

SOFT LAUNCHES

Sometimes a developer intends to test the interest level in the market for his project by offering a limited stock within a closed circle without much public attention. Such an arrangement is known as the soft launch. Such properties often come at 10 to 15% cheaper than the market rate. However, a buyer needs to be very sure about the deliverable capabilities of the developer and the future prospects of the project. For first home buyers it is advisable to take professional opinion.

Will concrete legislation help home seekers?

While industry bodies have devised their own code of conduct for builders, the draft real estate regulatory bill was recently made public for stakeholders comment. Realty sector representatives voice their expectations and apprehensions

Vijay Pandya

The Draft Real Estate (Regulation & Development) Bill, 2011 was recently made public for stakeholders comment and it has elicited a wide variety of reactions ranging from the good to the bad and even the ugly. While home seekers are optimistic that this bill would help resolve the pending issues and enhance transparency levels, builders point out that the government may have come up with a too simplistic solution for what is essentially a complicated industry.

Scope for corruption

Lalit Kumar Jain, CMD, Kumar Urban Development Ltd, shares, "We are studying the provisions and will come out with final submissions to the ministry. We feel this bill can lead to corruption and inadequacy instead of solving the problem of transparency and greater accountability. We do not want any human involvement and make this issue more complicated. CREDAI believes in pure transparency, so we don't require any kind of licensing as it would add on to innumerable sanctions and approvals. Instead we don't mind online registration of our projects. Due to the regulation of this bill

prices will increase, as this will create another window of clearance. Apart from this, three years of jail is detrimental to the sector and because of it good businessmen would refrain from entering into this sector. This in turn will affect the industry."

Consider practical hurdles

Shailesh Sanghvi, director, Sanghvi Group of Companies, feels that the regulatory bill can be welcomed only when a proper study of processes involved in the real estate sector is done. "It should consider the approval issues faced by the developers that ultimately result in delay of processes and loss to the sector and the end user. The drafting committee also should comprise of developers to ensure that the voice of the industry is heard. Before implementing the bill, practical hurdles being faced by the sector should be considered. The regulatory bill can definitely bring in transparency and build confidence in the Housing segment customers if the factors mentioned above are reflected upon."

Further project delays

Vishwajeet Jhavar, CEO, Marvel Realtors, says, "We believe that by and large a regulatory authority would be welcomed. However our concern is, with one more regulatory body in the picture, projects may be delayed further. If cash flows are controlled by the Government and not done as efficiently as per the project financing requirements, then it may add financial cost to projects, eventually leading to an increase in property prices. The Bill will increase transparency and accountability within our industry, which will help in the long term. Since Marvel is regulated through Private Equity investments and all our projects are ring-fenced, we do not foresee any changes in our



regular way of working."

Need of the hour

Neeraj Gulati, MD, Assotech Realty, opines, "We welcome this move and feel that such a bill is need of the hour. We believe its implementation will ensure that developers comply with norms and follow guidelines while transacting with buyers. It will also enhance accountability of the builders, resulting in better delivery and increasing customer's confidence to invest in real estate. But the bill should also contain clauses for customer regulation. There are numerous instances where costumers do not remit their instalment fees. We should have a bill that is unbiased and

benefitting parties on both side of the table."

Protection for consumers

David Walker, executive director, SARE Homes, comments, "The proposed real estate bill to be introduced by the government is a welcome move, as we understand the aim of this bill is to enhance transparency and accountability in real estate transactions. The objectives of this bill resonate with our core values of trust and transparency, which are the cornerstones to building value for our customers and stakeholders. We hope that this bill will also enhance efficiency and competitiveness and provide consumers with added protection."

Provisions protect buyers

Bikram Sen, CEO, ArthVeda Fund Management Pvt Ltd, says, "We welcome the new Real Estate (Regulation & Development) Bill, 2011. It is designed with the intention of bringing transparency to the sector. Most of its provisions are designed with a view to protect the buyer. For most home buyers, especially the middle and low income segment, it is the single largest buying decision of their lives. Besides the buyers, it is also good for the lenders, investors and other stake holders since they would have a more clear idea of what they are investing in or lending against or doing business with. We think the Real Estate Bill 2011 will give a fil-

lip the sector by encouraging more professional developer behaviour and a safer decision making environment for the buyer."

Instilling customer confidence

Mukesh Bhagtani, CEO, Jaycee Homes Ltd., says, "This is a positive step by government and will go a long way in bringing more accountability and transparency in real estate transactions. Given the current market scenario, the bill will help instil confidence among general public and home buyers alike, which is the need of hour. The bill will help initiate best business practices in the industry, thus bringing credibility whilst encouraging regulated growth and devel-

opment for industry and economy of the country."

Increased transparency needed

Harresh Mehta, CMD, Rohan Lifescapes, feels that the proposed legislation is both necessary and good in intent. It will change the ground rules and dynamics of the business if implemented in spirit. "Increased transparency is really necessary. The proposal to centralize litigation before a tribunal is a welcome move. Actual implementation will depend on the respective states which is different from the other agencies like SEBI and IRDA. It will give much more comfort to home buyers and in the long run facilitate faster growth."

Land related issues

Sachin Sandhir, Managing Director, RICS South Asia, opines that 'land' is a state subject, the establishment of a regulatory authority is a tedious task, basis which there have been numerous ongoing consultations and debates on the proposed real estate regulator.

"RICS appreciates the initiative to further improve upon and facilitate a smoother introduction of the regulatory authority within the purview of the revised regulation bill. Specifically in relation to the Appellate Tribunal, this has been provided for within the new version of the bill and is at a central government level as opposed to the earlier state government level. As the bill leaves it to the discretion of state governments to establish a regulatory authority and rules and procedures in due course, the benefits of the bill would only be seen once the state governments have established their respective authorities, which could take time in setting up."

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Flat funding fundamentals

An analysis of the impact of rising interest rates on home loans and guidelines on what applicants need to keep in mind

Anil Kothuri

The giddy price rise that characterized the real estate markets in the middle of 2010 has now given way to some stability. Further, over the past year and a half the RBI has increased the policy rates several times; the home loan rates for prime borrowers have increased from 8.25% in early 2010 to 11% now. Till late last year, it seemed a wise decision to buy property. Prices were increasing every month and interest rates were low. A year on, the outlook is not as clear.

Prospective home buyers and those with an existing home loan have paused and are reconsidering their options. What should you do? Should you buy the house of your dreams now and risk prices going down? Or should you wait a bit and postpone the realization of your dreams by another year? Should you prepay your home loan now? Or should you pay a higher instalment on your loan?

New home buyers

The decision to purchase a property depends on ones needs and stage of life. As a general rule, it is better to buy property sooner than later. This benefits the buyer in three different ways. With a longer working life ahead of him, he has a longer time to repay his home loan and can hence get a larger home loan. There is a saving on rentals every year. Finally there is a greater time frame for any price appreciation to play out

A home loan is a long term liability; most borrowers repay their home loan in seven years, on an average. Interest rates will fluctuate up and down over the tenure of the home loan. Consequently, the decision to purchase property should not be made on the basis of today's interest rates.

However, the increase in interest rates mentioned above has lowered the loan amount that the borrower can avail of by 20%, thus impacting the size and value of the property that can be purchased. This lower loan amount, coupled with the recent run up in prices has caused prospective home buyers to pause and take stock of their changed situation

Existing home loan borrowers

For those who have already taken a home loan, the increase in interest rates would have had an impact them in one



of two ways. Either their monthly instalment burden would have increased or the loan tenure could have got elongated. The borrower's options depend on his savings and liquidity every month.

Those who have some savings and liquidity can prepay the home loan, in part. The resultant smaller loan amount will need a smaller monthly instalment to service it. Alternatively, the loan can be allowed to run off faster.

However, most small borrowers are currently strapped for liquidity owing to the rising prices of food and other essential items. Such borrowers can let the tenure of the home loan increase, while letting their monthly instalment stay constant. The position can be reviewed every year, based on rising income levels and the loan prepaid, if possible. The good news for such borrowers is that while salaries and expenses will increase with each passing year, the only head of expense that will not be the EMI on the home loan.

Another option is for borrowers to transfer their loan to another company that is offering a lower rate for the next 12 months. This could help alleviate the instalment burden for the year but there could be some costs for prepayment. This is a useful option for those who had

availed their home loan at a high interest rate owing to income or document deficiencies.

The future

We seem to be close to the peak of the interest rate cycle. However, it is possible that interest rates stay at the current/slightly higher levels for a while before moving down. Hence it is recommended that any decision on purchasing property is made based on the current situation - prices, interest rates as well as repayment capability.

If a buyer is able to identify a property of his choice at an appropriate price, he should go for it. However, investors should factor in the recent run up in prices and higher cost of financing property before taking a decision. For those who are looking for a property to move into, it is always a good time.

However, here's a word of caution - it is prudent to ensure that you have some money in the bank to cover another 10% increase in EMI. It is good to hope for the best but important to be prepared for the worst.

The writer is head, Retail Finance, Edelweiss Financial Services Limited and CEO, Edelweiss Housing Finance Limited

Extra FSI for redevelopment?

Clarity on complex issues and concerns related to real estate, laws and taxes



Tarun Ghia and Pradnya Vairale

I had purchased a flat in my and my borother's names. My brother has not contributed any amount towards the purchase and entire purchase price was paid by me. Only I have been paying all maintenance and outgoings and my brother has never resided in the flat. The purchaser is insisting that in the agreement for sale my brother also need to be one of the co-vendors whereas my brother is not co-operating. My brother is a joint share holder. What is the basic legal position?

More often than not, a flat is purchased by a person in his name as well as joint name of a family member. Under such circumstances, in the absence of a contrary understanding, their co-ownership rights are in proportion to the funds contributed by each of them. In your case, you have funded the entire cost of acquisition but have added name of your brother in purchase document. Now that you have decided to sell off such flat, question has arisen that even though you are 100% owner of the flat, can you sell the same without signature of your brother who did not contribute any funds towards acquisition but whose name appears as the co-owner?

Sale will not be possible without the signature of such other co-owner because what are the proportions of co-ownership rights is an internal matter of the co-owners but as far as the purchaser is concerned the title stands in the joint names and the same cannot pass on without the joint signatures. In such a situation if your brother refus-

es to sign the sale documents then sale will not be possible without approaching competent court.

When a flat is purchased in joint names, application for membership in the co operative society may be made by co purchasers and share certificate may also come in their joint names but they will not be joint members in the co operative society. A person whose name appears first in the share certificate is the ordinary member whereas the person whose name appears at second or subsequent number in the share certificate is an associate member in the society.

We are a co-operative housing society contemplating redevelopment. Whether development control regulations have been modified to increase FSI by .33 without buying TDR? How is the mechanism of .33 additional FSI going to work?

The notification dated 24-10-2011 has certainly increased the additional FSI but that is only an option in place of use of TDR with the result that the aggregate of 'FSI-cum-TDR FSI' has not increased. Thus, if the development potential of your plot is "2" by use of TDR FSI, the same will remain at "2" only with the difference now that FSI of "1" would be your existing FSI, additional FSI of .33 can be purchased from municipal authority at a premium and .67 FSI can be consumed by purchase of TDR. The premium rates of .33 additional FSI are comparatively far lower than the market rates of the TDR. To that extent the .33 FSI has become very economic and such additional FSI

would reduce the market demand of TDR and therefore in the process the market rates of TDR have started coming down. So far as the co-operative housing societies are concerned, some of the salient features of the new .33 additional FSI are as follows.

- Additional 0.33 FSI is optional and non-transferable. It is to be granted as an application and to be used on the same plot.
- The total maximum permissible FSI, with 1.33 FSI, Road FSI and TDR shall be restricted to 2.00.
- As per concept of TDR, additional FSI shall be permissible on gross plot area.
- Additional FSI available as per Regulation 33, shall be related to basic FSI of 1.00 only.
- In Mumbai Suburban District, construction up to 1.00 additional FSI is permissible through use of TDR. 0.33 FSI being optional and part of overall ceiling of use of 1.00 TDR, any disclosure made for use of TDR/ FSI, while making agreements with purchasers under MOFA Act, shall be held valid for use of 0.33 FSI.
- No vertical extension of existing building by utilizing 0.33 FSI shall be permitted with erection of columns in the required marginal open space.
- The relaxation of premium i.e. 10% of normal premium shall be charged while condoning deficiencies in open spaces (as applicable for use of slum TDR).

Ghia is a chartered accountant and Vairale, an advocate. They head PVG Project Management Consultants