I KNOW YOU ARE FACING PROBLEMS AS YOU HAVE TO STAND FOR HOURS, BUT GOOD IS GOING TO HAPPEN. WHAT DO YOU PREFER – BLACK MONEY OR COUNTRY...?

› AMIT SHAH, BJP national president

Exits from benami properties to become tough

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NEW DELHI: The Prohibition of Benami Property Transactions Act (PBPT Act) that came into effect this month will make it difficult for people either to park their unaccounted wealth in real estate or exit such investments as that would attract severe penalty and punishment even as Prime Minister Narendra Modi on Sunday warned of more anti-graft steps soon.

Under the Act, a transaction is named 'benami' if property is held by one person, but has been provided or paid for by another person.

It also prohibits recovery of the property held benami from benamidar by the real owner. Benami properties are liable for confiscation by the government.

People caught with benami properties could end up with up to seven years of rigorous imprisonment and pay a significant fine.

Additionally, the properties will be confiscated. A person could also face rigorous imprisonment for up to five years for knowingly giving false information and will have to pay a fine of up to 10% of the market value of the property.

Punishment has been increased to seven years for those who have invested in benami properties and five years for those who knowingly give false information to others into such transactions.

The former will have to pay a penalty of 25% of the fair market value of the benami property and those who give wrong information are liable to pay 10% of the fair value of the property, says Sunil Tyagi of Zeus Law, a law firm.

What this means is that a property worth ₹1 crore will attract a penalty of ₹25 lakh and seven years of imprisonment.

The outcome is not only loss of asset but also penalty and punishment.

So, someone who bought property in the name of his peon, driver or anybody unrelated to him and invested in agriculture property in their name, there is no escape.

What was the modus operandi?

The benamidars would keep the original documents in person and execute a power of attorney that allows them to sell whenever the price appreciates.

This mode of buying property was most common in case of agriculture land and urban properties bought under the name of shell companies.

Usually cash was used to buy such properties but now with a ban on ₹500 and ₹1,000 notes, most commonly used denomination for investing in real estate, the government is perhaps warning people that they should not use their black money in investing in properties that are not in their name, says a real estate expert.

With the Income Disclosure Scheme ending on September 30 this year, it may be difficult for people who bought such properties to exit without serious consequences, he says.

Pankaj Kapoor, managing director, Liases Foras, a non-brokerage real estate research, property research and data analytics firm, says that the new law could mean that the number of land transactions and investments in luxury apartments will come down drastically.

TIGHTENING THE NOOSE

- The Prohibition of Benami Property Transactions Act (PBPT Act) came into force on November 1, 2016
- It lays down the definition of benami transactions, prohibits them and provides that violation of the Act is punishable with imprisonment and fine
- Under the Act, a transaction is named 'benami' if property is held by one person, but has been provided or paid for by another person
- It also prohibits recovery of the property held benami from benamidar by the real owner
- Properties held benami are liable for confiscation by the government without payment of compensation
- According to real estate agency JLL India, the practice of adding the correct name to the property transacted will bring transparency in the residential markets
- With increased transparency, title risks will be minimised and buyer confidence during a residential property transaction will get a boost. A fresh breath of professionalism will be ushered in.

THE BENAMIDARS WOULD KEEP ORIGINAL DOCUMENTS IN PERSON AND EXECUTE A POWER OF ATTORNEY THAT ALLOWS THEM TO SELL WHENEVER THE PRICE APPRECIATES