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Democratising Real Estate: An Analysis of Fractional Ownership and their Prospects in India

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The real estate market has an inherently higher threshold for entry by ordinary people as it requires a high starting capital. ***Blockchain technology****, however, offers an innovative pathway -* ***smart contracts*** *and* ***fractional ownership****. Smart contracts entail a self–executing agreement retained in a* ***'Blockchain,'*** *automating processes and ensuring encrypted transactions. Fractional ownership permits breaking down an asset into tradable units, making it more democratized and ensuring a wider investor pool. This paper analyzes the burgeoning trend of fractional real estate ownership facilitated by* ***Non-Fungible Tokens (NFTs)****. While the potential for increased accessibility and liquidity is undeniable, research gaps exist in governance and implementation frameworks. This work delves into these existing literature gaps, focusing on how fractional NFT ownership will be governed and effectively implemented. Further, the paper investigates the applicability of this model in the Indian real estate market. Employing stakeholder surveys, it evaluates the receptiveness of the Indian market towards fractional NFT ownership. The research attempts to identify the probable hurdles to implementation, suggesting a way to better understand this approach to real estate investment and deal with ethical concerns while attempting to revolutionize the real estate sector.*

Keywords: *smart contracts, blockchain technology, real estate, fractional ownership.*

INTRODUCTION

Post-Independence: 1957 was a crucial milestone in India's political landscape and its attitude towards land management and development. The essence of this essay is to look at real estate ownership and the yardsticks that have been used as the norm. It also intends to be a mediator for an independently progressing time, which will attempt to study various perspectives on future directions and bring them together. At its core, the essay is meant to be a ground reality check of the Indian real estate market, which has unwavering potential in the adoption of technologies like fractional ownership and smart contracts. India inherited a complex land administration system from the British Raj. High-modernist principles were deeply ingrained in urban planning, emphasizing strict zoning regulations. Land use was meticulously segregated, with specific areas designated for residential, commercial, and industrial purposes.[1] Public bodies such as the Delhi Development Authority (DDA) were established to plan and control city growth meticulously. These plans often favoured low-rise buildings and aimed to restrict migration and population density.[2] However, many towns and cities, particularly smaller settlements, lacked formal development plans. This resulted in a two-tiered urban development system, with planned areas coexisting with unplanned settlements.[3]

Inefficiencies in the Colonialist Approach: The previous system appeared all-inclusive but had several troubles that impeded effective land management. The Delhi Development Authority was entrusted with planned development in major cities, yet it often underestimated rapid population growth rates and the surge in housing needs. They acquired large chunks of land, although their procedures were slow and bureaucratic; hence, despite available land, there were shortages of houses. Strict zoning regulations, as well as cumbersome building bylaws, often constrained efficient land use. This led to urban sprawl instead of densification since restrictions made it impossible for existing areas to be built more intensely, thus leading to sprawling

[1] Klaus Deininger et. al., 'Efficiency and equity impacts of rural land rental restrictions: Evidence from India' (2008) 52(5) European Economic Review <https://doi.org/10.1016/j.euroecorev.2007.08.002> accessed 18 May 2024

[2] *Task forces on housing and urban development Planning of development* (Planning Commission of India 1983)

[3] Gautam Bhan, 'Housing and Land Policies in Delhi'; Gautam Bhan, 'Planned Illegalities: Housing and the "Failure" of Planning in Delhi: 1947–2010' (2013) 48(24) Economic and Political Weekly <https://indiahousingreport.in/wp-content/uploads/sites/10/2020/05/Bhan.-Planned_Illegalities.-2011.pdf> accessed 18 May 2024

instead.[4] All these posed additional infrastructure costs and public safety concerns while local inhabitants had longer commute times through this city due to expansion purposes.

Urban and Rural Development: There was a sharp contrast in how land management was approached in urban and rural areas. The federal government implemented a top-down approach, prioritizing state-controlled development conducted through para-state agencies such as DDA—land reforms aimed at bringing about social equality and encouraging the modernization of agriculture. The zamindari system, which exploited peasants, was abolished, and land ceilings were fixed to provide an equal distribution of land in rural areas. Economic liberalization in India after 1991 significantly impacted the property sector. Fast economic growth accelerated urbanization and the diversification of rural economies. Urban areas experienced a boom in businesses and industries that led to rapid urban migration.[5] Rural areas also changed because other income-generating opportunities besides agriculture emerged, thereby increasing demand for both sectors' land. The sad part is that market-based policies remained stagnant, leading to a wide gap between ground reality and regulatory frameworks. Cumbersome processes for acquiring land hampered efficient development. Large metropolises such as Mumbai, Delhi, and Bangalore experienced a sudden surge in population, thus stretching existing infrastructure.[6] Economic incentives created by restrictive regulations on land use contributed to informal or unlawful developments due to the high prices of real estate.[7]

Consequences of Unreformed Land Markets: Multifarious challenges accumulated from the failure to accompany economic development with corresponding land market reforms. High land prices, especially in metropolitan areas, are due to the scarcity of land and strict regulations. This made many people unable to own a house that they wanted badly. Urban development was inefficient because planning frameworks were rigid and obsolete, resulting in urban sprawl, the absence of infrastructure, and the lack of open spaces in big towns. Land was expensive and

[4] Sweta Byahut et. al., 'Emergence of sub-optimal land utilization patterns in Indian cities' (2020) 25(6) Journal of Urban Design <https://doi.org/10.1080/13574809.2020.1752646> accessed 18 May 2024

[5] 'Master Plan for Delhi-2021' (*Delhi Development Authority,* 14 August 2021) <https://dda.gov.in/sites/default/files/inline-files/Master_Plan_for_Delhi_2021_text_report.pdf> accessed 18 May 2024

[6] Byahut (n 4)

[7] Sanjoy Chakravorty, 'A New Price Regime: Land Markets in Urban and Rural India' (2013) 48(17) Economic and Political Weekly <https://www.jstor.org/stable/23527187> accessed 18 May 2024

regulations restrictive, thus providing a wrong motivation for bypassing legal channels of construction. Illegally built units became widespread, leading to poor standards and some safety risks. The essay suggests that there should be an all-inclusive reform of the policies surrounding the land market to address contemporary issues facing the real estate industry. Land use rules should change in line with emerging economic conditions for efficient patterns. The adoption of encouragement schemes for densification and mixed-use would enhance existing city space. Strategic approaches have been proposed, such as streamlining DDA while strengthening rural leadership through infrastructure development, which can ensure an intended growth pattern based on sustainability.

INTEGRATION OF TECHNOLOGY IN REAL ESTATE TO FRACTIONAL OWNERSHIP

The incorporation of technology in the sphere of real estate is a comparatively recent trend as this sector has been observed to be rooted in traditional practices and still lingers in its comfort and presumed security. This security is primarily anchored by familiarity with the modality. Technology, however, has the potential to propel this integration and encourage involvement in the sector, as will be elucidated henceforth.

Blockchain technology has become of predominant importance as it warrants security and transparency in the real estate process, which is a highly desired suit in the present state of affairs. It is often described as a *public ledger/ distributed ledger* that collects all peer-to-peer transactions in a decentralized manner. It creates a permanent record that the public can access, and any modifications will not be possible without it being discerned by all those concerned. This is due to the information stored being distributed over multiple networks and not confined to a common processing system. It is clear that blockchain technology awards real estate transparency, which has been a critical, long-standing necessity that has been difficult to establish due to active third-party involvement. Further, the availability of structured data makes this system more efficient. Issues such as due diligence and cash flow management are easier with this technology due to automation. Alongside this, the process is sped up due to real-time data exchange as opposed to the existing databases and processes that do not always relay reliable information.

Smart contracts in real estate mean computer-regulated contracts that contain 'self-verifying, self-executing, and tamper-resistant properties.'[8] All that is required in this technology is to enter the terms that are agreed upon by the parties, based on which a computer program generates a contract that will be impartial to both parties. When integrated with blockchain technology, they become easily accessible, transparent, and auditable, which significantly reduces the risk of fraud. However, there are cases where the contract is signed on paper, which would make documentation cumbersome, and the risk of fraud would prevail.

Tokenization is one of the key elements of fractional ownership. The Tokenization of a real estate asset can be defined as 'The generation, through a smart contract, of tokens corresponding to the shares of the real estate asset and the attribution of value to these tokens according to the value of the property.'[9]

Simply put, tokenization is the process of segmenting real estate assets into small portions that are converted into digital tokens that can be traded on digital platforms. This concept helps increase the liquidity of assets and security due to the purely digital process. Further, the heightened liquidity of assets and decentralized process make the market more appealing to prospective investors.

Fractional Ownership is the practice where a range of individuals share ownership of the property in 'fractions'. This inherently decreases the initial investment that is required to be a property in addition to making the maintenance more effective. This promotes the diversifying of investors' property portfolios and reduces the risk incurred by a single individual, as it would mean a wide scope of investments across various assets as opposed to concentrated investment into one project. This can be done through various methods such as Joint Development Agreements (JDA), where the landowner and developer collaborate to develop different aspects of the property; Real Estate Investment Trusts (REITs), where the trust manages portfolios of income-generating assets they own; co-working spaces, fractional ownership platforms, etc. This form of investment and its integration into the real estate industry promotes accessibility

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[8] *Ibid*

[9] Ashish Rath et. al., 'Tokenization of rental real estate assets using blockchain technology' (2023) Research square <https://doi.org/10.21203/rs.3.rs-3004275/v1> accessed 18 May 2024

due to the reduced financial commitment that it requires, the ease of diversification concerning investment into multiple assets at the same time, flexibility regarding the level of involvement required from the owner, the winds of customer preferences changing towards ease of entry into the market and the flexibility, etc.

The integration of fractional ownership in the real estate sector in India has significant potential to transform the industry into a more functional and successful one. The advent of technology like blockchain, smart contracts, etc., addresses long-standing issues such as transparency, security, and efficiency. The decentralized and streamlined process, as discussed above, reduces the risk of fraud and ensures the unbiased execution of agreements. Tokenization and fractional ownership further increase liquidity and make the market more accessible to a wider range of investors, improving the market's scope from its current standing. Consumers have been seen to shift to solutions and technologies that are more flexible and affordable, all requirements that fractional ownership fulfils while safeguarding the best interests of all involved parties through systems ensuring impartial treatment (like in the case of smart contracts). By integrating these technologies tactfully and with great care, fractional ownership can become a prominent investment option and propel the real estate industry in a steep growth trajectory.

FRACTIONAL OWNERSHIP IN INDIA AND ITS POTENTIAL

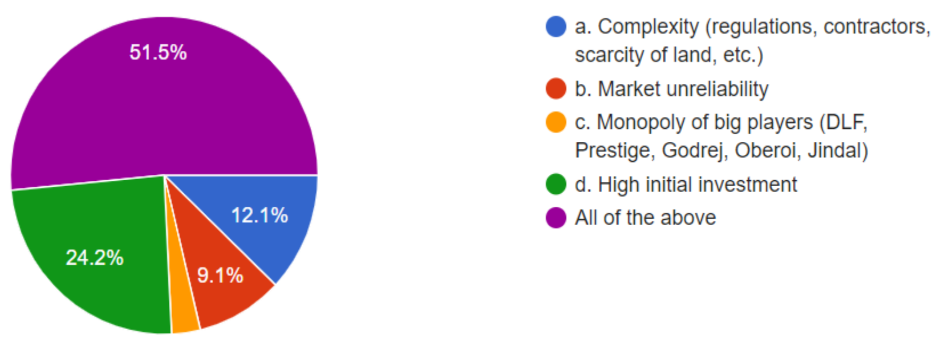
Indians consider real estate as a good investment option because it is an inflation hedge and is capable of generating stable returns. Nonetheless, historically, the asset class has demanded substantial upfront capital outlays, thus putting this form of investment out of reach for most individuals. Fractional ownership steps in to change this situation. This means that owners can acquire only a portion of the property rather than the whole property itself. This move makes high-value real estate assets available to a larger section of investors, thereby enabling those who may not otherwise be able to participate in such markets. In recent years, some factors have contributed to the growth of fractional ownership within India. Fractional ownership helps to reduce costs, which inhibit many people from joining one specific venture; hence, it helps bring down cost barriers among prospective investors who are unnecessarily burdened by buying full properties at once with their own money. Younger investors or people looking to diversify their portfolios without having large cash amounts will benefit greatly from this. The Securities and Exchange Board of India (SEBI) has introduced regulations for fractional ownership platforms, bringing much-needed transparency and standardization to the industry. For instance, these rules require that every scheme should ensure that at least 10 per cent of the value of its total assets is invested in completed holding income-yielding properties alone, limiting investor paranoia.[10] The Indian scenario is characterized by hyper-urbanization and a booming middle class, both of which have increased demand for real estate. Fractional ownership meets this demand by enabling people to be part of future market developments, even in prime areas where land costs are prohibitive for individual investors. Fractional ownership offers several benefits over traditional ways of investing in real estate. As stated earlier on, fractional ownership enables you to invest with less capital. You can make some investments across different locations and asset types, diversifying your risk and potentially enhancing your returns. Compared to the traditional way of investing in property, some fractional ownership platforms provide greater liquidity. There may be an easier buying and selling process through secondary markets for investors who engage in such schemes instead of directly buying tangible properties. Typical property management tasks, like tenant screening, maintenance, and rent collection, are handled by fractional ownership platforms, letting you do away with these duties. Disclosure requirements, according to SEBI regulations, make the equity transparent to the investors as well as the wider public at large. Real estate investment in India is being transformed by fractional ownership to become more accessible and affordable for different categories of people than ever before. With its inherent advantages and the increasing regulatory framework, fractional ownership is poised to become a mainstream investment avenue in India's real estate market. However, before venturing into this new investment territory, careful due diligence and a clear understanding of the associated risks are essential.

[10] Securities and Exchange Board of India (Real Estate Investment Trusts) (Amendment) Regulations 2024

A SURVEY-BASED ANALYSIS OF THE PERCEPTION OF FRACTIONAL OWNERSHIP AND ITS IMPLICATIONS IN THE INDIAN REAL ESTATE MARKET

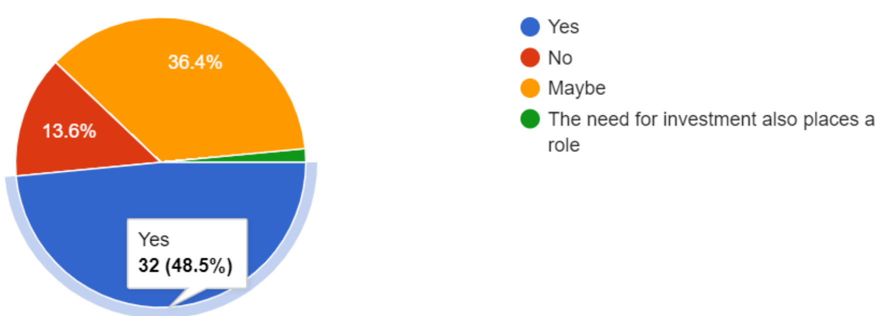
To reach a conclusive balance to our hypothesis, whether integration of this technology shall result in the democratization of real estate in India, the researchers conducted a survey wherein individuals from ages 18-50 were surveyed regarding their reservations and outlook on the key aspects of this integration. The results of this survey are discussed in this chapter.

The survey started by gauging the entry point of real estate for an average consumer. The question posed was to know the barrier to entry for an individual in the real estate market. The results reflected that over 50% of the surveyors perceived – the monopoly of big players, high initial costs, and market unreliability as the primary barriers to entry.

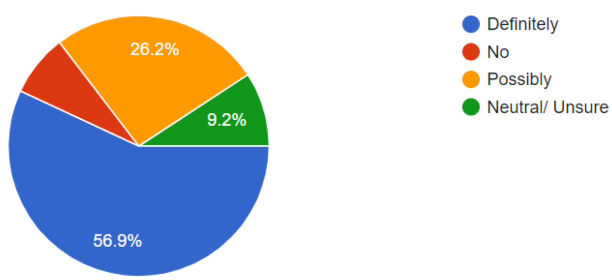


This further solidifies our contention that the amalgamation of technology into the real estate sector will inculcate easier entry points. This can be established through lower initial costs through fractional ownership. The monopoly of bigger players will not be a direct competition to individuals pooling in capital to co-own a property, thereby marginally lesser start-up capital. Moreover, this may incentivize big players to diversify their landholdings and invest in fractional ownership platforms.

This contention is further concretely put forth when 48% of the surveyors affirmed the idea that lower start-up costs would result in a spike in the industry.



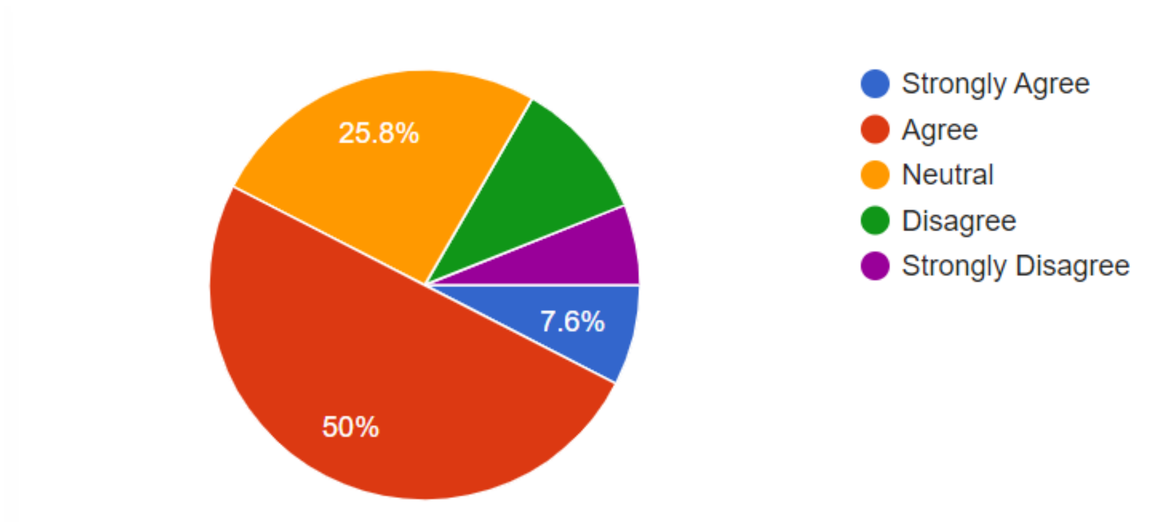
On the flip side, when the survey enquired about the know-how and the general reception of the public about concepts like fractional ownership, the results were skewed toward a negative. The survey asked, ‘***Do you think you would feel differently about such technology integration if it was made easy to understand and access***?’ over 50% of the responses agreed. That is to say, even if the inculcation of this technology results in democratized access, it has to keep in mind the complex knowledge required to engage with this technology.



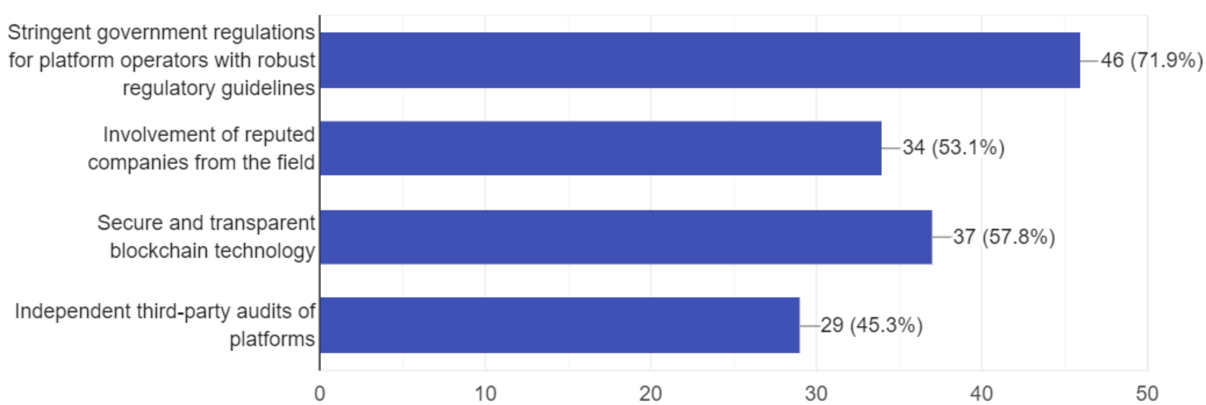
Therefore, access to knowledge and awareness still needs to be garnered through effective campaigns so that the population can yield the benefits of this technology. In retrospect, if these technologies are not implemented without also providing awareness, the harms of the monopoly of big players might remain, cutting out small corporations and individual owners.

Yet when asked about the potential of these methods to benefit the industry, more than 50% of the surveyors agreed. This provides a conclusive answer to our research hypothesis, which is that we attempted to find if these technologies could have the potential to democratize access to the real estate industry in India.

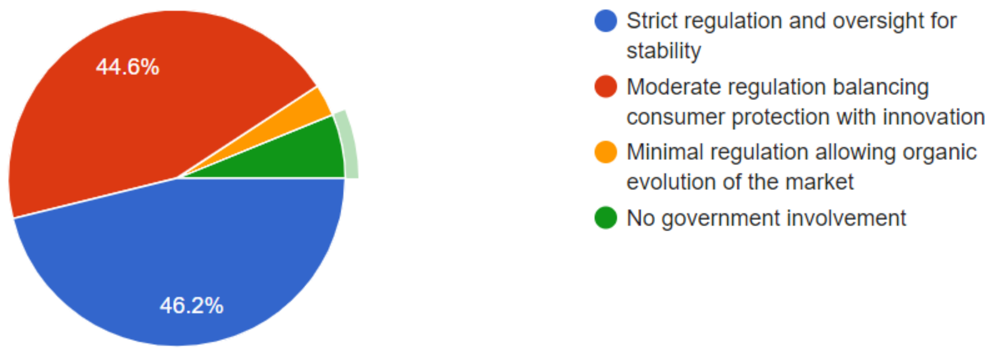
Despite the above, it has been made abundantly clear through the survey that the Indian industry is ready to migrate to a digital platform to fulfil their real estate needs, with more than 50% of potential investors believing that fractional ownership has the potential to rise up to the most preferred avenue of investment if rightly implemented.



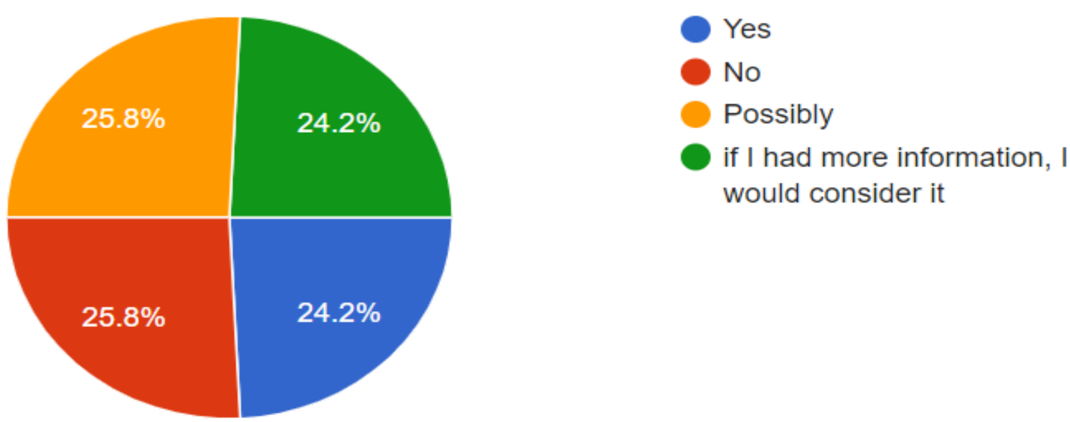
This being said when we say 'rightly implemented,' the surveyors themselves are aware of the hurdles that would inhibit their willing investment in this sector. To surpass the said hurdles of lack of regulatory frameworks and proper accountability, potential investors believe that the right way to move forward would be to incorporate stringent government regulations and blockchain technology to pursue transparency and security.



However, along with such stringent government regulation, the need for a balance between consumer protection and innovation has been asserted by the surveyors as indicated below:



It is highly pertinent, however, that we understand that potential investors remain split on the issue of active investment in the digital real estate market due to the lack of information available regarding the most important facet of this system, i.e., regulatory frameworks.



PESTEL ANALYSIS

Given everything discussed earlier, it is still of utmost importance to discuss PESTEL (Political, Economic, Social, Technological, Environmental, and Legal factors) to accurately understand the current landscape of fractional ownership in India.

Political Factors: The Government of India has been promoting policies and initiatives that are likely to boost the efficiency and reliability of the real estate industry. They have been furthering this goal through the introduction of the Real Estate (Regulation and Development) Act 2016,[11]

[11] Real Estate (Regulation and Development) Act 2016

Real Estate Investment Trusts (REITs), etc., actively support the promulgation of the digitalization of the real estate sector and have provided a regulatory framework for fractional ownership in India. Despite these frameworks, there is a need for the process and policies to be further streamlined to elevate security and accessibility.

Economic Factors: India has been faced with rising disposable incomes, rapid urbanization, and a growing economy. These characteristics have been seen to contribute greatly to the integration of fractional ownership in the real estate market. This kind of investment has proved to be a preferred form of investment for people of middle-class society as it is affordable and an easier investment.

Social Factors: The demand for real estate ownership in India has always seen a high. However, the high initial investment has consistently deterred entry into the sector. Therefore, with fractional ownership, given the reduction of investment levels along with a more transparent system, the society at large is receptive to the technology and would be willing to invest in this manner if there was a stronger regulatory framework in place.

Technological Factors: India has seen a high growth rate of technology in various sectors like banking, transport, retail, etc. This has helped increase the perceived reliability of technology amongst the population. The development of applications and digital platforms that have been curated and built to reduce the user's operational effort has contributed to this concept's growth. However, it comes with the fear of data breaches and privacy violations, among other concerns related to a digital forum where monetary transactions are conducted.

Environmental Factors: Sustainability has become the biggest concern in every industry. The integration of technology in the real estate industry would largely propel sustainability and address environmental concerns as it would result in an efficient utilization of resources, and the environmental impact of the industry would be lower when co-ownership and shared usage of land are promoted.

Legal Factors: At this juncture, there exists no real framework that effectively addresses all concerns regarding the legality of blockchain technology, tokenization, and fractional ownership in the real estate market. There is an increasing demand, as observed in the survey conducted and discussed previously, for clear guidelines and frameworks that will address issues relating to agreements, property disputes, and dispute resolution mechanisms. The need for specific state regulations like taxes and other governing body laws' implications on the investors referencing ownership models within the state and inter-state transactions is necessary for there to be more stability in the system and to instill confidence in the prospective parties, promoting their active participation.

From the above, it is possible to infer that despite the abundance of merits that this digitalized system comes with, without the correct implementation strategies and regulations, it would not be possible to effectively implement this system as it would lead to multiple complications which could potentially lead to huge losses of all parties so involved. This, thereby, highlights the need for urgent implementation of such frameworks that would contribute to the growth of the industry to reach the real potential it holds in the Indian scenario.

CONCLUSION

India has made significant headway in the open market economy. The final chapter is an analysis of the research gaps and incomplete regulatory frameworks, with recommendations for a robust fractional ownership ecosystem. A long-term assessment of the impact needs to be put to testing and analyzed. However, its long-term impacts on property value, market stability, and investor returns require further research. This can affect the implementation of the fractional ownership model in other cases. Thus, we need to consider how traditional ownership models might be upset by fractional ownership – a potential disruption for developers, landlords, tenants, etc. Fractional ownership transactions should be accompanied by a clear and comprehensive tax system that addresses investors' concerns and encourages their participation. Although SEBI regulations are a step in the right direction, they fail to provide the details necessary for complete transparency and dispute resolution. Standard contracts and guidelines exist for fractional ownership platforms, which must be available at all times when necessary. With the implementation of the DPDP Act, it is important to undertake more detailed engagement with data privacy concerns. The digital platforms that facilitate fractional ownership need to have very strong cybersecurity measures to ensure the safety of investor information and thwart any fraudulent activities. For example, the regulatory mechanisms must focus on the investors' interests by requiring background checks on these platforms, presenting exit strategies, and providing clear redressal procedures for their grievances. Requiring collaboration between SEBI, real estate developers, legal experts, and technology persons could help in formulating a comprehensive regulatory framework concerning fractional ownership. Investors' public education campaigns are necessary to enlighten them about the benefits as well as risks related to fractional ownership. Platforms should prioritize user-friendly interfaces and accessible educational resources. The Indian market stands to benefit considerably from fractional ownership schemes whose promise is democratizing real-estate investment with lowered barriers to entry. Closing this research gap, strengthening regulation mechanisms, and enhancing investor protection will, therefore, be crucial in unlocking the full potential of this innovative investment model. For India to develop a strong and secure ecosystem for fractional ownership, it must follow three steps: encourage collaboration, promote investor education, and embrace new technologies. To recapitulate, to foster a stable and robust system of fractional ownership in a country such as India, heavy reliance is expected to be on the partnership between stakeholders, financial literacy for the investor, and cutting-edge technology, which will help realize the vision as foreseen during this research. By incorporating these key components, India can accomplish its complete potential of this innovative investment model by fixing regulatory gaps and providing stronger investor protections to democratize the real estate investment sector.