

Terms and conditions apply

A lessor and lessee's responsibilities have to be clearly defined in a lease deed, factoring in payment of property-related dues, repair work

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The previous column discussed various clauses that parties must include in the lease deed at the very outset to make their rights enforceable. This column captures other aspects that the parties must take into consideration when negotiating the terms of the lease deed.

Rights and duties of lessor: A lessor has the right to restrain the lessee from using the property in an unlawful manner or in a manner which violates the conditions laid down in the lease deed. In the event of the lessor deliberately suppressing vital information about the property before execution of the lease deed, the lessee may either claim damages, or rescind the lease contract, or enforce specific performance of the contract. Before entering into a lease, it is the legal duty of the lessor to disclose material defects, if any, in the title of ownership of the property. At the time of execution of lease, the lessor should hand over peaceful, physical possession of the property to the lessee. During the entire term of lease, the lessor is not entitled to obstruct, hinder or unduly

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interfere with the lessee's quiet and peaceful possession and enjoyment of the premises, provided the lessee is not in breach of terms of the lease deed. It is the lessor's duty to make timely and full payment of charges attached to the land/property (ie house tax) unless otherwise specified in the lease deed. These basic covenants are implied in nature—that is, they apply in the absence of a contract to the contrary between the parties.

Rights and duties of lessee: Upon termination of the lease, a lessee may remove all fixtures/fittings installed by him in the property. In force majeure conditions, if any material part of the property is wholly destroyed or rendered permanently unfit for occupation, the lessee has the option to terminate the lease. A lessee is required to pay rent on time and in the proper manner as specified in the lease deed. He is also obligated to maintain the property in a good, habitable condition throughout his term of occupation. A lessee should

not use (or allow any other person to use) the property for purposes other than what it was originally leased for, without obtaining the lessor's consent. A lessee cannot construct any permanent structure in the property, without first obtaining the lessor's consent. Also, a lessee cannot deny the lessor entry to the property at all reasonable times for the purpose of inspection.

Upon expiry or termination of the lease, as the case may be, the lessee must hand over peaceful, physical possession of the property, in the state in which he and she had first received the property, except for reasonable wear and tear. These basic covenants are also implied in nature.

Termination: The parties should clearly enumerate the conditions of breach leading to earlier termination of the lease.

Some instances of breaches by a lessee include delayed payment or non-payment of rent and utility bills, use of premises in a manner which violates the permissible usage, damaging the premises, etc. Instances of breaches by a lessor include interference with the lessee's peaceful enjoyment of the premises, and failure to

repair/rectify major structural damage, etc.

Stamp duty and registration: If the parties want to share the burden of paying stamp duty, they must specify so in the lease deed. Unless otherwise specified in the lease deed, it is the lessee's responsibility to pay stamp duty on the lease deed. If a lease agreement is not adequately stamped and/or registered, it would amount to being a month-to-month lease.

Under the Registration Act, 1908, lease documents for month-to-month tenancy not exceeding 11 months do not require compulsory registration. However, lease of a property from year to year, or for a term exceeding one year, or reserving yearly rent, requires compulsory registration.

Crystallising these terms while setting out the parties' rights, obligations and entitlements in the lease deed shall go a long way in minimising landlord-tenant litigation.

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