



The developer claims to provide an aesthetically pleasing lifestyle in Panchsheel Pratishtha

**Panchsheel launches 'Pratishtha'**

Panchsheel Buildtech Pvt Ltd has announced the launch of its prestigious residential project 'Pratishtha'. Strategically located at Sector 75, one of the upcoming real estate destinations of Noida, it is a luxurious project spread across five acres.

It provides 2 and 3 BHK residences in two sizes 1310 sq ft and 2050 sq ft. The price starts from ₹65 lakh. The project is perfectly synchronised with vastu principles and has an eco-friendly design.

Anuj Chaudhary, director, Panchsheel Buildtech Pvt Ltd said, "We always believe in delivering the best to our customers and Panchsheel Pratishtha is an epitome of the finest luxury and an example of the best amenities one will ever experience. Panchsheel Pratishtha offers a rare combination of luxury living with state-of-the-art features. The slew of modern facilities and amenities have been carefully designed to suit the tastes and aspirations of the discerning consumer. What's more they help you in making an exclusive style statement."

**HT ESTATES QUIZ OF THE WEEK**

Answer the following questions and win a prize. The answers can be found in this edition

- Q1** Which company does Pankaj Kapoor work in?
- Q2** What is the capital rate (in ₹ per sq ft) at sector 20, Noida?
- Q3** What has been the percentage of drop in new project launches in Chennai in 2013, as compared to 2012?

Win a prize for your home by posting your answers on [www.facebook.com/HTEstates](http://www.facebook.com/HTEstates)

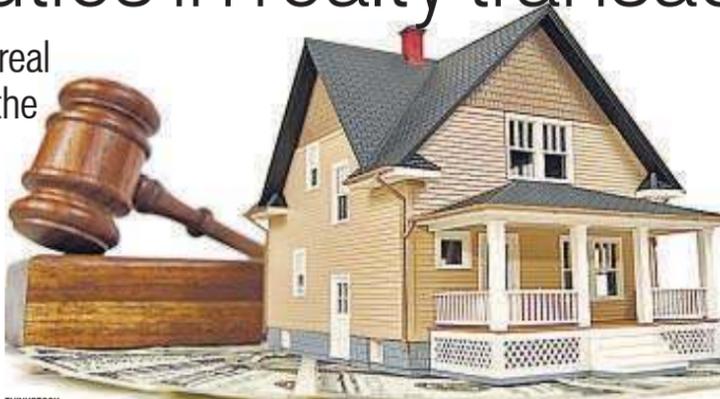
To enter the contest, readers are required to like the HTEstates Facebook page and send their email ID, contact details including mobile and landline numbers and complete postal address



Last week's winner is:  
**Sumit Goel**

# Rights and duties in realty transactions

This year's landmark rulings in the real estate sector have clearly defined the privileges and responsibilities of developers and buyers



Sunil Tyagi  
htestates@hindustantimes.com

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**LEGAL REMEDIES**

include:

- Consent of the buyer to be obtained by the developer in case of change of super area of the unit beyond 2%
- Buyers to have joint and undivided ownership rights of the land and common areas in the project
- The earnest money not to include any of the components such as preferential location charges, brokerage etc
- Interlinking of projects should not adversely affect the rights of the buyers.

These draft clauses and recommendations of CCI cater to the requirements of both the developer and buyer and propose to make the buyer's agreement more compliant to the applicable laws.

Designarch Infrastructure Pvt Ltd vs vice chairman, Ghaziabad Development Authority; Abhinav Jain vs state of UP; Sun Tower Residents Welfare Association vs Ghaziabad Development Authority and Olive County Apartment

THINKSTOCK

Owner's Association vs state of UP.

In the present case, the Allahabad High Court while hearing various writ petitions filed by apartment owners / buyer associations gave clarifications on the provisions of the UP Apartment (Promotion of Construction, Ownership & Maintenance) Act, 2010 (Act) and UP Apartment (Promotion of Construction, Ownership & Maintenance) Rules, 2011. Some of the main highlights of the judgment are as under:

- The term 'apartment owner' will also include lessee, where lease is for a period of 30 years or more; spouse and children of apartment owner; lawful tenant, officer or employee of the company / firm or association, which owns an apartment and its tenant and persons holding valid power of

attorney of the allottee/ owner of the apartment;

- If the developer refuses / resists RWA registration then apartment owners can get the RWA registered, the common areas and facilities cannot be transferred, partitioned or subject to any division (will remain undivided with the apartment) and will be enjoyed by the apartment owner without encroaching upon the rights of other apartment owners;
- The development authority may demand a NOC from the apartment owners as a condition for granting approval to promoter/developer for carrying out any alteration in the building plans.
- The RWA is to be registered by the registrar, deputy registrar or sub-registrar under the Societies Registration Act

as amended in the State of UP Larsen and Toubro Limited and anr. vs State of Karnataka and anr.

The larger bench of the apex court in the present case has held that buyer's agreements of under-construction properties are composite contracts. Such contracts have elements of both a works contract and transfer of immovable property. In the present case the apex court has further observed that even if the dominant intention of any contract is not to transfer ownership in goods/construction materials but rather to ultimately transfer immovable property, it becomes the prerogative of the states to levy sales tax on the materials used in the execution of such works contracts. Thus, henceforth any agreement to sell an immovable property entered into prior to the construction would

fall within the purview of the term 'works contract', allowing state governments to levy value-added tax on such contracts.

DLF Limited v. Mammoan Lowe and Ors.

One of the primary issues in this matter for consideration before the Hon'ble Supreme Court was with regard to the rights of the apartment owners, vis-a-vis the colonizers over "community and commercial facilities" referred to in Section 3(f)(7) of the Haryana Apartment Ownership Act, 1983. Discussing the provisions of applicable legislations and the terms of buyers agreement, the apex court has reversed the judgment of Division Bench of the Punjab and Haryana High Court and has held that since the law requires developers to construct certain community and commercial facilities in the complex at its own costs, the ownership of such community and commercial facilities shall rest with the developers. The apex court further explained that if the developer includes such community and commercial facilities in the declaration, then the apartment owners would be entitled to the undivided interest in respect of the community and commercial facilities without bearing the costs incurred by the developer

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

The year 2013 has witnessed some important orders and judgments related to the real estate sector, delivered by the Indian Courts. These judgments have not only clarified the existing laws but have also interpreted and defined the rights and duties of the developers and buyers. Here are some of the highlights of such recent judgments.

Belaire Owner's Association v. DLF Limited and others (also known as the DLF case)

Pursuant to the order, dated March 29, 2012, of the Competition Appellate Tribunal, the Competition Commission of India (CCI) passed a supplementary order dated January 3, 2013, under which it proposed the draft clauses that may be substituted in place of the unfair terms in the buyer's agreement and extended clarification in respect of certain buyer-developer related issues, taking note of and relying on various provisions of laws applicable in Haryana. Some important clarifications rendered and provisions recommended by CCI under its order

**htestates**  
**CHEQUE BOOK**

Harsh Roongta

Me and my younger brother (being the only legal heirs) inherited a house and a shop (in equal shares) from our father. Subsequently I surrendered my share in the house and my brother surrendered his share in the shop by executing two separate duly registered release deeds. Is it possible for me to cancel the release? - Abhishek

Since the release /relinquishment deeds executed by you and your brother are duly registered, the release of your respective shares are legally complete. Therefore these cannot be cancelled.

I have entered into an agreement to purchase a house, from two brothers who have equal undivided shares. But am facing a challenge now since one of the brothers is unwilling to sell his share. What are my legal options in this case? - Karthik

You can seek specific performance of the agreement to sell / contract against the sellers by approaching the appropriate court. You can also claim damages if you change your mind about buying

Harsh Roongta is CEO, Apna Paisa. He can be reached at [ceo@apnapaisa.com](mailto:ceo@apnapaisa.com)

Continued from page 1

## Real estate 2013: Inflation plays spoilsport

data indicates that a subdued sentiment continued into the 2013 festive season.

On the policy front, the year 2013 saw some progress towards reforming the sector. While the long pending Real Estate Regulation Bill 2013 was tabled in the monsoon session of Parliament and later sent to a standing committee, the publication of the draft guidelines on SEBI (REITs) Regulation 2013 paved way for a positive invest-

ment climate in the country.

Some correctional measures were adopted, too. The Reserve Bank of India (RBI) asked banks to call off the dubious 80:20 and 75:25 schemes, as the banking regulator felt that such products increased the risk for both banks and borrowers. The RBI advised banks to closely link home loan disbursement with the stages of construction of a housing project. The move puts a check on price escalation, as it will dissuade

investors or short-term buyers from investing in under-construction projects.

But will the negative sentiment persist? Housing prices are expected to move up marginally in 2014. However, rising interest rates and inflation will deter new buyers. Little improvement is expected ahead of the general elections but wary investors are likely to wait for the outcome of the elections, adds Sachin Sandhir, MD, RICS South Asia.

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M-Bik JCM Marg DLF-II Lords.associates04@gmail.com 9810039008

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