

Giving landlords a fair deal

Rent control legislations have to strike a balance between the rights and obligations that landlords and tenants have towards each other

Sunil Tyagi

Relations between landlords and tenants in the National Capital Territory of Delhi (NCT) are presently governed by the Transfer of Property Act, 1882, and Delhi Rent Control Act (DRCA), 1958. However, the DRCA does not apply to:

- Any premises belonging to the government; any tenancy or other similar relationship created by a grant from the government in respect of the premises taken on lease, or requisitioned, by the government; provided that where any premises belonging to the government have been or are lawfully let by any person by virtue of an agreement with the government or otherwise. Then, notwithstanding any judgment, decree or order of any court or other authority, the provisions of this Act shall apply to such tenancy;
- Any premises, whether residential or not, whose monthly rent exceeds Rs 3000 and Rs 5000; or
- Any premises constructed on or after the commencement of the Delhi Rent Control (Amendment) Act, 1988, for a period of ten years from the date of completion of such construction.

Despite the DRCA having undergone extensive amendments over the years, many problems remained unaddressed. Section 14(D)(e) of the DRCA, dealing with 'protection of tenant against eviction', was one such contentious clause. The literal meaning derived from this Section earlier suggested that the plea of bona fide requirement by a landlord for recovering possession of the property was only valid if such property had been rented out for residential purpose. However, if a landlord had rented out his property for commercial purposes, then



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the Section restricted him from recovering possession on the grounds of his bona fide requirement for occupation as a residence. The term "bona fide need" in the DRCA refers to circumstances where the landlord needs possession of the property for himself, or for any member of his family dependent on him, and where the landlord or such person has access to no

alternative suitable accommodation. However, this term has been liberally interpreted by the Supreme Court in several judgments.

The core question was whether Section 14(D)(e) violates Article 14 (doctrine of equality before law) of the Constitution of India, insofar as it differentiates between premises let out for residential and commercial purposes, in matters of eviction on the grounds of bona fide requirement of the landlord and restricts his right only to residential premises.

In the case of *Satyawati Sharma versus Union of India* (2008), the Supreme Court held that portions of Section 14(D)(e) of the DRCA indeed violated landlords' fundamental right to equality. Striking down the discriminatory parts of Section 14(D)(e), the apex Court held that this Clause will now be read as: "that the premises are required bona fide by the landlord for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the

premises are held and that the landlord or such person has no other reasonably suitable accommodation."

By this ruling, it is now possible for a landlord to seek eviction of a tenant from his property in Delhi rented out for commercial purpose by proving bona fide requirement for himself or any family member dependent on him. Earlier, Section 14(D)(e) was skewed sharply in favour of tenants by being overly unfair towards landlords. This judgment is a welcome move for protecting the interests of

landlords by placing commercial properties on the same pedestal as residential properties for the purposes of eviction. Rent control legislations have to strike a balance between the rights and obligations that landlords and tenants have towards each other by ensuring both parties are equally protected by law.

The author is senior partner, ZEUS Law Associates, a corporate commercial law firm. One of its areas of specialisation is real estate transactional and litigation work.

Home Loans

by Harsh Vardhan Roongta



I want to purchase a house in Patiala and my budget is Rs 10 lakh. I have Rs 1.5 lakh in reserve. My salary is Rs 20,000 per month. How much loan can I get? I work with a reputed pharma company.

-Sangeet Shah

Banks usually grant loans of up to 85 per cent of the cost of a house as home loan. Based on the information provided by you and assuming you are not repaying any loan currently, you will not have a problem in getting a loan for the balance amount of Rs 8.5 lakh.

decision about transferring the loan. The first one is the prepayment charge, which you will have to pay to your current bank for closing your existing home loan account.

The second one is processing fee, which you will have to pay to the bank where you intend to transfer your loan. These factors will help you in taking a decision about switching your loan. But if you are still paying an interest rate in double digits, it will be better for you to switch. Check with your current bank whether they are willing to drop the rate for you on payment of a fee.

I had initially taken a loan from one bank, and sold the house and repaid the loan. I bought a new house and took a new loan from another bank. Can I claim tax benefit on both the loans?

-Sameer Singh

I am a salaried person and live with my parents. The house in which we live is co-owned by my parents. There is an outstanding loan amount of Rs 7 lakh for the house. In order to get tax benefit, I wish to transfer the loan in my name. Can I do that?

-Sanjeev Kumar

Only owners or co-owners can get tax benefits on home loan repayments. Even if you get your name added as a co-borrower in the loan, it will not help you, as you are not the owner or the co-owner.

There will be two tax implications in your case. First, since you've sold your old home, you will need to consider the tax implications of the same. If the house has been held for less than five years, then any deduction claimed for principal repayments under Section 80 C will need to be offered for taxation in the year of sale. There is no impact of the sale on the interest claimed as deduction in respect of the house that has been sold.

I took a home loan from a private bank four years ago at the rate of 12 per cent for 20 years. Will it be advisable to transfer the loan to another bank?

-Shobha Chopra

Since you are paying a very high rate of interest, you should transfer your existing loan to some other bank in case they offer you a better deal in terms of interest rate. There are two major charges, which need to be considered while taking any

You can get deduction for the total principal paid on the home loans during the year under Section 80 C up to a maximum of Rs 1 lakh. In case the sale of old house and purchase of new house happened in the same financial year, you can claim income tax benefits in respect to home loans taken for both the houses.

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The transparency curve



India surges ahead in its real estate transparency ranking indicating that the country is rapidly gaining international credibility

HT Estates correspondent

The recent turmoil in global financial, economic and real estate markets has impacted market behaviour, with real estate players focusing on sur-

vival rather than market advancement. The average improvement in real estate transparency across the 81 markets covered by a recent survey has halved in 2008-2010, when compared to the 2006-2008 and 2004-2006 period, says the 2010 Global real estate transparency index released by Jones Lang LaSalle and LaSalle Investment Management.

"The latest transparency index reveals that India has yet again surged ahead in its real estate transparency ranking. The country's Tier I cities are currently ranked number 41 among the nations surveyed, while India's tertiary cities have graduated from the low-transparency tier to semi-

Key findings - India

- India has surged perceptibly ahead in its real estate transparency ranking. It currently occupies the number 41 slot among 81 nations covered
- Tier III cities in India have graduated from low to semi-transparent levels
- Indian cities in each tier are now considered slightly more transparent than their Chinese counterparts

transparent. Further, Indian cities in each tier are now considered slightly more transparent than their Chinese counterparts," says Abhishek

Kiran Gupta, head - research and REIS, Jones Lang LaSalle Meghraj (JLLM), an international real estate consultancy.

Nine out of the 15 fastest improvers are in Europe, and the remaining six are in Asia Pacific - to be more precise, three from India and three from China. Countries with lower investor-interest levels, such as Turkey, Poland, Greece and others, have actually improved the most since 2008. On the heels of the global crisis, real estate transparency levels in one-third of the countries are static or declining.

"India's real estate market is rapidly shedding the elements that were part of a less mature system," says Anuj Puri, chairman and country head, Jones Lang LaSalle Meghraj. "The increasing transparency levels are a reliable indicator that the country is adapting fast to the ways in which real estate business is done in more developed countries. The result is that Indian real estate is gaining swiftly in international credibility, and this in turn is boosting investor confidence levels."

The survey identifies the fastest-moving markets over the past two years, and presents the top-ranking markets in each of the five transparency categories - performance measurement, market fundamentals, listed vehicles, legal and regulatory environment and transaction process. Experts from various disciplines, such as accounting, finance and law have also been consulted, especially in emerging markets.



Miss Universe 2009, Stefania Fernandez, with company officials. "Go Green" concept. Miss Universe 2009, Stefania Fernandez, in Delhi recently, to support the cause, was seen interacting with those present at the Go Green promotional event organised by Earth Infrastructures Ltd. Fernandez said, "This is a positive

initiative in support of the Go Green Community and I am excited to support this cause, because the importance of green housing in India will directly have an impact on the world and its environment."

Piyush Rosette launched in Bhiwadi

The Piyush Group recently launched "Piyush Rosette" located in Bhiwadi, Rajasthan. Spread over 11.16 acres (approximately), the project has independent 2- and 3-bedroom homes, varying in size - from 136 sq yd to 180 sq yd. Prices start at Rs 11.25 lakh.

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SVP Group holds bhoomi puja at Krishna Garden

The SVP Group performed bhoomi puja at their one of the affordable housing projects - Krishna Garden - Gulmohur Garden Phase-II. Krishna Garden is spread over six acres of land located in Raj Nagar Extn; NH-58.

This project will be constructed on the theme of 'premium small apartments', and targets buyers who want a premium apartment in affordable prices.

Miss Universe promotes 'Go Green' concept

Earth Infrastructures Ltd has roped in Miss Universe 2009 to promote

IFCI Infrastructure Development Ltd.
(Wholly Owned Subsidiary of IFCI Ltd)

Presents
3 BHK & 4 BHK AFFORDABLE HOUSING
at NH-58

21st Milestone
Residency
GHAZIABAD

PROJECT HIGHLIGHTS

- Located on Delhi Meerut Highway, NH-58
- Statutory approvals received
- Possession in 24 months
- Green building features
- Optimum utilization of common areas
- Energy modelled
- Bio-climatic

Limited Apartments

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