

**2-DAY NATIONAL SEMINAR ON DISPUTE RESOLUTION  
UNDER REAL ESTATE REGULATION AND DEVELOPMENT  
ACT, 2016**



**ORGANISED BY**

**CENTRE FOR RESEARCH AND STUDIES IN LAND, MINING AND REAL  
ESTATE LAWS**

**AT**

**WEST BENGAL NATIONAL UNIVERSITY OF JURIDICAL  
SCIENCES (WBNUJS)**

**ON**

**NOVEMBER 13<sup>th</sup> & 14<sup>th</sup>, 2021**

**(Virtual)**

## **ABOUT WBNUJS**

The West Bengal National University of Juridical Sciences (WBNUJS) is a premier national law university consistently ranked as one of India's top legal educational institutions. It was established under the WBNUJS Act, 1999 (West Bengal Act IX of 1999). It is a university within the meaning of subsection (f) of Section 2 and Section 12-B of the UGC Act, 1956, and has permanent affiliation from the Bar Council of India.

Over the years, NUJS has produced several outstanding lawyers and scholars. With a rich set of faculty and students from diverse backgrounds, drawn from almost all corners of India, the academic community of the law school has made a name for itself in more than one field of law. This establishes an aura of excellence, devotion to the highest standards of academic integrity, and commitment to duty of service to one and all.

The Chief Justice of India is the Chancellor of NUJS and is also the Chairman of the General Council, the supreme policy-making body of the University. Under the current guidance of its Vice-Chancellor, Prof. (Dr.) Nirmal Kanti Chakrabarti, one of the most respected and renowned legal scholars in India and backed by a rich and diverse faculty, the University strives to continue with its history of merit in various domains of law.

For more information, please visit the official website of NUJS at [www.nujs.edu](http://www.nujs.edu).

## **ABOUT THE CENTRE FOR STUDIES AND RESEARCH IN LAND, MINING AND REAL ESTATE LAWS**

The Centre for Research and Studies in Land, Mining, and Real Estate Laws ('CRSLMREL') was set up at WBNUJS during the academic year 2019-20. The Centre functions under the leadership and supervision of Dr. M.P. Chengappa [Assistant Professor (Law), NUJS].

Issues related to land acquisition, real estate, and mining laws are fundamental to questions pertaining to environmental law, the efficacy of regulatory regimes, the functioning of the market economy, and social welfare. Therefore, discourse around the land, mining, and real estate laws are critical. Many law firms across the country have dedicated teams, especially for this purpose. The pendency of cases pertaining to these fields shows that land acquisition, real estate related disputes, and mining regulations form a very crucial field in the legal industry.

CRSLMREL aims to create awareness and guide discourse in the aforementioned fields in academia by conducting studies, consulting with stakeholders, creating resource materials, and conducting capacity-building programs with industry professionals.

## PROLOGUE

The Real Estate (Regulation and Development) Act, 2016, was enacted to protect consumer rights. The unregulated industry of real estate with the absence of professionalism led to the development of RERA. The lack of standardization has been a constraint to the healthy and orderly growth of the industry.

The real estate industry involves selling, purchasing, and developing land for residential, commercial, and industrial purposes. RERA was implemented from May 1st, 2017, under the aegis of Ministry of Housing and Urban Poverty Alleviation, Govt. of India.

The main objectives behind this Act were as follow:

- (I) Ensuring regulation and promotion of the real estate sector efficiently and transparently;
- (II) To establish the real estate regulatory/adjudicatory authority not only for speedy dispute redressed mechanism and also regulation and promotion of the real estate sector;
- (III) To ensure greater accountability towards consumers, and significantly reduce frauds and delays and;
- (IV) Brings professionalism and standardization in the sector to accelerate growth and investments in the long run;
- (V) It attempts to balance the interests of consumers and promoters by imposing specific responsibilities on both;
- (VI) It imposes an obligation upon the promoter not to book, sell or offer for sale, or invite persons to purchase any plot, apartment, or building in any real estate project without registering the real estate with the Authority.

The RERA has proven to be beneficial to both Consumers and Developers. The Act ensures the timely completion of projects. It prevents the diversion of funds and protects the buyers' interests; the Act also helps curb black money. It makes operations transparent as the project information will be available, which promotes informed choice for buyers. The Act has ensured Fast track dispute resolution mechanism through Real Estate Regulatory Authority and Appellate Tribunals. For the benefit of Developers per se, the Act channelizes investment into the sector. It restores the investment sentiment of consumers; the Act provides a regulatory mechanism that has increased the confidence of the financial institutions in the real estate sector and increased foreign investment (FDI, ECB) in the real estate sector.

## **PROPOSED PANELS FOR THE SEMINAR**

### **1. THE IMPLICATION OF RERA AND THE ROAD AHEAD.**

The Real Estate Regulation Act (RERA) finally got a passage in 2016, thereby meeting a long-standing demand from the real estate industry for a central regulator. RERA was largely created to ensure accountability towards allottees, protect their interests and establish symmetry of information between the promoter and allottees.

To help RERA achieve its true goal, it is important for us to address concerns about the authorities' lack of accountability, as the buck now stops with only a few stakeholders, mainly project promoters, with no explicit sanctions for authorities who miss deadlines. Setting up a single-window clearance should be a priority since it will streamline the approval process and save costs and delays dramatically. The '*Modern Building Bye-Laws, 2016*' can also be used as a guide, since they emphasize digitizing documentation/approval processes, integrating some clearances into Master Plans, and outsourcing certain procedures on behalf of authorities to reduce approval/clearance times. A risk-based classification of building proposals would also expedite non-automatic approvals.

### **2. CONSTITUTIONALITY OF REGULATORY FRAMEWORK IN STATE REAL ESTATE.**

The Supreme Court of India in *Forum for People's Collective Efforts (FPCE) & Anr. v The State of West Bengal & Anr.*, recently declared the West Bengal Housing Industry Regulation Act, 2017 ("WBHIRA") as unconstitutional and repugnant to the Real Estate (Regulation and Development) Act, 2016 ("RERA").

RERA was enacted by parliament in 2016 to serve as a regulatory enactment promoting and protecting the buyers' interest. The objective imbued in this legislation had an undertone of welfare based policy.

However, the West Bengal State Legislature charted out a path of its own in enacting WBHIRA repealing The West Bengal Building (Regulation of Promotion of Construction and Transfer by Promoters) Act, 1993 but violating the diktat in RERA.

The panel will draw a comparative perspective by comparing the implementation of WBHIRA in West Bengal with the implementation of RERA in other states. The panel will also place the judgment by the Hon'ble Supreme Court to interact critically with the arguments posed, and the decision arrived at to understand what the future of Real Estate Regulation is in West Bengal.

### **3. REAL ESTATE ADJUDICATION : CHALLENGES AND OPPORTUNITIES.**

The Real Estate (Regulation and Development) Act (RERA) has brought a growing incidence of consumer dissatisfaction in dealing with real estate developers and service providers. Delays in project deliveries, cost escalations during construction, lopsided builder-buyer agreements, and the absence of an effective enforcement mechanism have led to growing consumer frustration and resulted in an increased number of complaints brought before the Regulator. This has put tremendous pressure on the Real Estate Regulatory Authorities.

The panel would be dealing with one particular field, i.e., Alternative Dispute Resolution (ADR) vis-à-vis Real Estate Industry from the vast arena of Dispute Resolution as a contemporary trend. The panel will discuss the challenges and opportunities arising out of ADR in real estate cases under the RERA Act.

### **4. THE INTERPLAY BETWEEN RERA AND OTHER LEGISLATIONS: A DISPUTE RESOLUTION PERSPECTIVE.**

The recent judgment of Honourable Supreme Court in *Pioneer Urban Land & Infrastructure Limited & Others v Union of India*, apart from holding the constitutional validity of the amendment made to Insolvency & Bankruptcy Code, 2016 (IBC/Code) vide Insolvency & Bankruptcy Code Amendment Ordinance, 2018 (Amendment Ordinance) has held that the provisions of RERA laws should give way to the provisions of Code, when both of them clash. Prior to the Amendment Ordinance, the National Company Law Appellate Tribunal (NCLAT) in the matter of *Nikhil Mehta and Sons (HUF) v AMR Infrastructure Limited* has held that amounts raised by developers under the assured return schemes had the 'commercial effect of borrowing' and accordingly can be called as 'financial creditor' to trigger the corporate insolvency resolution process (CIRP) under IBC.

Concurrent remedies under RERA and Consumer Protection Act, 1986 available to homebuyers:

In a judgment dated 2 November 2020, passed by the Supreme Court of India in the case of *M/s Imperia Structures Ltd v Anil Patni & Another*, the Supreme Court held that the redressal mechanism / provisions under the Real Estate (Regulation and Development) Act 2016 (RERA) do not act as a bar to complaints under the Consumer Protection Act 1986 (CP Act). The principles laid down in this judgment by the Supreme Court, finds place in a range of earlier series of decisions passed by various High Courts as well as the National Consumer Disputes Redressal Commission (NCRDRC) which have stated that allottees / homebuyers are well within their rights to avail remedies the CP Act as well as RERA and even the Insolvency and Bankruptcy Code 2016 (IBC).

The Act is a standard-setting instrument for the real estate sector and performs the critical task of identifying and allocating risks associated with construction and development projects. The current approach of the Act is to uniformly regulate different types and sizes of projects and its implementation will require significant capacity building at the different level. The Act disrupts existing sector practices to raise efficiency of the real estate market and is likely to benefit all stakeholders by imposing financial and operational discipline, accountability and diligence.

# CALL FOR PAPERS ON REAL ESTATE ADJUDICATION

## PROCEDURE FOR REGISTRATION

Papers are invited from Students, Experts, Academicians, Research Scholars, Professionals, Advocates/Practitioners. Delegates need to register themselves by 20<sup>th</sup> October, 2021 by filling this [Google form](#) including details such as title of the proposed paper, name of the author(s) (up to 2 co-authors/co-presenters allowed), contact details, year of study/designation and institution affiliation.

## PROCEDURE FOR SUBMISSION OF ABSTRACTS

An abstract of 200-300 words with 5-7 keywords should be submitted as an attachment in a word file. The final paper should have at least 5 headings (*including introduction and conclusion*). Following information, in the given format, should be sent along with the abstract to the [Google form](#):

- Title of the paper
- Name of the Author (s) (up to two co-authors/co-presenters)
- Designation / Institution Details, Address and Email ID
- Mobile Number

Abstracts will be reviewed by the organizing committee and only shortlisted abstracts will be invited to submit final papers. The PowerPoint presentation file shall be submitted by **5<sup>th</sup> November, 2021** to [crslmrel@nujs.edu](mailto:crslmrel@nujs.edu). The final paper should be submitted by **30<sup>th</sup> November, 2021** after the intimation of acceptance of abstract to [crslmrel@nujs.edu](mailto:crslmrel@nujs.edu). The final submission shall be concluded within the prescribed deadline.

All shortlisted authors will get certificates for the paper presentation, but the organisers reserve the right to publish the selected papers. Shortlisted candidates will be shared the link of the webinar after the selection.

## GUIDELINES FOR REGISTRATION AND SUBMISSION OF PAPERS/ABSTRACTS

- Delegates need to register themselves by 20<sup>th</sup> October, 2021 by filling this [Google form](#).

- The full paper should be prepared (1) in the MS-Word format, (2) Font: Times New Roman, (3) Title of the paper: Font 14 (4) Subtitles: Font 13, (5) Body text: Font 12, (5) Spacing: 1.5 lines, and (6) shall range between 2,500 to 3,000 words (excluding footnotes).
- Submission of a paper amounts to consent to such publication and transfer of copyright to NUJS, Kolkata and consent to edit the paper as may be required. The author shall cooperate with the editor, in respect of such editing.
- All references must be in the form of footnotes with font size 10 and should be according to NUJS Law Review Citation Style as available on the NUJS Law Review website [here](#).
- The work should be original, previously unpublished and must not be in the stage of submission/consideration elsewhere.
- No abstract or full paper shall be accepted after the respective last dates of submission.

**Note:** CRSLMREL reserves the right to publish the article.

## **REGISTRATION FEE**

There is no registration fee for the paper presentation.

## **IMPORTANT DATES**

- Deadline for Submission of Abstract and registration: **October 20, 2021.**
- Confirmation of Abstract Selection: **October 25, 2021.**
- Deadline for Submission of Power Point Presentation file: **November 5, 2021.**
- Date of presentation: **November 14, 2021.**
- Webinar Date: **November 13 and 14, 2021.**
- Deadline for Submission of Final Paper: **November 30, 2021.**

For any clarification please write to [crslmrel@nujs.edu](mailto:crslmrel@nujs.edu) or contact Student Co-ordinators:

- **Smitanshu Choudhary:** 9007192964 or [smitanshu218125@nujs.edu](mailto:smitanshu218125@nujs.edu).
- **Siddharth Tiwari:** 9554839306 or [siddharth218104@nujs.edu](mailto:siddharth218104@nujs.edu).

**Organising committee:**

✚ **Patron-in-Chief:** Prof. Prof. Dr. Nirmal Kanti Chakrabarti, Hon'ble Vice Chancellor, WBNUJS.

✚ **Director of the Program:** Dr. M.P, Chengappa, Director Centre for Research and Studies in Land, Mining and Real Estate Laws & Assistant Professor, WBNUJS.

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✚ **Co-ordinators of the Program:** Agniva Chakrabarti (in-charge), Divyanshu Singh, Insha Rahman, Neeraj Kumar Paswan, Eesha Tirodkar, Smitanshu Choudhary, and Siddharth Pankaj Tiwari.

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