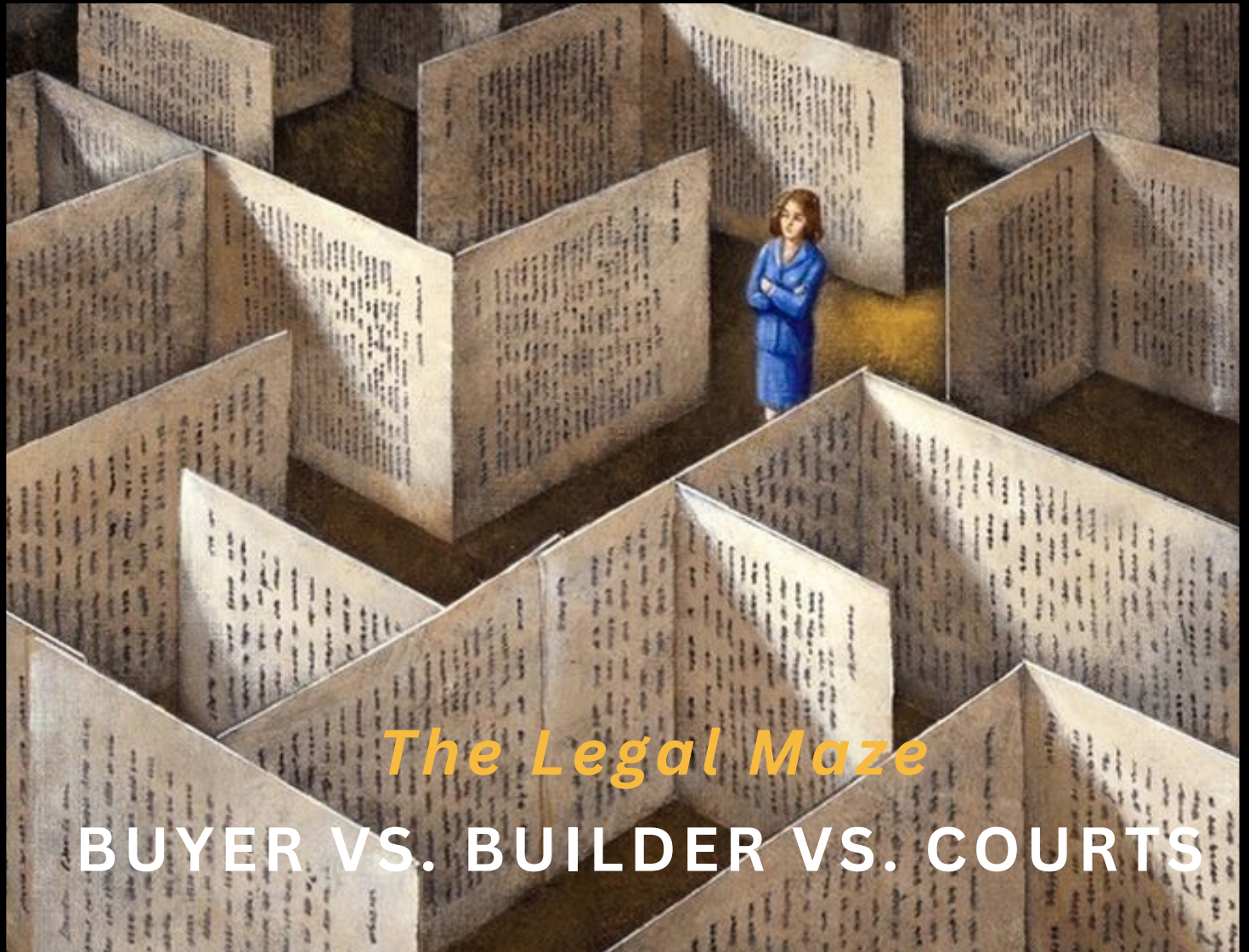




The Legal Maze

BUYER VS. BUILDER VS. COURTS

LAW CRUMBS

The Indian real estate sector is a battleground where buyers, builders, and courts often find themselves at odds. Systemic challenges, such as project delays, one sided agreements, and judicial inefficiencies, continue to impact millions of stakeholders.

20% of the
52 Million

pending cases across all Indian courts are of land and property disputes, making them the largest segment of civil backlog.



UPHOLDING BUYERS' INTERESTS

Rights and Remedies

BUYER VULNERABILITIES

ONE-SIDED AGREEMENTS

Builder Buyer Agreements (BBAs) frequently favor developers, with clauses that:

- Allow unilateral changes in project plans, specifications, and timelines.
- Provide no penalties for delays in possession, leaving buyers financially strained due to continued rent or EMIs.
- Include harsh penalties (up to 24% quarterly interest) for buyer payment delays while offering minimal or no compensation for builder defaults.

OPAQUE PRACTICES

Buyers often face significant challenges due to a lack of transparency, such as:

- **Ambiguous Pricing:** Hidden charges, such as preferential location fees and maintenance costs, are revealed late in the process.

- **Unclear Timelines:** Developers avoid specifying start or possession dates, leading to indefinite delays.
- **Project Approvals:** Buyers are frequently not informed about the status of legal approvals, increasing the risk of investing in non compliant projects.

JUDICIAL DELAYS

- A recent Supreme Court ruling **denied homebuyers reimbursement of interest** paid on home loans for delayed projects, limiting relief to a refund of the principal amount and contractual compensation.
- **Backlogs:** With over 52 million cases pending in Indian courts and 20% related to land or property disputes, even fast track RERA resolutions can take 2-3 years instead of the mandated 60 days.



RERA PROTECTIONS

Seek refunds with interest (up to 11% annually) for delays under Section 18.

File complaints for misleading advertisements or construction defects.

CONSUMER FORUMS

Broader claims for emotional distress, unfair practices, and service deficiencies.

Suitable for disputes involving older projects or non-registered developers.

PROTEST RIGHTS AFFIRMED

In a landmark ruling, the Supreme Court upheld the right of homebuyers to peacefully protest against builders, emphasizing that framing such protests as criminal acts is a misuse of the law.



LEGAL AVENUES FOR HOMEBUYERS

*Over 1.25 lakh
complaints resolved
under RERA since its
inception.*

*Consumer forums settled
77,000 cases, awarding
significant
compensations to buyers.*



Key Challenges for Developers

REGULATORY PRESSURE

RERA mandates detailed project registrations and strict compliance with disclosure norms. Builders must provide clear timelines, project approvals, and specifications to buyers.

BUILDERS

*and the Burden of
Compliance*

DATA THAT SPEAKS

*Builders face penalties for
delays, requiring refunds with
interest rates pegged at SBI
MCLR + 2% annually.*

*Over 1.38 lakh projects and
96,000 real estate agents
have been registered under
RERA as of 2024,
increasing accountability in
the sector.*

Developers are required to register all projects exceeding 500 sq. meters or involving eight units.

LITIGATION RISKS

Increased buyer awareness and empowerment through RERA and consumer forums lead to more frequent legal challenges.

Non compliance with contractual obligations or misrepresentation can result in criminal cases.

LEGAL AVENUES FOR BUILDERS

TRANSPARENT CONTRACTS

Draft clear and balanced agreements with explicit terms to prevent disputes.

Comply with RERA mandated formats for Builder Buyer Agreements (BBAs) to enhance buyer confidence.

FINANCIAL STRAIN

Developers must deposit 70% of buyer funds into escrow accounts to ensure proper use for project completion.

Delays in possession result in refunds with interest penalties calculated at SBI MCLR + 2% annually, significantly impacting profitability.



PRIORITIZE COMPLIANCE

Implement systems to track regulatory deadlines and streamline internal processes to meet RERA requirements.

Avoid reputational damage by addressing buyer complaints promptly.

ALTERNATIVE DISPUTE RESOLUTION

Use mediation and arbitration as quicker, less adversarial alternatives to litigation. Avoid prolonged court cases and mitigate financial losses through amicable resolutions.



JUSTICE IN CRISIS

Can Courts Catch Up?

With over 1.25 lakh cases resolved as of 2024, RERA provides **faster redressal** for issues like delays and refunds.

Consumer courts address mental harassment, service deficiency, and emotional distress, complementing RERA's project-centric approach.

Landmark rulings (**M/s Imperia Structures Ltd v Anil Patni & Another, Civil Appeal No. 3581-3590 of 2020**) affirm the coexistence of RERA and Consumer Protection Act remedies, empowering buyers with multiple legal avenues.

RERA Remedies

- Refunds with interest for delays.
- Rectification of structural defects.
- Penalties for false promises.

Consumer Forums

Compensation for mental agony and service deficiency. ●

Broader claims beyond RERA's scope. ●

CIVIL COURTS

Injunctions for breach of contract or specific performance.

CRIMINAL COMPLAINTS

Cheating or fraud under BNS Section 318 (formerly IPC 420) addresses severe builder misconduct and financial misappropriation.