

Conversion made easy for GPA holders

DDA apartments bought through agreement to sell or power of attorney up to October 10, 2011, can be converted from leasehold to freehold

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LEGAL REMEDIES

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The decision of the Supreme Court (SC) on October 11, 2011, in the landmark case of Suraj Lamp and Industries Private Limited vs State of Haryana and another, clarified and reiterated the position under the law that transfer of immoveable property through agreement to sell (ATS) and general power of attorney (GPA) is not a valid mode of transfer of property. Subsequent to this judgment, a number of persons who have entered into ATS and GPA transactions for acquiring and holding properties in Delhi were unable to further transfer or deal with their property.

The Delhi Development Authority (DDA) has in April 2014 issued a modified policy regarding scheme of conversion of properties from leasehold system to freehold. The policy aims at reducing the hardship of persons who have acquired rights over property

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- The scheme provides for conversion of flats allotted by DDA on leasehold basis constructed prior to the year 1992
- Scheme includes persons who are holders of ATS/GPA up to October 10, 2011
- The ATS/GPA executed on or after September 24, 2001, must be registered
- ATS/GPA holders to pay additional surcharge of 33.33% on conversion charges over and above the normal conversion charges
- Property holders must provide proof of possession of property
- Conveyance deed would be executed and registered subject to application being approved

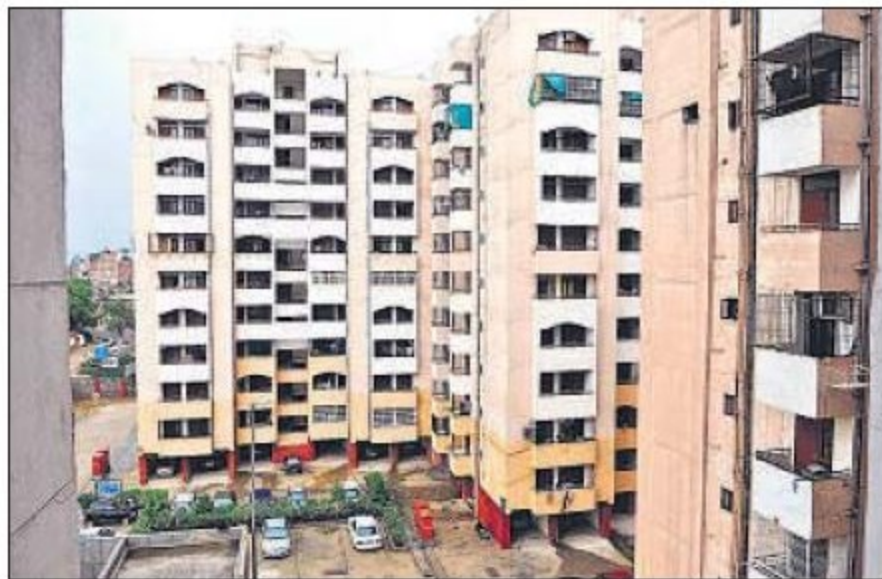
on the basis of ATS/GPA and do not have a transfer deed/conveyance deed/sale deed in their favour. The distinct feature of this revised scheme is that it allows conversion of leasehold DDA residential flats into freehold by those holding GPA up to October 10, 2011.

A further condition of this policy is that ATS/GPA executed from September 24, 2001, onwards must be registered as per applicable law with the concerned sub-registrar. Such ATS/GPA holders would be entitled to apply for conversion on payment of a surcharge at the rate of 33.33% on the usual conversion charges in addition to the normal conversion charges applicable for a lessee. However,

original allottees are entitled to remission on the applicable conversion charges.

The policy requires the person (in whose name the conveyance deed has to be executed) to submit proof of physical possession of the flat in his favour. In case of multiple sales and successive GPA/ATS, the authority will verify the history of transfer and linkage of original allottee with the last GPA/purchaser. Therefore, the last GPA holder/purchaser has to establish the fact of transfer/sale of property through series of GPA/ATS.

The application for conversion under the scheme should be accompanied by all necessary documents prescribed under the



The new policy aims at reducing the hardship of persons who have acquired rights over property on the basis of ATS/GPA and do not have a transfer deed/conveyance deed/sale deed in their favour FILE PHOTO

scheme. A person has to submit a no-objection certificate (NOC) from the mortgagee/financial institution if the flat is mortgaged. Further, in case the flat is the subject matter of any legal dispute, DDA will not process the application for conversion from leasehold to freehold until the dispute is settled.

The scheme is optional and provides for conversion of various categories of flats in Delhi such as Janta, EHS (expandable housing scheme), LIG (low income group), MIG (mid-

dle income group), HIG (high income group), SFS (self financing scheme) flats allotted by DDA on leasehold basis, including the flats in Asian Games Village Complex constructed prior to the year 1992.

Once the application for conversion to freehold is approved, a conveyance deed would be executed and registered in favour of the applicant. Stamp duty and registration charges in respect of the conveyance deed, at the applicable rates, will be borne by the person in whose favour the

execution of conveyance deed is allowed.

The scheme comes as respite to many persons holding property in Delhi on GPA/ATS up to October 10, 2011, and is expected to benefit a large number of people.

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