

Women-friendly laws

Different laws and policies give women property rights as well as lower rates of stamp duty

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htestates LEGAL REMEDIES

In recent years, the central government and several state governments have enacted women-friendly legislations and put in place policies that secure women's rights and interests in immovable property. The objective behind these is to secure women's financial position and encourage them to invest in immovable property.

In Hindu personal laws, inheritance rights in Mitakshara Coparcenary property were long tilted in favour of males. Only male members of the family were recognised as coparceners. Due to the exclusion of females from Mitakshara Coparcenary, female members did not inherit ancestral property unlike male members. However, with the enactment of the Hindu Succession (Amendment) Act, 2005, by the Central government, significant changes have been made in inheritance laws. Daughters have now been recognised as coparceners in Mitakshara

Coparcenary. As per the amended act (which came into force on September 9, 2005), in a joint Hindu family governed by Mitakshara law, the daughter of a coparcener will become a coparcener in her own right upon her birth. Inheritance rights of both daughters and sons are now at par in Mitakshara Coparcenary property. Now a daughter is entitled to a share in Mitakshara Coparcenary property equal to that of a son.

Some state governments have differential stamp duty rates for men and women in transactions of immovable property. There is no blanket exemption available to women or any other special category of purchasers in any state for payment of stamp duty on a sale deed. In Delhi, the stamp duty rate and corporation tax on property purchased in favour of a female is 2% each (that is, total 4%) whereas the stamp duty rate



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and corporation tax for property purchased in favour of a male is 3% each (that is, total 6%). For properties in Gurgaon — whether within municipal corporation area, outside the municipal corporation area or independent floors in plotted development — stamp duty rates for property purchased in favour of women are 2% lower than property purchased in favour of males. Also, stamp duty rates for property purchased

in favour of both male and female (for example, married couples) are also lower than stamp duty rates for property purchased only by males.

The benefit of reduced rate of stamp duty is available to a woman buyer, irrespective of whether she has purchased the property for investment, resale or otherwise. Given the increasing circle rates, such reduced rates of stamp duty lessen the burden for women buyers to some

extent. Buyers should take assistance of local lawyers/consultants/brokers who can guide them about prevailing stamp duty rates and rebates available if any in a particular state.

When planning to invest in a property in the name of a female member of the family, numerous factors other than stamp duty benefits should be taken into account. For instance, find out about the source of payment, whether a

loan is to be availed, tax structuring and tax benefits available on purchase, the purpose of purchasing the property (for residence, resale or renting), estate planning, age and marital status of female, to name a few.

The author is a senior partner, ZEUS Law Associates, a corporate commercial law firm. One of its areas of specialisation is real estate transactional/litigation work



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LAW BOOK

Sunil Tyagi

I have executed a sale deed under which I have purchased two properties which are located in two different districts. Where should I get the document registered?

—Rajesh Julka
As the sale deed relates to more than one immovable property, all of which are located in different sub-districts, you may get the sale deed registered in either of the two districts/ sub-districts.

I had entered into a lease deed last year. Certain disputes have now arisen with the tenant. However, the tenant contends that the document shall not be admissible in evidence in the courts as it has not been registered. Is that correct?

—Mithilesh
If the term of the lease exceeds 11 months, such a lease deed shall require compulsory registration. If this is the case, the lease deed shall not be admissible in evidence if it is an unregistered document. However, it may be admissible in evidence for collateral purposes.

I had recently entered into an agreement to sell for buying a plot and had also paid 20% of the total sale price at the time. I am not keen to purchase the plot anymore. However, the seller informs me that the part payment made by me will stand forfeited. Can the seller forfeit such a hefty amount?

—Harish Tiwari
If the payment has been made by you merely as advance/part payment of the total sale price, then the seller is not entitled to forfeit such part payment. However, if the part payment of purchase price (ie earnest money) has been given as a guarantee by you for the due performance of your obligations contained in the agreement to sell, the seller may be entitled to forfeit the earnest money if the terms of the agreement to sell contains a provision on such forfeiture by the seller.

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CHEQUE BOOK

Harsh Roongta

I had taken a home loan from a private sector bank but could not pay the EMI regularly due to some financial problem. I have now settled the amount but the bank is not returning the original documents I had submitted. What should I do?

—Murugesu R
It seems that you have foreclosed your loan. You can write to the bank giving the

details of the cheque number along with a copy of your bank statement where the same has been debited. You also need to attach some proof from the bank confirming that this payment constitutes full and final payment for the outstanding amount.

In case you have not formally made a request for

return of the original documents, please make that now and issue a no-objection certificate, stating that you have cleared the loan in full and there is no outstanding amount against your name, in your loan account.

If the problem does not get resolved, then file an official complaint with the nodal officer of the bank, details of which will be available on the bank's website.

I am a 55-year-old government employee and wish to know if I can get a loan of ₹30 lakh for 10 years i.e. up to 65 years?

—V K Duggal
You can get a home loan to

Most banks have a maximum age limit of 60 years for salaried individuals since that's the retirement age. Unless the retirement age in your job is 65 years, you may find it difficult to get a home loan for a period of 10 years. You can take a joint loan with your earning spouse or children to increase the loan eligibility or get a loan for a longer period.

I want to buy a property from my uncle. Do banks give loans for buying property from a family member? If yes, what is the procedure?

—Urmila
You can get a home loan to

buy your uncle's property if your income can justify the loan amount. Banks generally grant loans up to 80% to 90% of the property value as determined by their valuers or the agreement value whichever is lower. Also, since it is a transaction between close relatives, the bank will verify the genuineness of the transaction as well as the valuation closely. The lender would like to satisfy itself that this transaction is not being entered into in order to raise cheap money.

I am a lecturer and presently staying in a flat provided by the univer-

sity. I have booked a flat, which is in a different city and would like to apply for a home loan for that. Can I claim tax benefit while staying in the university flat?

—Rane
Yes, you can claim tax benefits on the home loan, if you are the owner of the property and loan borrower. The quantum of tax benefits will depend on whether you use it for self or rent it. You will not be able to claim any tax benefits until you obtain possession of the property.

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New residential launches drop by 16%

NCR records the largest number of unit launches in 2012, a total of nearly 54,500 units

HT Estates Correspondent

Residential markets across major cities in India witnessed a drop of 16% in the total number of units launched over the previous year. In 2012, approximately 1,62,000 new units of residential properties across the eight major cities were launched. Of the total launches, a majority of the units were in the mid-end segment comprising approximately 83% of total launches, says a report by Cushman and Wakefield.

With nearly 54,500 new units, the NCR constituted a majority (34%) of the total number of new units launched. Pune recorded the second highest number of fresh launches at approximately 24,000 new units, followed closely by Mumbai (22,500 new units approximately) and Chennai (20,800 new units approximately). Bengaluru recorded a drop of 50% in the number of new launches over previous year. NCR recorded the largest number of unit launches in 2012, a total of nearly 54,500 units approximately. This was, however, lower by 31% over the total launches last year. One of the reasons for

Property trends

- NCR records launch of 54,400 units of residences; highest amongst all cities
- Mid-end segment sees highest number of launches; records 15% less than last year
- High-end and luxury unit launches decline by 24% and 23% respectively
- Bengaluru records 50% decline in new residential units in 2012
- Mumbai records 72% rise in total number of residential units launched in 2012

the reduced number of launches in 2012 was attributable to the restriction on usage of underground water in Gurgaon which delayed construction timelines of various projects in Gurgaon. Majority of over 50,000 units were in the mid-end segment. Of the total projects launches, the highest number of units were launched in Noida, followed by Gurgaon.

The mid-end segment saw the highest number of launches of approximately 1,35,700 units, though it was lower by nearly 15% over the previous year. Of the total



mid-end housing units launched, the NCR saw a total of over 50,000 units mostly concentrated in Gurgaon and Noida. The High-end and luxury segment units saw a 24% and 23% decline, respectively, over the last year. Mumbai witnessed the highest number of luxury unit launches (approximately 1,200 units) followed by Bengaluru and Pune in 2012.

Majority of the launches were concentrated in the second half of the year owing to uncertainties over regulations (Development Control rules in Mumbai, GO 245 in Hyderabad and issues pertaining to land acquisition in

NCR) being resolved and the advent of the festive season — a popular time for end-users to buy.

Sanjay Dutt, executive managing director, South Asia, Cushman & Wakefield, says, "In 2012, the residential market saw proactive and innovative marketing and new launches of specialist projects on one side but restrained activities in terms of large scale development as most developers were cautious not to overestimate the end-user demand market. Aspects like high consumer inflation, existing high home loan interest rates and slower growth of the economy had a

strong impact on the end-users, making them more price sensitive than previously experienced. On the other hand, cash-strapped developers were not willing to take up projects that may fall short in interest from end users, thereby keeping their risk exposure to minimum."

"Investor activities, however have been strong in the residential market, with many viewing this as the right time to enter the market with the much-needed capital for developers. This has been the primary reason why most markets across categories experienced a rise in values," he said.

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NAREDCO submits pre-budget memorandum

The National Real Estate Development Council (NAREDCO) has submitted a pre-budget memorandum to the ministry of housing and urban poverty alleviation, that

calls for changing the definition of infrastructure facility so that integrated townships and group housing societies can benefit. It has also asked for reduction in taxes to increase the supply of houses. NAREDCO has suggested that in the definition of "infrastructure facility" the following clause may also be added: "An integrated township and group housing development in an area of more than 10 acres, involv-

ing provision of residential, educational, medical, community, commercial or institutional buildings and creation of required facilities, including roads, water supply, water treatment, sanitation and sewerage systems and solid waste treatment and management systems". It was also suggested that provisions of section 80IB(10) be made applicable for projects sanctioned after March 31, 2008, till 2015.

Asian Paints Beautiful Homes Feature

DESIGNED TO PERFECTION

People like to decorate their home keeping a particular theme in mind. But Pramod Kumar Sharma is an exception! Due to lack of time, he could not research. Despite that his home looks beautiful. He shares his tale with Dhriti Gandhi.

Have you ever faced a situation when people compliment you for your beautiful home and you completely ignore them? You are not alone! Sharing a similar tale is Pramod Kumar Sharma. Recently he took those words of appreciation seriously and participated in Asian Paints 'Beautiful Homes' contest. This gave him a chance to share his home's images with others. **Tell us something about yourself and your family members.** I am a manager of St. Krishna Both Shiksha Sadan, a public school in

Delhi. I am married to Anju who is a Vice Principal in the same school. We have two sons - Anant and Naman.



For how long have you been living in your home? Its been the last 10 years that we are living here. Since it's a MIG flat, we are not allowed to get new construction, wood work, etc. But in order to ensure that our home doesn't look dull, it is regularly painted.

How do you like to decorate your home? What inspires you to pick up colours for your home?

I wanted to put light colours but in our case we weren't really sure about the hues that are trending. Also we could not do a market survey well in advance. We didn't even shortlist themes or combinations. We simply went to the market and spoke to the shopkeeper. He guided us to go through the Asian Paints Beautiful Homes kit to get an idea about the colours and various combinations that are in fashion. This is how we shortlisted lighter green tone for its exterior.

SETTING NEW STANDARDS

M M Sharma, partner, competition practice, Vyas Associates, says that the agreement drafted is quite "fair" although it can become a model only when the dispute is finally settled. "The relevant market is still to be determined. In case DLF is found not to be a dominant player in the relevant market, then no violation can be alleged of the Competition

Act because CCI itself has closed many cases against other builders who were found to be dominant. The issue of determination of the correct relevant market will involve economic analysis which has not been done appropriately by the commission in its order," Sharma says.

Also, the amended agreement cannot be a model at

this stage because the issue is still open before COMPAT. The parties in that dispute, particularly DLF, has decided to contest it. Moreover, the modifications in the agreement have been suggested in the particular case of The Belaire association which cannot be applied to all housing complexes of all builders across states because state laws are different. Obviously,

the essence of the agreement or the spirit of the modifications suggested can be used voluntarily by the builder to remove anomalies in case of one-sided flat-buyer agreements, Sharma adds.

However, Vaibhav Gaggar, counsel of the flat owners' associations, says that the agreement can become a model for other developers because the clauses that have

been amended and modified are clauses which were imposed by DLF and which were followed by the sector in the past. "If DLF makes changes to its clauses it is bound to have a ripple effect as the entire sector has so far blindly aped the agreements designed by big developers," he adds.

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