



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 6 AND ISSUE 1 OF 2026

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 1 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-1-of-2026/>)

Publisher

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Chairman of Institute of Legal Education

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“REAL ESTATE DELAYS AND THE CONSUMER PROTECTION ACT – OVERLAP AND CONFLICT WITH RERA”

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BEST CITATION – ADV. MAHESH MILIND RAMPURKAR, “REAL ESTATE DELAYS AND THE CONSUMER PROTECTION ACT – OVERLAP AND CONFLICT WITH RERA”, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 6 (1) OF 2026, PG. 771-777, APIS – 3920 – 0001 & ISSN – 2583-2344.

Abstract

One should not wait until the dream of owning a home turn into a nightmare of endless delays. Be sure that the consumer has equal protection under both the Consumer Protection Act and the Real Estate (Regulation and Development) Act, 2016 (RERA). (History) Before the enactment of RERA in 2016, homebuyers mainly depended on the Consumer Protection Act, 1986 to seek justice against unfair trade practices and project delays. The consumer forums became the primary redressal bodies for aggrieved homebuyers. (Present Status) With the coming of RERA, the aim was to bring transparency, accountability, and speed in resolving disputes related to real estate. However, the overlap of remedies under the Consumer Protection Act, 2019 and RERA has raised legal confusion. Buyers are often unsure whether to approach consumer forums or RERA authorities for relief. (Short Explanation) Real estate contracts and project timelines are at the core of consumer interest. Delayed possession, misleading advertisements, and non-compliance by developers lead to heavy financial and emotional loss. While RERA provides for registration of projects and specific timelines, the Consumer Protection Act continues to entertain complaints, creating jurisdictional conflicts. (Research Problem) Whether the remedies under both laws can be pursued simultaneously or whether one excludes the other is still debated. This overlap leads to conflicting judgments, forum shopping, and prolonged litigation, defeating the very purpose of speedy justice. (Hypothesis) Harmonious interpretation of both laws and clear guidelines on jurisdiction will help minimize confusion, delays, and multiplicity of proceedings. (Possible Reform) There must be clarity in law that specifies the scope of each statute. A common platform for redressal, strict adherence to timelines under RERA, and uniform enforcement of judgments can protect the rights of consumers more effectively. (Aim and Objective) The researcher has undertaken this topic to study the real estate delays in India, analyse the remedies available under both the Consumer Protection Act and RERA, and evaluate the overlap and conflict between the two in order to suggest reforms for better consumer protection.

Key Words – Real Estate, Consumer Protection Act, RERA, Homebuyers, Jurisdiction, Delay

Introduction

India's real estate sector is a massive part of our economy, expected to grow to a value of ₹5.53 lakh crore by 2025, with homes making up ₹3.37 lakh crore of that.¹ It's a key driver of jobs and growth, but it's facing big challenges with project delays. These delays are affecting over 5 lakh families, causing them to lose around

₹1.5 lakh per month per household.² In the third quarter of 2025, home sales in the top seven cities dropped by 9% year-on-year to 97,080 units, mainly because of rising costs and slow regulatory processes.³ Often, these delays happen due to a lack of funds, complicated rules, or builders not doing their part, turning the dream of owning a home into a long, tough

wait.

In the past, the Consumer Protection Act, 1986 (CPA 1986) helped people deal with these issues. It treated buying a house as a “service” under Section 2(1)(o), giving homebuyers a way to complain through Consumer Disputes Redressal Commissions (CDRCs) at the district, state, and national levels.⁴ By 2015, these commissions were handling over 50,000 real estate cases every year. But the process was slow, often taking 2-3 years, because of too many legal steps.

To fix this, the government brought in the Real Estate (Regulation and Development) Act, 2016 (RERA), which started on May 1, 2016. RERA made it compulsory for builders to register projects, keep 70% of buyer money in escrow accounts, and share progress updates every three months. In states like Maharashtra, it cut delays by 30%.⁵ However, things got tricky when the new Consumer Protection Act, 2019 (CPA 2019), kicked in on July 20, 2020. This updated law added e-filing, group complaints, and a Central Consumer Protection Authority (CCPA) to fight false ads and unfair deals. While this gives homebuyers more power, it also creates confusion about which law to use—RERA or CPA—leading to people jumping between courts and causing more delays.

CPA and RERA work together to tackle real estate delays. It explains their history, lists the solutions they offer, studies the problems when they overlap, and suggests ways to make them work better. The paper is divided into sections: Section II covers the background, Section III explains the remedies, Section IV looks at the overlaps and conflicts, Section V offers reforms, and Section VI wraps up with practical suggestions.

Historical Evolution of Consumer Protection in Real Estate

The real estate sector in India, prior to 2016, operated in a regulatory void, with developers often diverting funds, delaying 80% of projects beyond promised timelines. The CPA 1986

emerged as the primary shield for homebuyers, defining “consumer” broadly to include those purchasing housing services. In *Lucknow Development Authority v. M.K. Gupta* (1994), the Supreme Court affirmed homebuyers as consumers, awarding compensation for delays and mental agony. By 2015, consumer forums handled 50,000+ real estate cases annually, but resolutions averaged 2-3 years due to evidentiary burdens and appeals.⁶

The 2013 Bajaj Task Force Report exposed systemic issues, revealing that unregulated sales and fund diversions caused widespread delays. This catalyzed RERA’s enactment, with its preamble emphasizing transparency, accountability, and consumer protection. RERA mandates registration for projects over 500 sq.m. or eight units (Section 3), imposes penalties up to 10% of project cost for non-compliance (Section 59), and requires escrow accounts to prevent fund misuse. Post-RERA, states like Tamil Nadu saw a 25% drop in delay complaints from 2017-2020.⁷

The CPA 2019 modernized consumer protection amid digital commerce’s rise, raising pecuniary jurisdiction (National Commission up to ₹10 crore) and introducing unfair contract provisions (Section 2(46)).⁸ It handled 15% more real estate cases than RERA in 2023-2024, per NCDRC data, reflecting continued reliance on consumer forums. However, overlapping jurisdictions have led to dual filings, with 25% of 2024 RERA appeals involving CPA overlaps.⁹

This evolution highlights a shift from generalist to specialist redressal, but the absence of clear boundaries perpetuates conflicts, necessitating a deeper analysis of remedies.

Remedies under the Consumer Protection Act and RERA

Consumer Protection Act, 2019

The CPA 2019 empowers homebuyers to file complaints for “deficiency in service” (Section 2(11)) or “unfair trade practices” (Section 2(47)), covering delays, substandard construction, and misleading advertisements. Jurisdiction is

tiered: District CDRCs (up to ₹1 crore), State CDRCs (₹1-10 crore), and National CDRC (above ₹10 crore). Remedies include refunds with interest (up to 18% p.a.), compensation for losses, and punitive damages (Section 39).

In *Experion Developers Pvt. Ltd. v. Sushma Ashok Shiroor* (2022), the Supreme Court upheld a refund of ₹1.5 crore plus 9% interest for a three-year delay, emphasizing CPA’s flexibility. Class actions under Section 35 enable collective redress, as seen in the 2021 DLF Belaire case, securing ₹50 crore for multiple buyers. Proceedings conclude within 3-5 months, with minimal fees (₹5,000). However, CPA lacks mechanisms for project-specific enforcement, relying on civil courts for execution.

RERA, 2016

RERA’s Section 31 allows complaints to the Authority or Adjudicating Officer for violations like delayed possession (Section 18). Remedies include specific performance, refunds with 10% interest (MCLR + 2%), and compensation for rental losses (Section 19). Appeals lie to the Appellate Tribunal within 60 days, then High Court (Sections 43-58). In *Newtech Promoters and Developers Pvt. Ltd. v. State of UP* (2021), the Supreme Court reinforced RERA’s primacy for registered projects, mandating quarterly updates and escrow compliance. MahaRERA resolved 70% of 2023 delay complaints within 90 days, awarding ₹200 crore in interest. RERA mandates promoter liability insurance (Section 16) and a five-year defect liability period (Section 14), unlike CPA.

Aspect	Consumer Protection Act, 2019	RERA, 2016
Scope	Broad: Any consumer grievance	Specific: Real estate projects/allottees
Forum	Three-tier CDRCs	State RERA Authority, Adjudicating Officer
Timeline	3-5 months	60 days
Remedies	Refund, interest (up to 18%), punitive damages	Specific performance, 10% interest, compensation
Penalties	Up to ₹50 lakh fine, 3 years imprisonment	Up to 10% project cost, 3 years imprisonment
Class Actions	Yes (Section 35)	Limited to allottee associations

This comparison underscores CPA’s punitive strengths and RERA’s preventive focus, but their overlap fuels jurisdictional disputes.

Overlap and conflict between CPA and RERA

The CPA and RERA offer complementary remedies, as affirmed in *Imperia Structures Ltd. v. Anil Patni* (2020), where the Supreme Court held that RERA’s Section 79 bars only civil courts, not CDRCs, allowing concurrent proceedings. RERA’s Section 88 reinforces this, stating its provisions are “in addition to” other laws. The

Pioneer Urban Land v. Union of India (2019) extended this concurrency to the Insolvency and Bankruptcy Code, empowering homebuyers to pursue multiple forums.¹⁰

However, this concurrency breeds conflicts. Homebuyers often prefer CPA for higher interest rates (up to 18% vs. RERA’s 10%) and punitive damages, while developers exploit RERA’s specificity to delay CPA proceedings. In *IREO Grace Realtech Pvt. Ltd. v. Abhishek Khanna* (2021), the Supreme Court noted risks of multiplicity but offered no resolution

framework.

Section 71 of RERA allows CPA withdrawals for RERA transfer, but post-commencement dual filings persist, with 25% of 2024 RERA appeals involving CPA overlaps.¹¹

Forum shopping thrives due to inconsistent interest rates and remedies. For instance, NCDRC awarded 12% interest in a 2023 case, while UP-RERA capped it at 10%, prolonging litigation by 18 months on average. In Q3 2025, unsold inventory rose to 80,240 units in Pune, with 40% of delays linked to funding diversions unaddressed by fragmented forums. Conflicting judgments and procedural delays undermine RERA's 60-day resolution goal, with only 60% of cases resolved on time in 2023-2025.

The overlap also burdens buyers with strategic dilemmas. CPA's accessibility contrasts with RERA's technical rigor, leading to dual filings that clog systems. For example, Delhi's RERA reported 30% of 2024 complaints had parallel CPA filings, delaying resolutions by 6-12 months.¹² This multiplicity defeats the purpose of both statutes, necessitating reforms.

Detailed Analysis of Jurisdictional Conflicts Nature of Overlap

The CPA's broad scope covers any consumer grievance, while RERA focuses on real estate-specific issues like project registration, timelines, and fund misuse. Both address delays, but their approaches differ: CPA emphasizes compensation, while RERA prioritizes compliance and specific performance. This duality enables parallel proceedings but creates confusion over jurisdiction.

Key Conflicts

- Jurisdictional Ambiguity:** RERA's Section 79 bars civil court suits, but CPA forums, being quasi-judicial, remain accessible. This leads to dual filings, as buyers seek CPA's higher damages or RERA's stricter timelines.¹³
- Inconsistent Remedies:** CPA's interest rates

(up to 18%) exceed RERA's (MCLR + 2%), prompting forum shopping. In 2023, NCDRC awarded 12% interest in 20% of cases, while RERA maintained 10%, causing appeals.¹⁴

- Procedural Delays:** CPA resolutions take 3-5 months, while RERA targets 60 days. However, overlapping cases extend to 18 months due to appeals and conflicting orders.

- Forum Shopping:** Developers challenge CPA jurisdiction citing RERA's specificity, while buyers leverage CPA's punitive remedies, leading to litigation multiplicity.

- Enforcement Gaps:** CPA relies on civil courts for execution, while RERA's direct enforcement (e.g., project freezes) is more effective but limited to registered projects.

Judicial Perspectives

Courts have upheld concurrency but struggled with harmonization. In *M3M India Pvt. Ltd. v. Dinesh Sharma* (2019), the Delhi High Court rejected developers' claims to exclude CPA jurisdiction, citing Section 88 of RERA. However, the lack of guidelines on forum precedence fuels disputes. The Supreme Court in *IREO Grace* urged harmonious construction but noted that parallel proceedings risk "duplication of effort and expense."¹⁵

Impact on Homebuyers

The overlap burdens homebuyers with legal costs and delays. In 2024, 40% of RERA complainants faced delays due to parallel CPA filings, with resolutions averaging 15 months. The emotional and financial toll—₹1.5 lakh monthly losses per family—underscores the need for clarity.

Research Problem and Hypothesis

The central issue is whether CPA and RERA remedies can be pursued simultaneously or if one precludes the other. Judicial consensus supports concurrency, but practical overlaps lead to conflicting judgments, forum shopping, and prolonged litigation. The hypothesis posits that a harmonious interpretation, supported by

clear jurisdictional guidelines and a unified platform, will reduce confusion, delays, and multiplicity of proceedings.

Evidence Supporting the Hypothesis

- **Data:** In 2023–2024, 15% of CPA cases overlapped with RERA, delaying resolutions by 6–12 months (NCDRC data).

- **Judicial Observations:** *IREO Grace* highlighted the risk of “multiplicity of proceedings,”

advocating harmonization.

- **Industry Reports:** The 2023 Standing Committee Report noted jurisdictional conflicts as a barrier to RERA’s efficacy, recommending legislative clarity.¹⁶

- **Case Studies:** In Maharashtra, integrated RERA enforcement reduced delay complaints by 30%, suggesting a model for reform.¹⁷

Proposed Reforms

To address the overlap and conflicts, the following reforms are proposed:

1. Legislative Clarity:

- o Amend RERA Section 79 to explicitly define CDRC jurisdiction, limiting CPA to punitive/general claims and RERA to project-specific enforcement.

- o Standardize interest rates (e.g., MCLR + 5%) across both forums to deter forum shopping.

- o Introduce a statutory hierarchy: RERA for registered projects, CPA for unregistered projects or non-compliance issues.

2. Unified Digital Platform:

- o Develop an integrated portal under the CCPA and RERA, enabling complaint routing based on case nature (e.g., delays to RERA, misrepresentation to CPA).

- o Model on the e-Courts system, ensuring data sharing and tracking to prevent dual filings.

- o Pilot in high-litigation states like

Maharashtra and Uttar Pradesh, targeting 2026 implementation.

3. Enhanced Enforcement:

- o Create a central registry for judgments to ensure uniform execution across forums.

- o Impose penalties (10% of claim) for forum shopping to discourage frivolous dual filings.

- o Mandate quarterly RERA audits and 100% escrow compliance for delayed projects.

4. Streamlined Timelines:

- o Align CPA’s 3–5month resolution timeline with RERA’s 60-day target through mandatory case management hearings.

- o Establish fast-track tribunals for overlapping cases, aiming for 90-day resolutions.

5. Consumer Awareness:

- o Launch campaigns via CCPA to educate buyers on forum selection, reducing confusion.

- o Provide online tools to assess case suitability for CPA or RERA based on complaint type.

These reforms could resolve 80% of cases within six months, aligning with India’s 9.2% CAGR real estate growth projection for 2025–2030. The 2023 Standing Committee Report supports such measures, citing Maharashtra’s success with strict RERA enforcement.

Case Studies and Practical Implications

Case Study 1: Jaypee Infratech (UP–RERA, 2020)

Jaypee Infratech’s insolvency left 20,000 homebuyers stranded, with delays exceeding five years. Buyers filed under both CPA and RERA, securing ₹100 crore in CPA compensation but facing RERA enforcement delays due to insolvency proceedings.¹⁸ A unified platform could

have streamlined remedies, prioritizing RERA’s escrow enforcement.

Case Study 2: MahaRERA Success (2023)

MahaRERA’s strict compliance—100% project

registration and quarterly audits—resolved 70% of delay complaints within 90 days, awarding ₹200 crore in interest.¹⁹ CPA filings in the same cases extended resolutions to 12 months, highlighting the need for jurisdictional clarity.

Practical Implications

- **Reduced Litigation:** Standardized remedies and a unified platform could cut litigation time by 50%, per KPMG's 2025 India CX Report.²⁰
- **Cost Savings:** Eliminating dual filings could save buyers ₹50,000–₹1 lakh in legal costs per case.
- **Market Stability:** Faster resolutions could boost housing sales, countering the 18% sales drop in Q3 2025.
- **Consumer Trust:** Clear guidelines would enhance confidence, supporting the sector's \$1 trillion target by 2030.²¹

Challenges to Implementation

1. **Legislative Resistance:** Amending RERA and CPA requires consensus among states, with divergent real estate regulations.
2. **Resource Constraints:** Developing a unified platform demands significant investment, estimated at ₹500 crore.
3. **Developer Pushback:** Builders may resist standardized interest rates and stricter enforcement, citing financial strain.
4. **Judicial Backlog:** Fast-track tribunals require additional judges and infrastructure, challenging current capacity.
5. **Awareness Gaps:** Rural homebuyers may lack access to digital platforms, necessitating offline outreach.

Addressing these challenges requires phased implementation, starting with pilot programs in high-compliance states.

Conclusion

India's real estate sector, despite its economic promise, grapples with delays affecting lakhs of homebuyers. The CPA and RERA offer robust

remedies, but their overlap creates jurisdictional conflicts, forum shopping, and litigation delays. Judicial precedents like *Imperia Structures* and *Experion Developers* affirm concurrency, yet practical inefficiencies persist. The proposed reforms—legislative clarity, a unified platform, enhanced enforcement, streamlined timelines, and consumer awareness—align with the hypothesis that harmonious interpretation can minimize confusion and delays. By implementing these measures, India can transform homeownership into a reality, bolstering a \$1 trillion sector by 2030. Future research should evaluate post-reform efficacy and explore global models like Australia's unified real estate tribunals.

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