



KOCHHAR & Co.
ADVOCATES & LEGAL CONSULTANTS



India: Title Insurance in India: An Opportunity Awaits...

26 September 2017

by [Alok Tewari](#) (Gurgaon) and [Yudhist Singh](#) (Gurgaon)

Kochhar & Co.

Your **[LinkedIn Connections](#)**
with the authors

Under RERA, the promoter of a real estate project is obliged to obtain the requisite insurance policies required to secure the development of project and insurances as may be notified by the government.

The lack of transparency and uniformity in the Indian real estate market has done little to entice insurance companies from tapping into lucrative land deals and developing insurance products for the real estate sector. Due to the complexities involved in property devolution, lack of proper legal framework and the poor track record of real estate developers, insurance companies have been sceptical about their long-term business returns in what has proven to be a volatile industry.

The lack of a centralised repository for land records and the archaic methods for documentation of land title has been a limiting factor for the real estate sector. Throughout the country, real estate projects are plagued by issues relating to land title which often tantamount to delays and even cancellation of projects (due to disputes and litigation). India is one of the few jurisdictions where objections on land titles are raised even after the registration, conversion of land use and mutation of the property has been completed.

Globally, title insurance is a thriving multi-billion-dollar business. However, it is practically non-existent in India. Title insurance is a form of insurance which insures against financial loss from lacunae or defects in title of immovable property. This form of insurance is unique because it is retrospective in nature i.e., the insured party is insured not only against future losses, but also for losses arising from the events prior to the date of issue of the policy.

The role of the Real Estate (Regulation and Development) Act, 2016 ("RERA") will be pivotal for the future of the Indian real estate sector. It aims to usher a new structure for this market – an era of regulation, transparency, and answerability by ensuring

that the promoters, allottees and real estate agents fulfil their respective obligations in real estate transactions.

One such obligation imposed under RERA on the promoter is that of obtaining the requisite insurance policies required to secure the development of a real estate project and states that the promoter must obtain all such insurances as may be notified by the government, including but not limited to insurance in respect of the title of the land, building and construction of the real estate project. The promoter shall be liable to pay the premium and charges in respect of these insurances and shall pay the same before transferring the insurance to the association of the allottees once the project is completed.

The rules framed by the states under RERA are to provide further details for these insurance requirements. However, it is pertinent to mention that so far only a few states such as Andhra Pradesh have touched upon the subject of title insurance.

India's insurance regulator the Insurance Regulatory and Development Authority of India (IRDAI) has set up a working group in June 2016 consisting of IRDAI officials as well as key industry players in order to establish a policy for and promote the implementation of title insurance in India. Several key players have shown an active interest in entering into the title insurance markets in India.

The growth of title insurance will help restore confidence in this sector and will prove to be mutually beneficial for developers, promoters, financiers, and buyers in a real estate project. Title insurance has tremendous untapped potential which shall add unprecedented value to the Indian real estate insurance market by providing a greater degree of certainty and transparency for all the key players in this market.

Originally published by *Money Control*

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

AUTHOR(S)



Alok Tewari
Kochhar & Co.





Yudhist Singh
Kochhar & Co.

