



## htestates

### LAW BOOK

Sunil Tyagi

I have a property in Delhi which I decided to sell to somebody who resides in Mumbai. We agreed to pay the consideration in installments. He paid the first installment but defaulted in payment of the remaining consideration despite repeated reminders. What remedy do I have?

— Sidharth Singh

You may cancel the agreement to sell entered into between the buyer and you, by giving him a notice of termination. If there is a provision for forfeiture in the agreement to sell, you can forfeit the advance/earnest money as has been agreed.

We are a Hindu Undivided Family (HUF). My father, who was the karta, passed away recently. Now, my elder brother has become the karta and being the eldest member is trying to sell properties of the HUF without consent of other members. Can he do so?

— Shaivik Arora

As head of the family, a karta's power of management of the family is absolute. But he cannot deny maintenance or use and occupation of the HUF property to any coparcener. A karta has power to alienate the joint family property only in three cases: legal necessity

benefit of estate or for performance of indispensable duties. Thus, if the sale of properties is not for any of the three reasons, you may approach the appropriate court and seek relief.

I have invested in an under construction apartment in a project in Gurgaon. At the time of possession by the builder, I discovered that the super area of the unit was reduced from what was agreed. I have already paid the total consideration towards the flat. What legal recourse do I have?

— Pratik Babu

If the sale price charged from you was on the basis of super area and admittedly the super area has been reduced, then you are entitled to excess consideration that you have paid. If the developer refuses to refund, you can approach the consumer forum or a civil court for recovery of the excess amount.

*The author is a senior partner at Zeus Law, a corporate commercial law firm. One of its areas of specialisations is real estate transactional and litigation work. If you have any queries, email us at [htestates@hindustantimes.com](mailto:htestates@hindustantimes.com) or [ht@zeus.firm.in](mailto:ht@zeus.firm.in)*

