

Knowledge Series 1 : RERA Complaints

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- **OVERVIEW:**

No one will come and offer justice to you unless you demand your rights under the various Acts and legal frame work. Nothing finishes without paperwork. Be very particular about paper work and documentation. Only documents can win you your case. This knowledge series on how to file RERA complaint effectively and without any mistake so that when the case progresses, you don't find yourself in state of dismissal of the complaint for want of technical mistake. This paper will guide you as to how to file a good complaint with RERA and entire process thereof. You must take, if need be, any professional help to be represented but you can also appear in-person before the Hon'ble Authority and plead your matter.

- **Prescribed Forms and Format for Complaints**

There RERA Authorities in every state of India, including Union Territories. Every state has its own Rules and Regulations. The RERA Act (The Real Estate Regulation and Development Act 2016) is applicable to entire India. Since every state has prescribed a specific format for the complaint under the Act, you must download and draft your complaint in the prescribed format only. Many states have started online filing of complaints, but then too, you must upload the complaint in specific format only.

- **KYC of the Parties and Project information**

Usually the prescribed format contents :

- Name and address, email Ids of complainant/s,
- Name and address of Respondent/s. Some time there are more than one Respondent / builder then mention all the Respondents separately by giving them numbers like Respondent No 1, etc.
- Name and address of Project and its registration number,
- Fact of the case with small synopsis and date wise events table
- Grounds for complaint as to what the Respondent did wrong under the Act.
- Prayers u/s 12, 13, 14, 17, 18, 19 etc.
- Annexures and Exhibit to support your Facts and Grounds.
- Verification with Notary.
- **Facts and Exhibits:**
 - Put all the relevant facts of the case i.e. Total Purchase consideration paid date wise, Agreement for Sale / Allotment Letter, any communication with Respondent through emails or through notices. WhatsApp chats are admissible only when screen shots are taken and not exported.
 - Do not generalise, make specific case and stick to your matter only.
 - Put all the Exhibits to substantiate your facts. Like sale brochures, bank statements, rent agreements, loan statements, Agreement for Sale, receipts, etc.
- **Relief u/s 12, 13, 14, 17, 18, 19**
 - U/s 12: when there is no Agreement but only Allotment letter / MoU/ Receipts are issued and Builder have breached any promise.

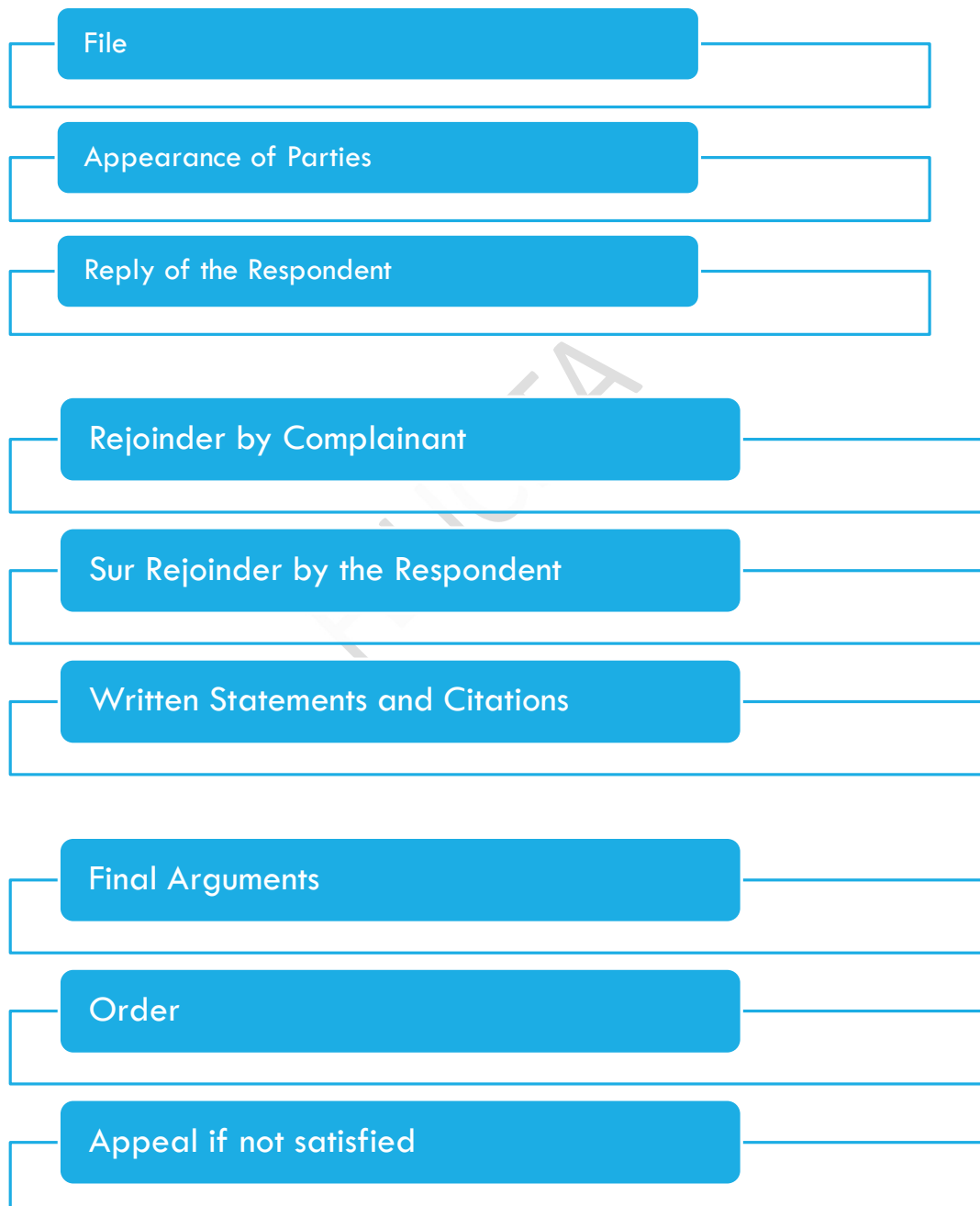
- U/s 13: When you are asking for Agreement for sale. Builder has to execute and register Agreement for Sale if more than 10% is paid. He cannot demand any further unless he register Agreement for Sale with you.
- U/s 14: For any lesser amenities, change of orientation of building or flat, creation of mortgage without your written permission, change of plan etc.
- U/s 17: A group of complainant seeking society formation and common amenities.
- U/s 18: Option I : When you choose to come out of the project when date of possession in Agreement for Sale is passed then you can demand refund of principle plus interest and if claimed then all financial losses including but not limited to taxes, stamp duty, rent paid and any other hardship which can be proven. Option II: You want to remain in the project then delay interest from the date of possession of Agreement for Sale till Actual possession (not OC) including any hardship as proven.
- U/s 19: Similar relief as per Section 18 above.

- **Grounds for Complaint and Maintainability**

Only when you can prove that the Respondent have defaulted, you can win the case. Do good research. Read all relevant landmark judgements and cite as per the pleadings of the complaint. Question of maintainability is raised by the Respondent in almost every complaint. For example Complaint is premature as filed before date of possession in the Agreement for Sale, Allotment letter issued by the previous promoter, complaint in not prescribed format and form, multiple complaints filed, also complaint filed in consumer courts simultaneously, wrong prayer, non-

joinder of all the allottees etc. Grounds of complaints must prove the defaulted act of the respondent.

- **Flowchart for complaint process**



- **Amendments**

You can amend the complaint, its content and prayer only through an application to the RERA Authority and give copy of amendment to other side. Once Authority allow you to amend the complaint and / or prayer, you will have to correct it in the complaint and reserve to the other side. In the states where online complaints are allowed, you need to see the Standard operating practice for circulating and serving your documents.

- **Settlements**

The ultimate objective of every litigation is to get a logical solution to the dispute. If the dispute can be settled through mediation then why to wait for hearing. Two advantage of settlement is one, the question of maintainability is ended as the other party accepts the dispute and offering solution under the supervision of the court. The settlement terms as signed shall be on record of RERA and any deviation may attract penalties and contempt of court. Second advantage is that by consenting to the solution, the other party do not have right to appeal and hence end of litigation.

- **Orders**

RERA is a quasi-judicial authority and any order is treated as court orders. Order by RERA is decree of a court. It is enforceable and executable in court of law. Take a certified copy of all the Roznama and all interim and final orders for your record.

- **Execution**

Execution of the orders of RERA is covered u/s 40 (1) of RERA Act. After sixty days, this is appeal period, if there is no stay or appeal against the order, you will have to notify RERA that Builder or Respondent have not adhered to its order and should be executed. Upon receiving such execution application, RERA will initiate execution proceedings. You need to just press a button to file such non execution application when the complaints are filed online, In other states, you need to file a simple application in writing to RERA for execution. Put a Rs10/- court fee on the application in hard copies. Keep a record for you. RERA will send the order and recovery warrants after hearing the execution application to Collector of the area where the project is situated for execution. You will have to follow up with collector office and RERA for the ultimate result.

All the Best!

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