

# Demonetisation: a boon for the real estate sector

Sanah Badhwar

*Symbiosis Law School NOIDA, Symbiosis International University, Pune-412115, India*

Sanahbadhwar98@gmail.com

## Abstract

**Objectives:** To provide a bird eye's view of the entire real estate market, as the public at large is aware about the significant challenges that the Indian real estate has been facing in the past few years in terms of sales and growth. These include the policies of demonetization, GST, BENAMI Transaction Act and Real Estate Regulation Act.

**Methods/Statistical analysis:** Secondary Sources that include references to various databases and reports obtained from various governmental websites.

**Findings:** There has been a significant amount of findings associated with the research conducted. The context of this research has been *in lieu* of demonetization with the supplements of the supporting legislations- Goods and Service Tax, Prohibition of BENAMI property transactions Act, Real estate regulatory authority act. Each of these acts when analysed have indicated as being of significant improvement in the state of economic affairs. As has been also highlighted there has been some difficulty in adjustment to the move of demonetization in the beginning for the people yet it appears that in the long run it is a feasible option and of much relevance and one of the biggest steps for the growth of the Indian economy (i.e. approximately USD 14 billion to a USD 102 billion).

**Application/Improvements:** In light of the cleansing the real estate sector, demonetisation has been aimed at removing black money in the sector. However, the highlight of its success can mainly be identified through the help of the various legislations that already exist and in furtherance be a stepping stone to providing a holistic approach to the sector of real estate. The improvement has been to consider all the major legislations and henceforth reach a fair consensus through the help of economic analysis keeping in mind the effects of all major legislations (Goods and service tax, Prohibition of BENAMI property transactions act, Real estate regulatory authority act) on real estate in order to identify the real impact on the sector of real estate from a policy as demonetization to specific acts that govern the real estate sector.

**Keywords:** Demonetisation, Real estate sector, Black money, primary sales, resale, land transaction.

## 1. Introduction

Demonetization is a burning topic these days and clubbed with the real estate, many questions arise owing to the present scenario related to real estate market in India. Real estate refers to all the properties comprising of land and buildings on it, including the natural resources and uncultivable flora and fauna, livestock, water bodies, minerals and can majorly be grouped into three broad categories- Residential area(undeveloped land, houses, town homes) commercial area (office buildings, warehouses) and industrial area (factories, mines and farms).The whole agenda behind the entire exercise of demonetization was to clean up the framework, and that is the reason as to why it got associated with this industry.

The blow of demonetization was hard to the point that it shook the whole nation. While on one hand the demonetisation activity by the union government implies additional delays in ongoing land projects because of the massive money crunch, it likewise on the other hand prepares for a better and more transparent real estate sector for the coming future transactions. Therefore, developers will be searching for other alternative subsidized courses of action while investors will be sitting tight for a better clarity before making any move. Let's dig a little deeper into the impact of demonetization on the real estate sector in our country from short to long term. After the note ban, real estate industry has been bombarded with confusions as to what will be the impact of it- positive or negative, which the following sections will give clarity to.

## 2. Concept Headings

### 2.1. Pre-demonetisation scenario of real estate

In India, the land sector is the second most active segment, for drawing private equity investor's interest [1], after agriculture. Accordingly, post liberalization of the economy, in the past fifteen odd years or so, Indian real estate market had been improving and was expected to grow from USD 14 billion to a USD 102 billion in the next decade or so. Responding to a well-educated consumer base, the real estate investors in India have changed gears and acknowledged the difficulties within this sector. The most dynamic change had been the move from family oriented organizations to that of professionally managed ones.

It was also expected that the real estate sector will indulge more non-resident Indian (NRI) investments in both -short term and long term. BENGALURU was expected to be at the number one priority for favoured property investment destinations for non-resident Indians [2]. Real estate market had a great expectation from the upcoming budget for the year 2016-17. Investors were demanding that the centre government give relaxation in income tax rate, raise House Rent Allowance deduction, provide a greater clarity on GST and announce policies to standardize construction materials so as to uplift the real estate sector.

### 2.2. Post demonetisation scenario of real estate

We've had fear-mongering from a few quarters, hypothesizing that costs could tumble as much as 30% and wipe out as much as 8Lac crores of significant worth out of the market. So what category will be the most effected? The Indian land industry is a standout amongst the best methods for changing over black money into white. By and large, 33% of each exchange includes the utilization of black money, where the genuine cost of the property is substantially higher than the lawfully reported cost [3]. This has for long been a standout amongst the most widely recognized methods for tax avoidance. Following categorises the immediate effects:"Asking Price" from the landowner fragment drops by 4%-Costs in the auxiliary market have fallen by just 4% at a total level. Seen at a city-level, the drop is up to 5%. Landowners along these lines appear to be to a great extent clutching to costs and there is no confirmation yet of any automatic fall in costs. In the primary markets, engineers have packaged arrangements to attract buyers and avoiding giving altogether money rebates. 7% of purchasers have moved from "Purchasing" to now "Leasing"-We have seen a move in inclination for around 7% buyers whose underlying decision were to purchase a property yet are presently searching for rental alternatives after demonetisation. These buyers are going for a rental arrangement meanwhile period while they concede buys for property as they hold up and observe how the supply unfurls, demonstrating that there is moderately more interest for rental section in this period. This will be an intriguing pattern to keep an eye out for. For buyers, this is a totally incredible time to be a purchaser- Buyers may home in on prepared -to-move-in properties as it were. Declining home loan rates. A downward trend in interest rate structure in the home loans will relieve people from high EMI's. Many development schemes and infrastructure housing facilities and other governmental land schemes has improved the scope of buying homes.

### 2.3. GST and real estate's link

The GST Bill was approved in the LOKSABHA on March 29, 2017. GST is a consumption based tax imposed on sale, manufacture and consumption of products and services at a national level. GST will be a substitute for all the indirect taxes and Exports. Direct taxes like income tax, corporate duty and capital gain tax will not be affected by GST. It would be applicable to all the goods and services leaving a few to be more particular. This tax regime will take the form of "dual GST" which is simultaneously imposed by central and state government in the form of Central GST and State GST. This will comprise of:

1. Central GST (CGST) which will be imposed by the Centre
2. State GST (SGST) which will be levied by the States
3. Integrated GST (IGST) – which will be imposed by the Central Government on inter-State exchange of goods and services.

### 2.4. BENAMI transactions (prohibition) amended act, 2016 and it's link with real estate

The act of purchasing properties in the name of someone else other than the person himself or with some other person's identity other than the buyer has been widely abused to buy a number of properties in the real estate sector with the undisclosed income or black money to abstain from paying taxes. It is assessed that properties with false names worth billions of rupees are held under imaginary names all over India, bypassing laws to check ownership and depriving states of valuable revenue ultimately leading to huge amounts of

unequal distribution of land and properties widening the gaps between the rich and poor as rich go on getting richer, while as the gap increases, the poor go on getting poorer. Amongst every other option, BENAMI properties bought is one of the biggest factors for this.

This 1988 law on BENAMI properties was changed to boycott illegal BENAMI transactions with stricter orders. These properties can moreover be seized. The BENAMI Transactions (Prohibition) Act, 1988 has been on the statute book for a longer than 28 years, but, the same could not come into force because of certain inherent defects. With the perspective of providing an effective regime to prohibit the BENAMI exchanges, the said Act was changed through the BENAMI Transactions (Prohibition) Amended Act, 2016 and came into effect on 1st November, 2016 and ever since several BENAMI transactions have been identified under which provisional attachments of properties worth around 200 crore and 140 cases in total number are recognized wherein provisional attachment has already been effected in 124 cases. The revised law empowers the government to provisionally attach BENAMI properties which can be confiscated eventually. In addition, if a person is found guilty of offense of BENAMI exchange by the respective court, that person shall be culpable with thorough imprisonment for a duration of at least one year, which may stretch out to 7 years and shall also be liable to a fine which may reach out to 25% of the fair market value of the property. "The BENAMIDAR, a person in whose name the BENAMI property is standing, the beneficiary, who actually paid consideration and persons who induce BENAMI transactions are prosecutable and may face rigorous imprisonment up to 7 years besides being liable to pay fine up to 25% of fair market value of the BENAMI property," said the notice regarding the BENAMI prohibition act. The BENAMI properties include deposits in accounts and immovable properties and also jewellery.

## **2.5. Real estate regulation act (RERA) and its link with real estate**

The Real Estate (Regulation and Development) Act, 2016 is an Act which intends to protect and promote the interests of the buyers and along with that, help increase the investments in the real estate sector. According to this act (RERA), each state and Union region will have its own particular controller and regulator and an arrangement of principles to administer the working of the controller and regulator. The Centre has made the standards and rules for Union territories including, in it, the national Capital. While many states are still behind on schedule for notification of RERA rules, many others have been notified of the guidelines and rules and a regulator will start its functioning. Some of these states are Haryana, Uttar Pradesh and Maharashtra.

### **1. Why RERA?**

The Real estate regulation and development act intends the address matters pertaining to price, delays, quality of construction, title and other changes. Delays in ventures are the greatest issues faced by the purchasers. The reasons are in great numbers and the impact of them is huge. Since the recent 10 years or so, many projects have faced deferrals of, up to 7 years. Ventures launched after this decade have faced delays as well. We have ourselves seen, this in the form of potholes not filled or bridges left incomplete, in our everyday routine. Some projects had faced obstacles even before a brick was laid. The explanations behind this for mainly include diversion of funds to other ventures, changes in regulations by authorities, the environment ministry, national green tribunal etc. and other bodies like those involved in infrastructure development and governing transport. In many instances, land acquisition only becomes an issue. Builders often pitch projects to investors or buyers without the approval of plans, or unauthorised increase in FAR, or with bad quality of construction, projects stuck in suits etc. and with RERA these, thus, will be looked upon.

### **2. Key arrangements of RERA**

1. New rules require every project to have an individual escrow account, with 70% of sales proceeds deposited in it. This cash must be utilized for the development of the venture and the cost borne towards the land. To give lucidity to purchasers, designers should keep them educated of their other progressing ventures.
2. Also, only those projects will be allowed to be advertised and sold to buyers which have thorough approvals of everything to be advertised and sold. Plus, it will be the obligation of every state regulator to enrol land ventures and land operators working in their state under RERA. The subtle elements of every single enlisted venture will be set up on a site for free. After engineers enlist with the controller, a page will be made for the manufacturer on the administrative specialist's site. The designer will be given login qualifications utilizing which it will transfer all the data in regards to the enrolled extends on the controller's site. The

number, kind of flats, plots and extends and their finishing status will be refreshed at a greatest quarterly premise.

3. Designers cannot welcome, promote, offer, market, any plot, condo, house, building, interest in ventures, without first enrolling it with the state regulator. Moreover, after enrolment, all the advertisement-welcoming- ventures should bear the remarkable RERA enlistment number.
4. In the wake of enlisting the venture, engineers should list points of interest of their money related explanations, lawful title deed and supporting reports and if the promoter defaults on the project regarding the concurred due date, they will be required to restore the whole cash contributed by the purchasers alongside the pre concurred loan cost specified in the agreement in light of the model contract given by RERA. However, if the purchaser chooses not to take the cash back, the builder should pay month to month interest on each defer month to the purchaser till they get their project completed. After engineers enlist with the controller, a page will be made for the manufacturer on the administrative specialist's site.
5. RERA commands that engineers cannot solicit more than 10 for each penny from the property's cost as a propelled instalment booking sum before really consenting to an enrolled deal arrangement. The regulator will have the ability to fine and detain errant developers in light of a case of default. The detainment can go up to a time period of three years for a venture.

### 3. Discussion

#### 3.1. Positive impact of demonetisation on real estate

- **Ascent of transparent process for home buying**
  - With demonetization, a tremendous move has been seen towards a cashless economy. All the exchange, now being done however through card, would not just bring ease but additionally straightforwardness and a better transparency in this segment of the real estate industry.
  - **Many attractive investments**
  - At low interest rates, real estate industry will boost as property will become attractive to both end users and investors.
  - **Lower EMI's**
  - Due to lower rates of interest, home buying will be much pocket friendly and apartments would come appear as an easy reach to buyers.
  - **Cheaper home loans**
  - As it is a chain reaction, with demonetization, banks are full of funds which would bring down interest rates on deposits and loans till an extent of 10-8% [4].
  - **Boost in re-selling of properties**
  - Resale demand will pick up as new cash is entering circulation and prices will be marginally lower than the prices before the demonetisation activity [5].
  - **Land buying**
  - A considerable drop in prices will be seen but a wait-and-watch situation will be better by considering the price structure in the respective areas before buying land as it will be a differ scenario in metro cities – marginal impact on prices can be seen as market prices are close to guideline value. Sellers will not be selling for a little near 18 months or so for the same reason and in-case sellers are in absolute need of case they will sell them in reduced prices.
  - **Builders willing to negotiate prices**
- There will not be a serious price drop in the prices asked by builders for many reasons:
- Most builders have acquired land at higher costs to suit favourable conditions
  - Inputs cost have gone up in recent years
  - With introduction of RERA i.e. Real Estate Regulation and Development act, builders will have to comply with it and therefore cost compliance will tighten the margins of profits. Subsequently, builders will be ready to negotiate on prices with their serious buyers with deals across the table and also be willing to offer considerable freebies in the form of modular kitchen, free car parking, free sofas, etc.

### 3.2. A boon for buyers buying their own homes

- Resale projects, which were earlier out of the pockets of the buyers, will now be an option because of distress sale.
- As mentioned earlier, builders will be willing to negotiate the best deals because of cash crunch in the market as they need cash for paying of wages, paying for input prices and to continue the stopped projects.
- As the above mentioned impact explains the home loan component, most percentage of the first home buyers fund their property purchase through home loans. With home loans expected to come down very soon, EMI's will come down considerably, making homes cheaper to buy or probably getting you a bigger house for somewhat the same nearer price than you actually were paying before.

### 3.3. Impact of the BENAMI transactions (prohibition) amended act, 2016 on real estate

The result of proper implementation of this act will be a more prominent transparency in the real estate market, with lesser corruption and a better correction in prices leading to a better understanding of this sector. The government's intension to provide housing for all by 2022 is meant to create 20 million new urban housing units and 30 million rural homes, and the BENAMI prohibition act will increase the speed of the implementation of government's plan. "When titles are clear and transactions transparent, the confidence of lenders increases, so we will see a pickup in lending to buyers," said ANUJPURI, chairperson of real estate firm Jones Lang LaSalle India.

#### 3.3.1. Increased Transparency

With the introduction of the BENAMI Act the transparency level is bound to increase as now all real estate transactions have to be in the name of the actual owner, the person who is paying the consideration for buying the property through his or her own sources. This will lead to an increase in the confidence from the investors' side upon the buyer and lead to clarity in the ownership of property; this could even lead to a slight decrease in property frauds.

#### 3.3.2. Moneylender certainty

Moneylender certainty (irrespective of whether it is a private entity or bank) will likewise get a boost. Different possessions, false proprietorships, and in addition unknown proprietorships torment the private segment, particularly in smaller metros and non-metro markets. Today, when titles on property are not clear, the loaning organization like banks frequently direct its own title seek on a property, before endorsing the credit to an organization or person. With expanding obligations, it is not unexpected that banks embrace vigilant investigation of the possession before granting loans.

#### 3.3.3. Land exchanges

The quantity of BENAMI exchanges that are taking place is extensive and it is anticipated that the correction will have a positive effect. Land exchanges in India, take a normal of 1-2 years for completion. Now buying of land is no longer practical, most designers are settling on joint endeavors. After different debates on income sharing and understandings of reasonable FSI, it is discovered that the land title itself is not clear. With the new change, lucidity on titles will make way. This will help engineers, to finish up joint projects rapidly and open up upcoming bundles for private improvement. Reserves taking part in exchanges will be faster.

- **Effect on supply of private units**

The changed bill tries to set up four specialists, to direct request with respect to BENAMI exchanges:

- Starting officer
- supporting expert
- Overseer
- Expert on mediation

The act, moreover, expresses that if a regulating officer doubts a man of being a BENAMIDAR, he can issue a notice to that individual and he can hold the property for 90 days from the date of issuance of the notice, subject to authorization from the above authorities. This implies that a considerable measure of obligation lies in the hands of the regulating officer, for following a BENAMIDAR. Besides, every one of these specialists needs to work as a team, to build up a property as BENAMI. In addition, once the property is reallocated, it

will be utilized by the administration. Consequently, the effect on the general supply of property in private markets will be insignificant.

- **Stringent correctional measures**

This new law tries to bring about a change in the prior punishment of one to three years, to increase imprisonment of one year up to seven years, and a penalty which may extend to 25% of the estimation of the BENAMI property of the fair market price. Ideally, this will bring about a truly necessary change in the land part. The achievement of the corrected demonstration will lie in its immediate and strict execution. Else, the problem of genuine possession will stay unsolved.

### **3.4. Impact of RERA on real estate**

#### **3.4.2. Revive Demand**

The real estate segment will breathe clean air with the execution of RERA as the Centre's approach seems to be. Purchasers often have loads of inquiries with regards to purchasing dream homes. RERA guarantees to end that tension. All essential data will be available with the regulator and, ideally, made accessible to potential purchasers. It will likewise set deadlines for ventures, which implies that the perpetual hold up before moving in will soon be passed. Thus, the move will lift purchasers' certainty and bring movement back in the segment.

#### **3.4.2. Beginning issues**

RERA will expand transparency in the land industry and improve certainty of both local and outside financial specialists, which suggest that supply could plunge amid the year as land engineers grapple with the law however demand will enhance as purchasers will have expanded certainty to put resources into property properly. Costs could likewise stay steady as the segment turns out to be more straightforward.

#### **3.4.3. Purchasers cannot be taken for a ride**

Deceitful builders would not have the capacity to show purchasers any unfair practice any longer. The purchaser will pay just for the cover region (zone inside dividers). The builder cannot charge for the super developed territory, just like the practice at the starting, where you get 900-1,000 sq. ft. cover territory in the event that you book a 1,300 sq. ft. house (the rest is overhangs and basic spaces). The new law restraints the exercise of this practice.

#### **3.4.4. Equal footing towards both sides**

While the law is largely consumer-friendly, the penalty provision would give an equal footing to both parties, bringing greater accountability into the sector. A home buyer, too, can be jailed, up to one year, if he fails to obey the orders of regulatory authorities or appellate tribunal as the builder will be asked to pay the amount back in 60 days or a fine or imprisonment [6].

### **3.5. Impact on real estate ASA whole**

Land will now be taxed at 18% after the revised taxes in the single indirect tax structure regime issued by the government which includes 9% Central GST and 9% SGST respectively. The administration has additionally permitted deduction of land value proportional to 33% of the aggregate sum charged by a developer, therefore, making the effective tax rate near about 12%. [7] Thus, residential construction services will be levied a 12% GST, which applies to all the developers, selling residential units before the completion of the construction to the home buyers. [8] However, the greatest preferred advantage that can be found in the GST regime is the introduction of Input Tax Credit, whereby credits paid at each phase of production or service delivery, can be availed in the future phases of value addition. This would make it, a tax, only on value addition at each phase of the transaction. This implies that the end purchaser, ultimately, will only bear the GST charged by the last dealer in the supply chain transaction, with set-off advantages at all the prior stages. The government has also launched an anti- profiteering clause in the GST bill (section 171) of GST law to ensure that the manufacturers, service providers and developers in this process, pass on the benefit to the end purchaser and sees to it that the customer is actually benefitted [9]. This clause comprehensibly expresses that it is compulsory to pass on the benefit of tax reduction due to input tax credit to the final customer.

### 3.5.1. Impact towards affordable housing

Affordable housing is currently exempted from tax. It is most likely interpreted that the government may come out with a clarification regarding the applicability or continuing exemption under the GST [10].

### 3.5.2. Impact on commercial real estate

This aspect of the real estate industry will have a light to neutral impact considering slight changes in the previous 15% lease service tax with round about 12% savings and 18% increase.

### 3.5.3. Impact on rental housing markets

Different questions pertain to the rental housing market, which would normally be affected if the legislature were to impose residential leases under GST. The apprehension related to it is that if this somehow managed to happen, the rental housing sector may undergo an enormous change in prices over the medium-term, since residential leases are at present not taxed.

### 3.5.4. Post GST

Some taxes will be easier to be managed now that there is no overlapping of jurisdiction of state and centre. "Seeking redressed of a taxation issue would be far easier because in the new regime the same rule would apply to everyone," explains KPMG Partner (Indirect Tax) PRIYAJITGHOSH [11]"Post-GST rollout, many corporate may not prefer purchases from unregistered dealers, executive director, RSM Astute Consulting Group [12], which would initiate more fair deals and transparency in the real estate market. Also, under-construction properties are charged 12% tax under GST which reduces the logistic cost and also provides for a more simplified tax structure for buyers that allows builders to increase profit margins as well as transfer benefits of the same to buyers in the form of freebies as mentioned.

Adding to it, GST is relied upon to be a sentiment booster for the real estate industry and will try to improve the purchaser and investor relationship by bringing more straightforwardness and transparency in tax collection. As the impression of the sector is said to have enhanced, the prices are probably going to drop around one to three percent. The taxation policies prior to GST were extremely complicated for purchasers. For instance, purchasers were prior at risk to pay charges depending upon the development status of the property and the state where it is found. Purchasers were additionally needed to pay VAT, service tax, stamp duties and registration charges on buying of an under-development property. But, if the purchase was for an already constructed and finished property, the taxes applicable were stamp duties and registration charges. And, since VAT, registration charges and stamp duties and were all state levies, each state determined its own figure, and, as service tax was a central levy, therefore, was charged on construction. So the computation of expenses was repetitive in the prior administration however with advent of GST, all under construction properties were charged 12%. Thus there is no need of paying stamp duties and registration charges. Also, no indirect taxes have to be paid on sale of ready-to-move-in properties. The greatest dig herein is that GST is a straightforward expense that applies to the general price tag altogether proving it to be a simple agenda related to the real estate market.

## 4. Conclusion

Demonetization, along with other acts, will be significant for homebuyers who have been harassed for years because of property sale agreements discriminatory in favour of developers, violation of building rules and delayed home delivery or delivery as not promised. There will not be a considerable fall out in prices in the new property market because the new property market is majorly run by home loans and has minimal of cash component in the transactions. Therefore, the chances of prices coming down in the new property market are very low. So Demonetisation will have minimal impact on new property market and a greater impact on resale and land property.

The boon factor, due to demonetisations impact on the real estate industry, comes in the picture for buyers and will be beneficiary to them as because of the uncertainty factors and negative pre- conceived notions which will lead to a pause in demand as in a lower demand which ultimately forces the sellers to reduce prices and thus if the buyers take on this opportunity, it will benefit them in the long run.

All other regulations, such as the Real Estate (Regulation and Development) Act, which intends to bring clarity and fair practices that would protect the interests of buyers and also impose penalties, and the Land Acquisition Rehabilitation and Resettlement (Amendment) Bill 2015, the BENAMI Transactions act, are all aimed at increasing the transparency and professionalism in the real estate industry.

So the conclusion is -The demonetization altogether, along with, BENAMI Property Act, can to be seen in this background, as government's multi- pronged policy to create institutional and administrative architecture for speedy growth of this sector. All these policies will enhance investor confidence and improve their opinion and prove real estate as an appealing asset sector with loads of opportunities stored for both the parties and for investment by foreign investors. The impact is already visible with global pension funds committing billions of dollars in real estate and infrastructure.

Another visible impact of demonetisation is further reduction in interest rates. The demonetisation has increased the liquidity in banking system and, along with that, lowering inflation, bankers and financial analysts, is expecting cuts in repo rate. Thus, dual aspect of demonetisation (as mentioned above), bringing down property prices and lowering interest rates, will make buying homes affordable, fulfilling the dream of 'Housing for All'. Furthermore, once the initial instability and uneasiness owing to demonetisation and GST gets over, the real estate industry will rise much stronger, with greater stability and affordability towards sustainable steady growth.

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