



htestates LAW BOOK Sunil Tyagi

Why exiting a project might not be easy

The sheer inability of consumers to comprehend lengthy property transaction agreements can often get them entangled in legal wrangles

htestates LEGAL REMEDIES

Sunil Tyagi | htestates@hindustantimes.com

The buyer of an under construction property is required to pay registration money to the developer at the terms of application for allotment. This advance paid while entering into a transaction is considered earnest money, indicating the buyer's good faith. It essentially represents/ serves two key purposes—first, it acts as part-payment of the purchase money and second, it acts as security for the performance of the purchase transaction and contractual obligations.

places an additional burden on the individual buyers. In the Rajbeer Singh Case, decided by the National Consumer Dispute Resolution Commission (in 2013), the complainant booked a residential floor in 'The Terraces', a residential group housing project in Mohali and paid an advance of ₹3 lakh. As per the reported judgment, the developer had given out information about the provisional allotment of the unit in the building. The complainant was given an assurance by the developer that the project would be launched within one month and construction would soon commence. However, the developer failed to abide by his commitments. The complainant sent several letters to the developer with a request to refund the earnest money of ₹3 lakh. Since there was no response, the complainant sent a legal notice to the developer, for refund of the amount. No positive response, however, was received.

oper argued that the complainant booked the apartment in question and paid the earnest money against the total sale consideration of ₹46 lakh and failed to sign the buyers' agreement. Reliance was placed on clause 8.2 of the advance registration application form for allotment signed by the complainant and co-applicant. Under the clause, in the event of non-signing of the buyers' agreement, by the complainant, and returning the same within 30 days, from the date of receipt of the same from the developer, the earnest money deposited by the complainant, shall stand forfeited, without any notice/ reminder. The developer argued that since the complainant had not signed the buyers agreement in terms of the application form, the developer was entitled to forfeit the earnest money. The complainant's version was that he never received the buyers' agreement and further submitted that the developer had changed the construction-linked installment plan without consulting him.

Commission after reviewing the terms and conditions of the application form held the under clause 8.1 of the application form, the complainant was entitled to refund of an initial amount after deduction of 20% of registration/initial amount. The commission further held that since the complainant had not signed the buyers' agreement, therefore, clause 8.2 also did not apply. Hence, the developer had no right to forfeit the entire earnest money and such

forfeiture was unfair trade practice. In this case, the terms of application and allotment specifically provided for refund after deduction of 20% in case the buyer decided to exit the project. The commission directed the developer to refund the money after deduction of 20% of the registration amount within 60 days from the date of filing of the complaint. This case brings to focus the sheer ignorance/inability of the consumers to interpret these lengthy agree-

ments. The case emphasises the importance of the terms of the buyers' agreements, application forms and allotment agreements and the requirement to read the terms carefully before signing cannot be undermined. The author is 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 ht@zeus.firm.in

I recently registered a lease deed. However, I noticed that the property details are not correctly mentioned in the deed. Am I allowed to correct the error? How can I do it?

—Ravi Bhaskar

Once a document is registered, any additions, omissions, rectifications and modifications in the document is possible only through a rectification deed. A nominal stamp duty is payable on the rectification deed. Further, such a rectification deed must be duly registered with the concerned sub-registrar.

to sell was executed and if the time limit prescribed for registration of an instrument under the applicable law has not lapsed, then you may get the agreement to sell registered.

My widowed mother executed a gift deed of one of her property in my favour a year ago, which was not registered. Thereafter, I allowed my mother and brother to stay in the property. Now my mother has expired and I have asked my brother to vacate the property. However, he has refused to do so. How can I get back possession of my property?

—Gauri Kumar

As per applicable law, it is compulsory to register the gift deed of an immovable property. Unregistered gift deed does not transfer and confer any title in the property in favour of the transferee. Accordingly, you cannot claim title in the property on the basis of the said unregistered gift deed.

You may further note that since the gift deed is not registered and the time period for registration of a document as prescribed under the applicable law has already lapsed the gift deed cannot be registered now.

I have entered into an agreement to sell for buying a property in Delhi. In terms of the agreement to sell, I have also made a payment amounting to 90% of the total consideration. I am in physical possession of the property. However, before I could complete the payment, the seller has refused to move forward with the sale and wants to evict me from the property. Do I have any remedies against the seller?

—Dhiman Sahi

The provisions of Transfer of Property Act, 1908, protect the buyer who has in furtherance of agreement to sell received possession of property and is willing to fulfill his obligations with respect to the sale. This remedy is available only in the case the agreement to sell is registered. However, you can still file a suit for specific performance of agreement to sell and seek execution of the sale deed in your favour. Further, you may please check when the agreement



THINKSTOCK

htestates CHEQUE BOOK Harsh Roongta

I wish to purchase a flat with my daughter. While I am retired my daughter works in a private firm. Are we eligible for a housing loan? Also in future, I wish to sell my ancestral property (which is not possible as of now) to repay the loan. Kindly enlighten us about the tax liabilities that are involved in the repayment process.

—AK Sharma

Not all banks will readily provide a joint loan where the co-borrower is a father and daughter. This may be

possible if your daughter is the only child and her and you agree to assure the bank (through appropriate documentation) that she will inherit your share of the house eventually. Since you are a retired person, the lenders will consider only the income of your daughter while determining the overall loan eligibility. As per RBI and NHB (governors housing finance companies) notification, no lender

can charge penalty on prepayment of home loans taken on floating rate of interest, irrespective of the source of funding, so you should not have any issues related to pre-payment charges while pre-paying the loan in the future.

The decision to prepay the existing home loan is dependent on several factors. First and foremost are the income-tax benefits available on the existing loan.

You should take to account the post tax returns available on alternate investment options and compare it against the post tax interest cost. Please note that before you

opt to prepay your home loan, it is always advisable to pay off all other debts which you are paying higher interest because the rate of interest on such borrowings is normally higher than home loans.

Please make sure to keep some funds available to meet any financial contingency. There are no tax liabilities on repayment of the home loan. Tax implications can only arise if you sell the property purchased with a home loan within a period of five years from the end of the year in which the loan was taken.

I have ₹25 lakh in hand and would like to buy a house worth ₹45 lakh.

I earn ₹3.5 lakh annually. Is it possible to get a loan? Also the building is about 20 years old. What is likely to be my EMI amount?

—RK Dhawan

Banks can finance only up to 80% of the agreement value of the property. If you are below 40 years of age you should be eligible to receive a loan amount of around 4 – 4.5 times of your gross annual income, provided you have no other loan to service subject to 80% of the property agreement value. With an income of ₹3.5 lakh per annum and assuming you have a good repayment track record on loans and credit cards (if any) you will be eligible for a loan amount of about ₹14

lakh to ₹16 lakh for a tenure of 20 years at an interest rate of 10.15% to 10.25% per annum.

Hence, for a property worth ₹45 lakh, the bank can lend up to ₹36 lakh, but since you are eligible for only ₹14 lakh to ₹16 lakh, the balance amount of ₹29 lakh to ₹31 lakh plus stamp duty and registration charges will have to come from your own sources. Banks are normally wary of lending loans for old properties. But if the property is in good condition, there should not be any problem.

Harsh Roongta is CEO, Apna Paisa. He can be reached at ceo@apnapaisa.com

PROPERTY

GURGAON

SALE - Lease Welldone Tech Park Sohna Road Gurgaon 4400 Sq.ft. 3 Side open Glass Facade, Road Facing, Best location. Call - 99814510350

Golf Course Road - The Verandah - 6 Bedrooms, Drawing/ Dining, Contact - Rajesh 9810014771

FOR SALE RENTED TO DUBAI/MNC, 1924 SF, Unit No-11, G.P.F Main Court Bldg., M.G.Rd, Sukhrali Chowk, F.Furn, Cent. AC, Resrv Cr Parking - 09990725217

PROPERTY RENTED TO M.N.C. @ 63000/- PM, Located At Sohna Road, Gurgaon: For Sale @ 7.5% Return. Contact : 09780104950, 09780014929

SOUTH CITY-I: Near Metro 1700 sq.ft. Bsm't +GF+FF each & new Colony 1500 Sq.Ft. GF+SF 3BRs, D/D, Exclnt Cont. Call 8860078036, 8960078029

SALE Nirvana, 500sqyds, 3000 sqfts, D/D, Fully Loaded, 3BR att Toilet, Kitchen, Verandah, Front & rear lawns, S/O, C, daya 99083-7557, daya.s.shah@gmail.com

BUIDERS Bonanza Investors Delight, Available for sale in Palam Vihar - 22 block 520sq yd plot. # 954074899, 9312500299

NOIDA/GREATER NOIDA

SECTOR-61 (350Mtrs) 4BR/3Baths, Drawing, Dining, Parking & Servant Room & 1500sqft Basement Excellent Location Call: 9999278751

SEC-50, Palm Grove, 3/4 BHK, Big Rooms, 3 side open on 3rd/6th/8th floors, RGPC (P) Ltd. since 22 years. Contact: 8860004733

SALE Luxurious Appt Pearl Gateway Towers Sec-44, Park face, 3165 sq.ft, 4BR-SO, AC, Mod. Kit, Jacuzzi, P/Backup, S/Pool. # Owner 9891189090

BUY/ Sell Res./Infl Investment 1885 sq.ft, 2 BR + Study + Store functional unit. Flat 1280 sqft. 3 BHK + SQ Jp Kosmos. Contact: 9971490157, 9818999875

IMMED Sale 2 BR/2B+Study Flat (1110/1220 Sq Ft) In Aditya Celebrity Home, Sec-76, Park/Pool facing on 6th Flr with covd prkg Jaijnc 9811008788

GREATER Noida buy/Sell, Resi Plots, Alpha, Beta, Gamma, Delta P-3, S.Nagri, Omnicor Sec-2, 3 & Industrial. Contact: Ghar Sansar Prop 9818341540, 9871015111

GR Noida Sell/Pure. All Resi. All Sec. Preffer Party Deals, Alpha, beta, gama, chi phi, sigma, Eta, S.Nagri, P-3, delta, Manoj Gupta 9810783339, 9873909962

SEC-15A 450\*200 M. kothi sale by owner 18 M Rd park facing. Super Deluxe flat GF corner 675 M. Factory Sec-2 main metro road. Jitendra 9810207945

PLOTS for sale 250 mtr. park face Sec-105, 250 mtr. 18 M. road C.C. Sec-92 & 300 / 450 mtr. Sec-44, 30, 47. Contact: Venus Propmart 9810417863

GR Noida, For Sale 350 sqmtr CC Plot East facing Park on 18 mtr Road in Great Residential Sector Delta 3. # 9999921997

READY to move Flat BHK @ 62 Lacs, 2BHK @ 41 Lacs, F/hold Plot @ 8250/ sqft, Farm Land @ 4000 / sqyd, Sec-106 Noida. Call 9015585021, 9717258042

COMMERCIAL space for sale / rent in Sec-18 Ansal's Fortune Arcade 1000 sqft, GF + 1500 sqft, FF main road opp. GIP Venus Prop. 9810417663

DUPLEX 5 BHK + study + 4 terraces, 2500 sqft covered area, 2 open park, excellent interior, Sec-29 Noida. Owner 9711305518, 9999978388

ARMY flats 328 Grd flr 3 BHK Car Garage, S.Otr big lawn Sec-29, 3 BHK Grg/SO FF/SF/FF, 4 BHK fully modified with Grg S.Otr. # 9810309324

GR Noida Sell/Buy Party Deals all sec- alpha, beta, gama, delta, Eta, NRI City, Chi, Phi, 3, Flats - ATS Unitech Edeco & all Ind. Homes Contact- 9999004005

OMAXE Grandwood flats ALP-8802, VIC - C903, lin - A - 701, Kothi - cr, 300mtr Sec-36, Yamuna Auth, crn plots - 500\*300 mtr. files in hand- 9810328272

NOIDA Sale/Purchase in Omaxe Grandwood / SPA, Prateek all Projects, Jaypee, 3/2, 3/4 Crchids Noida ext. Amrapali etc. Plastogi cont. 9818000391, 9818000374

300/450 sq plot, Sec-51, CC, facing NW, park, corner, N/E green belt, one time lease rent paid. RGPC (P) Ltd. since 22 years. # 8860004733

URGENT Sale Noida authority allotted furnished L/JG Flat, park facing ( FF ), 72 SQ.mtr, Sec-13B Cont. Genuine buyers # 9650586843, 9717116291

FOR SALE 180 Mtr Duplex In Sector-135, Industrial, Plot In Site-C, Upside, 130m Wide Road opened through Noida Ext. 9810429495, 0120-2452995-6

BUY-SELL GR Noida/NOIDA Chi-Phi, Alpha, Beta, Delta, N-3 Etria, Omnicor XU, MU, P-3 Etria, Sigma, Sec-36, 37, 23 Crchids Plots, Punjab Prop. 9891038515

GREATER Noida buy/Sell, Resi Plots, Alpha, Beta, Gamma, Delta P-3, S.Nagri, Omnicor Sec-2, 3 & Industrial. Contact: Ghar Sansar Prop 9818341540, 9871015111

SEC-15A 450\*200 M. kothi sale by owner 18 M Rd park facing. Super Deluxe flat GF corner 675 M. Factory Sec-2 main metro road. Jitendra 9810207945

ARMY Sector 3 BR, 2 bath, D/D, SQ, Car Garage walking dist. from Golf Course/Botanical Metro, RGPC (P) Ltd. since 22 years. # 8860004733

GREATER Noida/Yamuna Buy/ Sell Plots / Flats All Residential Sectors. & Ind. UPSIDC, Commercial, Collection Prop. 9811400995, 9811522722

TO-LET

SOUTH DELHI

GK GF/FF New 3br 65K, TF+T furn, 4BHK, Sqr, Lift, Car Park, Kalkaji Tf furn 50K, EoK 160Y GF 55K, Panch Enc FF 920K, CR Park SF Fur 85K, Pamposh Tf T 80K. Shop GK # 9910134752

DEFENCE Colony Bhisam Pitamah Marg Commercial Basement 600 or 800 sqft. in Great Toilet, pantry & Store. Contact: Owner 9811340512/24334978

KOTLA Mubarakpur behind D Block South Extension-1, 4500 sq. ft. Basement. Cont: Owner 9213929850, 40564242, Email: jayantoghoshs2@gmail.com

B-11, G.K. Encl-I, GF, One room set with kitchen & attached bath on main Rd facing Pamposh bus stop. Cont: Owner Sunil 9810455163, 9136451703

WESTEND C-36 GF, fully furnished 2B+1, D/D, 2BHK, Drawing Dining Ready to move in for Foreigners only. Contact: Santosh Kumar: 9810043694

B-116 Neeti Bagh, park facing, 4 bedrooms attached bathrooms, large D/D, Store room, SQ., FF, terrace, use, parking, Contact: Owner : 9811270835

NFC, C-778, 500yds FF fully furnished high end 2 BHK, Study, Washing, Recessed, lift, parking, prime loc. Suits-MNC, Guest house Owner: 9810606145

SHIVALIK Park fac FFI 3 Beds, 3Baths, D/D, Carpark & Commercial furn/urnfurn Offices 1000-3000 Sq Ft in Shivalik Main Road. 9811616363, 9811191901

NEW Friends Colony, Maharani Bagh, GK, Defence Colony 2/34 BHK, Brand New Luxury Floors. Contact: 9811955184, 9811250440

CR Park 233 Syd 3BR, SF-50K; 160syd 3BR, FF-38K; 125syd 2BR, GF-30K; 1BR, SF-22K; kalakji 3BR, FF-50K; 2BR, FF-28K. Anil 9311164940 - 26278400

GREEN Park Main 3 BHK-SQ furnished New Construction building floors on 200 sqyds. Ideal for call center/IT. Arush-9582944510, 011-41049334

LAJPAT Nagar-III, 3BHK First Flr Att, 2Bath, 2BHK, Park Facing, 2Baths, Ample Parking, Servant Bath & Semi Furnished. Contact: 9818931326

SOUTH Delhi Hemkund Colony opp. Nehru Place 2 Bed Room, Modern Kitchen, D/D, Balcony Park, 400,000/- . Phone : 011-26435684

SAKET, THREE bedrooms flat on first floor with bath attached. Drawing/Dining/Lobby, Store, two Balconies. Three side opened & combined also avail for MNC & well known brands 9711110333 9810001815, 40767732 to 39 fax-40767739 cial@vsnl.com

CHATTARPURDI Farm House-1 Acre- 4BHK, D/D, Study, Reception 7000 ft. S. Pool, Guard S/O, Garage, Stabilizer, Generator. Owner: 98105 56471

FRIENDS Colony West Modern 1st Flr Duplex 3000 sqft, 5 BHK 8 AC's mod. kitchen, fridge, terrace, SQ, 2 car parking for MNC's /Missions. Owner 9811281232

FOR Rent: Green Park 2nd & 3rd +err, 4BHK, Sqr, Lift, Car Park, Newly Built, Fully Furn., power backup for Embassy/MNC. # 9999210657, 9999210680.

GK Enclave-16, newly built 1st Floor flat on 300 sqyds. with spacious 4BHK-3 Balconies, Sun facing, servant room, lift avail # 9910657874, 9585937410

C-115, Anand Niketan 2nd floor 4 bedroom D/D/bul terrace garden Centrally AC Power backup Car parking only Foreigners # Siddiqui Estate : 9810265671

RENT GK-2 2700 Sqft 5 BR- DD duplex 2nd Flr 80 ft Road/Ample Car Parking, Semi / Fully Furn. Furnished 1800 sqft For Office 9810132608

FLAT 2 Bedrooms, Drawing, Dining FF Corner 279 Pocket B Sarita Vihar, Company/Bank Lease Preferred. Contact: 4319814721381

MALVIYA NAGAR Basement fully furnished office space on 1800 sqft, 2-Toilet 1 Kitchen Glass Cabin. Contact: 9999233348, 9810074931

SHIVALIK 3 BR/ 100' Yard Att. Bath D/D Marble flooring Modu. Kitchen, Rf, Lgt backup, Washing, Recessed, lift, parking. # 9818339544, 8510050501.

FOR Rent Basement Floor on Kalkaji in Block No.58 Plot Area 200 Sq. yards Near Banaras House. Contact: 9871394596

ANAND Niketan 1st Flr Brand New 4Bed 4Bath DD SQ A/C Mod. Kitchen Power Backup Kitch/Bath, F.Furn, AC, L/D, Dibe Bed Room, Aquaguard, m.wave, owner 29236927, 9582969565

300 sq. yard, 3 BHK with all amenities. Basement ground duplex. First floor in Anand Niketan, S Delhi, Ample Parking, Good location 9910741704.

LAJPAT Nagar-III, Ring Road, 750sqft, (GF-RMT) Prime loc. Good Visibility Near Haldiram, Suits Showroom. Link Prop-: 8510023177, 9810823177.

LAJPAT Nagar-3, 200 yds 2nd Floor Builder Flat peace full Location 3 Bed, 3 Attach Bath D/D Ample Parking Rent 45000/- # 9650835252, 9811503977

DEFENCE Colony, C-250, 2nd flr with terr, 4BR, D/D, Duplex, fully furnished, AC, 1 Car Pkg, Suits foreigners/MNC's/Co. lease etc. # 9811356008, 987392641

BHKAJI Cama Bhawan Full Furnished Office 1500 Sq.Ft Facing Maina Road, & Also Arjun Nagar DDA LSC Shop 400 Sq. Ft. # 9811075075.

VASANT Kunj 100% Comm space GF 3000 sqft. Bsm't 1450 sqft. L/JL, lift, 1625 sqft. per flr, fitness & well known brands 9711110333 9810001815, 40767732 to 39 fax-40767739 cial@vsnl.com

SOUTH Extension Ring Road 5000 Sq.ft. Office/Institute cont 011-29241879, 9891542515, 9999240591

NEHRU Place Devika Tower 710 sq. ft. prime location, with air-conditioners, Rent Rs.53,000/- Cont.- Anju C.Lal - 9810149222, anjuwadwa3@hotmail.com

GREATER kailash-1, 300yd new SF-4bhk still parking lift rent 80K also gk-2, 217yd TF with terrace brand new park facing rent 70K. Cont: 9818127581, 9540684179

POSH G. Block EOK New Deluxe Appt, prime location FF 4BHK, W. Fing, S.O., lift, car parking, P. Backup Suits Co. lease Cont- Owner- 9899138336

F-38, Green Park Main, 3rd Flr 4 BHK, Lobby, 7 ACs, Lift, Parking, Italian Marble near Market & Metro, Embassy/ MNC/ Foreigner lease. contact at site.

GULMOHUR Hauz Khas One Room Attach Bath @ 10000/- Also 3BR/ Duplex, park facing with woodwork. Three Homes# 9818904815

NIZAMUDDIN East Three Bedrooms Drawing / Dining, Lobby, Lounge, Servant Qtr, Car Parking, MNC / Ltd Co. Lease # 298-43023, 29835381, 9810900702

GK-I, GF, 4 BHK & Basement, Newly built with S.Q., 2 Car parking, all Rooms AC fitted Italian flooring & Modular AC kitchen, lift. Call- 9910094641

OFFICE Space, 500-2. Commercial complex, Safdarjung Enclave opp Safdarjung hall, FF 1500 sqft, furnished, SW 1700Sft, 2B+1, 29835250, 9810900702

DEFENCE Colony, A-Bik, 1st flr, 1625 sqft, 3 BHK, servant room parking, 233 sqyds only. Company lease, Foreigner, MNC, Embassy. Kalya 981214741

PANCHSHEEL Park 3-4 Bedrooms, D/D, Mdm Fitting, Parking, Park Facing, Air Conditioners, Serv. Driveway, Nice Location. Dheeraj Nathani 9654329900

FOR RENT/ Sale excellent commercial space 1200 to 5000 sqft Roots Tower ground floor/Laxmi Nagar District Centre/ MNC's Coaching Centre/ Bank/ Suits insurance Co. Rest/rent etc Ring Owner: 9953584365, Email: csmc.pvnl@hotmail.com

SJE B'ment 3 Side corner, Pkg, 450 sqft. @ 22 K, 1 Room furn. Sardinj Nagar @ 11K & 1/2/3/4 BHK SJE, G.park, Arjun Ngr, Krishna Ngr./ Sale # 9871787890

VASANT Kunj 3 Rooms 2 Toilets Gr. Flr 6018/2 Dd, Santushji Apts. Sufficient Prkg, recently renovated. Pref. Bank/Co. lease Call 9971388112, 9868288112

ALAKNANDA Narmada appts 3BR/Attach bath D/D, G/F, marble flooring wood work, P.N.G. Gas, aqua water, company lease ph- 9810042106, 26470737

F-74, Kalkaji Park Facing 3 Bed Drawing/Dining, SQ, GK-I M. Road Shop 200 & FF 3 BHK SQ. required renting Exp. Contact - 981198990435

BRAND New, Pamposh Enclave 450 yds, SF/TF+Terrace & Lift each Vastu Perfect 4 BR, D/D, sept. prkg @ 2lac Brokers welcome. owner's prep. 9810082876

VASANT Vihar 1st floor A-14/8, three side open facing parks, renovated, 3BR, attached baths, D/D, lounge, kitchen, washing area. Contact: 9810979029

GK-I, N Block two Flats of 3 Bedrooms, Drawing/Dining Kitchen each on the Ground of 630 Sq.yds. Plot. Contact : 9810825593.

GK II- FF Spacious 3 B/R Attached Bathrooms Marble Flooring Large Balcony 100 SQYDS Contact 9810279987

KALKAJI opp Nehru Place 200 sq.yd, 3rd flr, 2nd Flr 1BHK terrace park facing with prkg 24hr security peaceful prkg loc for Res/Off. # Owner 9810863687

B-38 Malcha Marg, Chanakypuri GF 3bed DD, FF 3 Bed D/D & SF 1bed DD equipped with AC, lawn Suits MNC/Diplomat. Salsan: 9810034566, 9810062871

PANCHSHEEL Park, 3rd flr + terrace Gdn, East fac New Luxury Apt 4BR, D/D, lobby, Power Backup, 2 Car Park, SQ, Expat/Embassy pref. Owner 9971094084

GREEN Park, S J Enclave, Hauz Khas, SDA 1/2/3/4 BHK available for flat also. Office space 8' ment, GF/FF, Sumit Singh # 9818151101, 9818192035

SADFARJUNG Encl./ SDA/ Green Park/ Hauz khas 1/2/3/4 BR, DD & Basement, Commercial prop for Rent, Krishna Prop. 9818400772, 9811048331

EAST of Kailash 500 yds GF-5BR, FF-5 BR, SF-4 BR, SQ/FF Combined 14/10 BR (SF fully furnish) Ample parking # 29835-170, 29835250, 9810900702