

**AUGUST, 2016**

## NEWS CORNER

➤ **Home sales up 9% in Q1, grow 3rd straight quarter.**

Home sales in India's top eight cities grew 9% in the quarter ending June compared to that a year ago, marking the third straight quarter of expansion and indicating green shoots in a market emerging from a prolonged downturn.

The growth was led by cities including Ahmedabad, Hyderabad and Kolkata, where home sales went up 20%. The national capital region, which includes the large markets of Gurgaon and Noida, saw a 12% increase in home sales while Mumbai recorded a modest 2% growth. On the other hand, Pune, Chennai and Bengaluru witnessed sales decline of 8%, 4% and 3% respectively.

➤ **Supreme Court asks Bengaluru builders to push projects back 75 metres from lakes, wetlands**

The Supreme Court directed all builders in the buffer zones of Bengaluru's famed lakes and wetlands to push back their projects 75 metres from the edge of these water bodies and refused to halt demolitions initiated by the local authority to open up drains

discharging excess water from lakes to prevent a repeat of the recent deluge.

The CJI then passed a status quo order, but indicated that the top court might itself address the issue.

➤ **GST To Benefit Realty Sector, Lower Tax Burden**

Implementation of the Goods and Services Tax (GST) law will have a positive impact on the real estate sector with expected reduction in its tax burden.

"The enactment of this law will single-handedly solve many of the challenges faced by the real estate sector and will help in pulling the sluggish sector out of its long slumber. Heavy taxes that are being paid currently by the developers will automatically go down by a considerable percentage. *Construction costs will also be reduced to some extent and this benefit can be passed on to the customers, thereby spurring home buying.*

The direct impact of GST on real estate, in terms of tax outflow for developers and consumers, will depend on whether the final GST rate is more or less than the taxes paid currently. Apart from the significant reduction in tax management expenses due to a single unified tax, the compliance costs will go down too.

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## **From the Court Room**

The Hon'ble Supreme Court on 22.07.2016 allowed the Appeal Petition in the matter of **Bunga Daniel Babu Vs. Sri Vasudeva Constructions and Ors**, in Civil Appeal No. 944 of 2016 (Arising out of Special Leave Petition (Civil) No. 1633 of 2015), thereby set aside the orders passed by the National and State Commission and the matter was remitted back to the State Commission for re adjudication with a view to treat the Appellant as a *Consumer*.

In the said case, a building construction agreement between a landowner and a builder was required to decide whether the owner of a plot of land could maintain a complaint under the Act claiming that he was a consumer and the builder was a service provider.

The National Commission affirmed the order passed by the State Commission on the ground that the Complaint was not a consumer as his purpose was to sell flats and had already sold four flats.

The Hon'ble Supreme Court was of the view that the *MOU that was entered into between the parties even remotely did not indicate that it was a joint venture. The Appellant was neither a partner nor a co-adventurer, he had no say or control over the construction. Further he did not participate in the business. He was only entitled to, as per the MOU, a certain constructed area. Hence the Appellant was a consumer under the Act.*

While allowing the appeal the definition of the term *Consumer* had been amended by the Consumer Protection (Amendment) Act, 2002, and Clause 2(1)(d)(ii) was substituted. In the first part it excludes services for any *Commercial* purpose. After the amendment the decisions that have been rendered by this Court required careful consideration.