Michael Booth, 2000*) felt that Shareholder value must remain central to the attention of corporate real estate officers (CREOs), even though senior executives have a number of competing agendas. One reason for this is that shareholder value is a vital performance indicator for any important ancillary service; another is that CREOs can help to improve shareholder's wealth in a unique way. Very often, however, property has accumulated through pure inertia or lack of management focus. Consequently, for many companies, real estate is not adding shareholder value and it is perceived to be 'an operational pain' felt by (*Matthew Hill, 2001*). A Definition by (*Roper, 2001*) says that Relationship management is a tool used within the real estate department and applied to major client business units to bring the focus on the need for better understanding of the 'business of the business'. (*O'Roarty, 2009*) says that the shift in capital towards real estate at the beginning of the decade brought a new investor audience to the sector. Studies had been also done by (*D'Arcy & Taltavull, 2009*) to find out the systematic review of real estate education provision in Europe directly related to changes in the structure of real estate markets. Research by ((*D'Arcy, 2009*)) addresses the information costs and new information requirements necessitated by internationalization has been a key driver of institutional formation. Both regulatory and informal barriers to internationalization have also been important drivers of the evolution of new institutional arrangements to support internationalization.

III. CURRENT SCENARIO

It is difficult to estimate the exact contribution of the real estate sector to gross domestic product (GDP) as it appears in a disaggregated and dispersed form in the National Accounts Statistics. Residential housing and real estate services (activities of all types of dealers such as operators, developers and agents connected with real estate) is covered under the category 'real estate, ownership of dwellings, business and legal services'. The gross value added in the ownership of dwellings is equivalent to gross rental of the residential dwellings less cost of repairs and maintenance. Gross rental is estimated as a product of average gross rental per dwelling and the number of census dwellings and includes imputed rent of owner-occupied houses. The rentals of the industrial/trading establishments are deductible expenses from the profits of these establishments but appear as profits of the business or company renting out the premises. Similarly, implicit rents on self-owned real estate is accrued as profits from business and is difficult to separate from non-real estate profits. The addition to the stock of real assets with these businesses appears in the business accounts as capital addition. In the national accounts it would appear under the head 'gross fixed capital formation – construction'. Value of construction output is the additions made to the stock of real estate assets in the public, private and household sectors. The contribution of 'construction' to GDP is the estimate of value added derived from the corresponding estimates of this value of construction output.

IV. LEGISLATIVE ISSUES

Much of the over 100 laws governing various aspects of real estate dates back to the 19th century. Despite the plethora of laws, the situation appears to be far from satisfactory and major amendments to existing laws are required to make them relevant to modern day requirements. The Central laws governing real estate include:

IV.I Registration Act, 1908

The purpose of this Act is the conservation of evidence, assurances, title, and publication of documents and prevention of fraud. It details the formalities for registering an instrument. Instruments which it is mandatory to register include:

- (a) Instruments of gift of immovable property;
- (b) Other non-testamentary instruments which operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immovable property;

IV.II Urban Land (Ceiling and Regulation) Act (ULCRA), 1976

This legislation fixed a ceiling on the vacant urban land that a 'person' in urban agglomerations can acquire and hold. A person is defined to include an individual, a family, a firm, a company, or an association or body of individuals, whether incorporated or not. This ceiling limit ranges from 500-2,000 square meters (sq. m). The Act provides for appropriate documents to show that the provisions of this Act are not attracted or should be produced to the Registering officer before registering instruments compulsorily registrable under

the Registration Act. This legislation was repealed by the Centre in 1999. The Repeal Act, however, shall not affect the vesting of the vacant land, which has already been taken possession by the State Government or any person duly authorized by the State Government in this regard under the provisions of ULCRA.

IV.III Land Acquisition Act, 1894

This Act authorizes governments to acquire land for public purposes such as planned development, provisions for town or rural planning, provision for residential purpose to the poor or landless and for carrying out any education, housing or health scheme of the Government. In its present form, the Act hinders speedy acquisition of land at reasonable prices, resulting in cost overruns

IV.IV State laws governing real estate

While each state has its own set of laws, which govern planned development, rules for construction and floor-area-ratio (FAR) or floor space- index (FSI) and formation of societies and condominiums, two laws that exist in every state, are the stamp duty and rent laws. Stamp Duty is being covered in a later section.

IV.V Rent Control Act

Rent legislation in India has been in existence for a very long time. Rent control by the government initially came as a temporary measure to protect the exploitation of tenants by landlords after the Second World War. Rent legislation provides payment of fair rent to landlords and protection of tenants against eviction.

Besides, it effectively allows the tenant to alienate rented property. Tenants occupying properties since 1947 continue to pay rents fixed then, regardless of inflation and the realty boom. Some of the adverse impacts of the Rent Control Act are:

- Negative effect on investment in housing for rental purposes.
- Withdrawal of existing housing stock from the rental market.
- Accelerated deterioration of the physical condition of the housing stock.
- Stagnation of municipal property tax revenue, as it is based on the rent.

In the absence of rent control, dilapidated urban housing would be periodically pulled down and replaced by modern apartment buildings and other complexes leading to more rational use of prime locations and also creating a continuous process of urban renewal. This has not happened in India because rent control combined with security of tenure provides no incentive for house owners to undertake renovation work. This explains the run down appearance of many of our buildings in prime locations, which gives Indian cities a much more shabby appearance than their counterparts in other developing countries. Repeal of the Rent Control Act could unleash a construction boom as has happened in many major cities all over the world.

V. TAXES AND STAMP DUTY RATES

V.I Stamp Duty

There is a direct link between Registration Act and Stamp Act. Stamp duty needs to be paid on all documents which are registered and the rate varies from state to state. With stamp duty rates of 13 per cent in Delhi,

14.5 per cent in Uttar Pradesh and 12.5 per cent in Haryana, India has perhaps one of the highest levels of stamp duty. Some states even have double stamp incidence, first on land and then on its development. Most of the methods to avoid registration are basically to avoid payment of high stamp duty. 7.6.28 fallout of high stamp duty rates is the understatement of the proceeds of a sale. This is also linked to payment of income tax and capital gains tax. When registration has not been effected, a transfer is not deemed to have taken place and hence capital gains tax can be totally avoided. Thus, the present provisions in various laws and their poor implementation have led to a situation where there is considerable financial loss to the exchequer on account of understatement of sale proceeds, no registration and consequent non-payment of stamp duty and avoidance of capital gains tax.

V.II Property Tax

Property tax is a levy charged by the municipal authorities for the upkeep of basic civic services in the city. In India it is the owners of property who are liable for the payment of municipal taxes whereas in countries like the United Kingdom, the occupier is liable. Generally, the property tax is levied on the basis of reasonable rent at which the property might be let from year to year. The reasonable rent can be actual rent if it is found to be fair and reasonable. In the case of un-let proper-ties, the rental value is to be estimated on the basis of letting rates in the locality.

V.III Titles and Records

Another important issue in real estate development is that of title to property. In India, the State does not certify a title to housing or land property. The revenue records are not documents of title, and ownership is established only by the sequence of earlier transfers. Thus, the fundamental question of title has often led to enormous litigation. At present there are three legislations which have a bearing on property transactions involving transfer of ownership of proprietary interest. These are the Transfer of Property Act, the Indian Registration Act and the Indian Evidence Act. 7.6.38 an examination of the provisions of these Acts reveals a number of inadequacies. Most of the sale transactions are done through the power of attorney route to evade transaction costs like registration, stamp duties, property tax etc. The system, as it exists, imposes a responsibility on the part of the purchaser with regard to the inspection of the title. The result is tenuous titles to land and non-transparency in property transactions, thereby hampering large-scale real estate development. 7.6.39 Titles to land have become necessary for more efficient handling of land title documents, to provide greater security of tenure for those in occupation of land, to keep pace with the greater demand for re-conveyancing, for better support for mortgaging and investment, to face the steady increase in the number of private and public users who make routine enquiries about land ownership.

The Andhra Pradesh experience is a good example to begin with where registration of sale of land/property is achieved within a month. The Tenth Plan Working Group on

Information Technology for Masses has recommended computerization of land records all over the country with computerized land/property documents being available to the public at all levels, including in villages, by 2005. Through online documentation of land records, hyper links with court registries of the district or the State can be developed, so that the unwary buyer can get immediate information of any pending litigations. In this context, the Registration and Other Related Laws (Amendment) Act, 2001 has proposed the compulsory registration of documents relating to part performance of contracts concerning immovable property (covered by Section 53A of the Transfer of Property Act), in order to prevent loss of revenue to the states.

V.IV Urban Land Monopoly

Many cities have created development agencies (like the DDA in Delhi) and handed over control of all urban land within the municipal jurisdiction to them in the belief that they would act in the interests of the public. However, such agencies tend to behave like the monopolies that they are. It is in the interests of the monopolist to restrict the development and sale of new land and keep prices high, so as to maximize its own returns. Introduction of a competitive construction boom requires abolishing the monopoly of such agencies over urban land by completely separating control of land from its development. There is a huge opportunity for leveraging the large portfolios of unutilized and underutilized real estate assets of various government agencies. This practice was perpetuated after Independence and a large

volume of government housing for functionaries ranging ministers and legislators to Class III and Class IV employees, involving huge public expenditure was developed during the past 50 years. Many economists have proposed that all government housing including those in the Lutyens bungalows zone in Delhi should be handed over to the private sector and the resources generated be invested for productive purposes. Under this, the government acquires the land which is then developed for residential/commercial use by the private developer. One example is the 'Bengal Ambuja project' in Kolkata, which is a joint venture between the West Bengal Housing Board and the Gujarat Ambuja Cement Group. The housing project caters to the housing needs of various income groups by building 'low density high rise' buildings. Another example worth emulating is the HUDA model of the Haryana Urban Development Authority (HUDA) under which a number of integrated cities have been developed through public-private partnership. Gurgaon has emerged as the most successful of these, with the country's largest private sector integrated township DLF City being established there.

V.V Land Reforms

The present ceiling of 15 - 25 acres per person on agricultural holdings comes in the way of large-scale real estate development, especially with the recent foreign direct investment (FDI) norms making it mandatory for having at least 100 acres of land for investment in integrated townships. Therefore one has to under the existing law find methods of circumventing this by first converting agricultural land within the limit

into urban land and then again purchasing more land in order to meet the 100-acre limit for FDI. This would only lead to delays in projects.

V.VI Conversion of Rural Land to Urban Use

Conversion of rural land at market prices should be completely de-controlled and left to the market. At present, in Delhi, historical village land situated within the city limits cannot be converted to develop urban colonies. The presence of 'urbanized villages' in the middle of the capital city is an anachronism and a testament to bad policy. The curbs on the expansion of urban limits into surrounding village areas should be removed.

VI. FINANCIAL SECTOR

VI.I Credit Restrictions

Most housing finance companies cater mainly to individuals in the higher income group, who have reasonably assured credit worthiness. Only 5-7 per cent of the loans disbursed by these housing finance companies go to builders and institutional developers. The high default rates among the developers is one of the factors dissuading housing finance companies from investing in this sector. Lack of a code of conduct for the industry is the other factor that keeps investors away. Even now, developers need to become corporative to avail funding from financial institutions. All this leads to builders and developers approaching private sources of finance at high interest rates, which ultimately leads to higher real estate prices. Developing a grading system among the developers will

make investors aware of the risks associated with the projects of each developer. A scientifically graded project would lend itself to a more accurate and reliable estimation of the risks associated with the real estate project/ project promoter. This is expected to enhance the confidence of the end users and augment the interest of the lenders in these projects, thereby facilitating the flow of institutional funds to the project/project owner.

VI.II Sources of Funds

Real estate mutual funds, pension funds and insurance companies are the major investors in the housing sector in developed countries. In India developers' ability to get financial help from these sources is limited. Housing finance companies in India also need to be given access to pension, provident and insurance funds. As the gestation period of real estate projects is more than five years, on an average, it is necessary that developers have access to such long term funding sources.

VI.III Real estate investment trusts

In India real estate assets are kept outside the financial market and not leveraged for investment purposes. India must try to make real estate a full-fledged investment option. To begin, with an exclusive stock exchange could be set up under Securities and Exchange Board of India (SEBI) guidelines for trading real estate stocks. The Government should permit the setting up of a Real Estate Investment Trust (REIT) which should be regulated by SEBI in order to open the investment floodgate for the real estate sector. The REIT would operate like a mutual fund, where investments of

individual investors are consolidated to invest in real estate, rather than stocks of companies. It would provide a higher level of liquidity as well as professional advice for price discovery, as the investor would be investing through an asset management company. It also provides assured returns in the form of dividends to its investors from rental income earned on real estate assets

VI.IV Mortgage market and securitization

Another source of finance for housing companies is development of the secondary mortgage market which involves conversion of mortgages into tradable financial or debt instruments. Securitization is a process popular among housing finance companies in the West by which the home loan assets are bundled into securities and sold to the investors. Such securities are called mortgage-backed securities and they help the finance companies convert their loan assets into cash for further loan disbursements, thus maintaining a flow of funds from the lenders. There are two pre-requisites for secondary mortgage market:

VI.IV.I Mortgage loan insurance:

The risk of default under mortgage loan is covered under an insurance policy for a nominal premium, which protects the risk of non-payment to the lender. As a result, the mortgage loans are risk-free and it is this reason that only 50 per cent risk weight is assigned to housing loans under capital adequacy norms. In India, however, such risk weight is 100 per cent given the absence of such insurance cover which increases the risk of non-payment/failure. The Reserve Bank of India (RBI) has recently reduced

the risk weight for housing loans to 75 per cent, taking into account the good recovery in this sector. (ii) Foreclosure: Housing loans are long-term loans, repayable over a period of 15 to 20 years. Any default will be restricted to the period of actual default.

VII. MUNICIPAL LAWS, RULES & PROCEDURES

VII.I Municipal Laws

Most urban and municipal laws and regulations in India date back to half a century if not more. There is a need to thoroughly review and modernize them in the light of the latest developments in urban infrastructure, transport, pollution control etc. A committee of eminent persons from the concerned fields should be set up to draw up a model municipal law. Such a law must make provision for private investment in and supply of all public utilities and services. It must ensure that the municipal authority focuses its attention on data gathering, analysis, planning, organization and monitoring. In other words, the government should play the role of the facilitator more than that of the provider.

VII.II Zoning Rules

In an ever-changing urban scene, the zoning regulations are in a constant state of flux with no systemic reviews or updation taking place. There is need to establish a regulatory commission to continuously review the zone shifts and activity shifts as demographic patterns change in urban areas. The failure of the Master Plan for Delhi is a case in point. The most important cause of this is the poor and inadequate implementation of the Plan during the first 20 years of its

existence from 1961 to 1981. Most of the provisions made for various facilities in the Plan were not realized on the ground. Space made available for housing, retail, commercial offices, service industry, small-scale industry, as well as for educational, social and cultural institutions was far below the provisions made in the Master Plan. The implementing agency, the DDA, notified and acquired all the land required for the future growth of the city, but failed to develop it on a scale and at a speed sufficient to meet actual need. In such circumstances, restrictions on change of use of land and premium charged by authorities like DDA/Directorate of Industries are matters to be investigated.

VII.III Approval Procedures:

Another serious malaise affecting investment in the real estate sector and housing development is the tardy process of planning approvals. A system of deemed approvals for all planning permissions by registered architects operating on the basis of self-regulation much like chartered accountants do, would enormously speed up the entire plan approval process. This will ensure that far larger quantum of housing stock is supplied every year, at more reasonable prices than is the case presently.

VIII. CONSUMER PROTECTION

Real estate came under the purview of the Consumer Protection Act (1986) in 1993 after an amendment to the definition of 'service' in Section 2(1) of the Act to include the term 'housing construction'. However, there are still several lacunae

relating to consumer protection. Under the provisions of this Act, housing is considered a 'service' not 'goods'. If housing is treated as 'goods' then replacement or liquidated damages can be claimed if it is defective, unlike in the case of breach of service provision, which requires only payment of a penalty. Further, pricing is covered under the Act under the 'unfair trade practice' as applicable to goods. By defining housing as a 'service', unfair practices related to pricing of housing are not covered. However, merely defining housing as 'goods' will not solve all problems. The responsibility of making the right choice under the Act rests with the consumer and the seller is protected from giving a warranty of the goods. Thus, even if housing were to be included as a good, the very definition of 'good' adopted in the Act may need to be reviewed to give adequate protection to a purchaser of housing.

IX. CONCLUSION

There are three critical issues in real estate development - archaic rules and regulations, lack of affordable finance on a mass scale and inadequate land availability. Revise the number of legislations governing property transactions and merge them into one comprehensive law. The repeal of the Urban Land (Ceiling & Regulation) Act by various states which have not done so is necessary. This is expected to facilitate the release of 2.2 lakh hectares of urban land, which remains frozen. Amend the Rent Control Act so as to remove the absolute authority of the rent controller over the disposition of the rented property. This allows the rent controller to virtually divest the owners of the natural right to his property and transfer

it to the tenant. The Rent Control Act must limit itself to ensuring a level playing field in terms of rent (adjustment) negotiations and a reasonable period for vacation of property. Market rates must be allowed to prevail in the medium term. Instilling confidence in the owners would lead to release of vacant houses into the market within the levels of affordability of the tenants. Amendment of the Indian Stamp Act, 1899 and the Indian Registration Act to delink the process of registration from the payment of stamp duty and also to liberate the registration process from the requirement of various no-objection certificates. Rationalise the tax rates and duties pertaining to the real estate sector. States should reduce stamp duties from the present range of 13-26 per cent to the level of 3-5 per cent. Stamp duty rates must also be uniform across States. The perceived loss in stamp duty revenues will be more than compensated through increased disclosure of property sales and the correct value of the property transacted. Property tax must be linked to the capital value of the property than on the rental value of the property. Entertainment tax rates must be reduced. The principles of law applicable to statement made in a prospectus should also apply to the sale of property. This will also facilitate the institutionalization of conveyances and conveyances can investigate titles and cross-linkages between municipal authorities, electricity boards, taxation departments, land registries and collect orates can be easily facilitated through hyperlinks. A formal system for enabling private participation in the provision of municipal services will provide access to the skills required for improving the efficiency of urban services

and make them self-sustaining in the long run.

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