

When should you hold on to title documents?

Law favours the seller as the rightful owner of the title documents to his freehold plot as long as he retains a part of the property constructed

htestates LEGAL REMEDIES

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It is common practice in India for owners of freehold residential plots to monetise their assets by entering into joint development or collaboration agreements with builders for construction and development of builder floors on their residential plots. Instead of a single residential unit or a bungalow on the plot, this arrangement results in multiple residential units on different floors complying with local building bye-laws and municipal laws. In such arrangements, generally, the original landowner retains one or more floors for his/her personal use and the other floors are either sold by the builder and/or the original landowner depending on the floor sharing arrangement between the builder and

the landowner. A question that arises in such a situation is with respect to retention of original title documents.

Let's examine the rights of a buyer and seller through an illustration. A particular plot of freehold land in a residential colony in Delhi was owned by A. The plot was purchased by A from X through a registered sale deed in the year 1975. X had purchased the plot from Y through a registered sale deed in the year 1973. Documents reflecting the title chain for the plot prior to the year 1973 were also in A's custody.

After some years, the bungalow was becoming increasingly difficult to maintain and after his retirement A decided to raze it down and construct four residential units. After the project was completed, the first, second and third floor were sold by A.

A dispute arose when at the time of execution of the sale deed in favour of the first floor, the buyer of the unit sought to keep the sale deeds executed in 1973, 1975 and other documents establishing the title of A to the plot, on the premise that since he



had paid the purchase money to the seller, A was bound to deliver all documents which were in his possession. However, A was unwilling to hand over all original title documents to the buyer.

The law in such a situation is very clear; when the whole of the purchase-money has been paid to the seller, the seller is obligated to deliver to the buyer all documents of title relating to the property which are in the seller's possession or power. In situations where the seller retains any part

of the property comprised in such documents, he is entitled to retain all such original title documents.

In the given case, since A retained one residential unit, he was not obligated to deliver the previous original title related documents of the property to the buyer(s) at first, second and third floor, which were in his possession. He was obligated to provide these documents to the buyer(s) for their perusal and scrutiny and provide cer-

tified copies of the same to the buyer(s), if required. The legal provisions provide that if the buyer is purchasing only a part of the seller's property (eg one floor in a multi-storey house) and the seller continues to retain a portion of such a property, it is the seller who is entitled to retain the chain of previous original title documents unless otherwise agreed between the parties.

However, if the seller does not retain any part of the property and different portions of the

entire property are being sold to different buyers, the buyer who is purchasing the portion having greatest value is entitled to receive the chain of title documents of the entire property.

The author is a 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 and htestates@hindustantimes.com



LAW BOOK
Sunil Tyagi

I have booked an apartment in a project in Noida developed by a reputed builder. We came to know that the builder is planning to build additional floors/towers in the same project. Can he do so?
— Ankit Sharma

As per the Uttar Pradesh Apartment Ownership Act, 2010 and rules framed thereunder, the builder/developer cannot make changes to the building plan of the project without taking prior consent of the allottees of the apartment units. For the additional floors/towers to be built/constructed, prior consent is required from you and all the other allottees.

I have purchased a flat of 1,100 sq ft in a residential complex being constructed in Greater Noida. The builder has included lease rent payable to the authority in the basic selling price under the construction-linked payment plan. Can he charge the lease rent amount from the allottees?
— Ritesh Singh

Generally, as per the lease deed executed between the authority and builder, the builder is required to pay a certain lease rent to the authority for the entire plot on which the group housing project is being developed. This lease rent

is an expense incurred by the builder and he may recover it pro-rata from the allottees.

My son and daughter-in-law recently separated and are going through divorce proceedings. As a married couple they did not stay with us (my wife and me) in my house. Now, our daughter-in-law is claiming that she has a right in my house and she wants to live here after the divorce. Can she claim a right to live in my house after divorcing my son?
— Arun Sethi

The daughter-in-law is only entitled to claim a right to residence in a shared household from your son. A 'shared household' would mean the house belonging to or taken on rent by the husband or the joint properties in which the husband has a share. Your daughter-in-law cannot assert her rights in your property wherein your son, ie her husband has no rights, title or interest.

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htestates CHEQUE BOOK Harsh Roongta

I'm aware that interest on a home loan for an under-construction property can be claimed in five equal instalments in five years after the possession of the property. Please clarify if it is compulsory to take the claim in the first five financial years from possession or if it can be taken later too.
— Sanjay Singh

Interest on housing loan on an under-construction property has an element of 'pre-construction period interest' which belongs to the period

starting from the date of borrowing up to the end of the financial year immediately prior to the financial year in which construction was completed. As per income tax provisions, the pre-construction period interest can be claimed as deduction in five equal instalments starting from the financial year in which construction was completed and the next four years. Hence, it can be claimed

only for the first five years beginning from the financial year when construction was completed and not later.

Apart from home loan interest rate, what other incentives should I negotiate with the bank?
— Vikram Shrivastava

You can negotiate with banks for the following in addition to the interest rate while availing a home loan: waiver or reduction in processing fee and pre-payment penalty charges and free property insurance.

I have a home loan from an insurance company but am yet to get possession of the unit. I have paid the amount to the builder. Can I get

the home loan cancelled?
— Harshvardhan Singh

Assuming that a part of the loan has already been disbursed towards the under construction property, you will have to pay back the loan disbursed as well as a prepayment penalty (if any) if you want to cancel the loan. If the loan has been sanctioned recently, you can always decide not to avail the disbursement of the loan without any further liability on your part, but you may lose the amount paid as processing fee.

I had applied for a home loan from a finance company but it was rejected. However, they charged a processing fee of ₹2,247. Is it legal

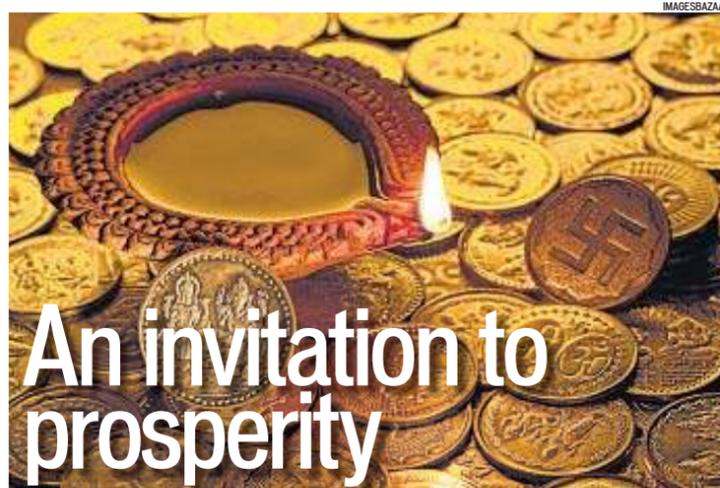
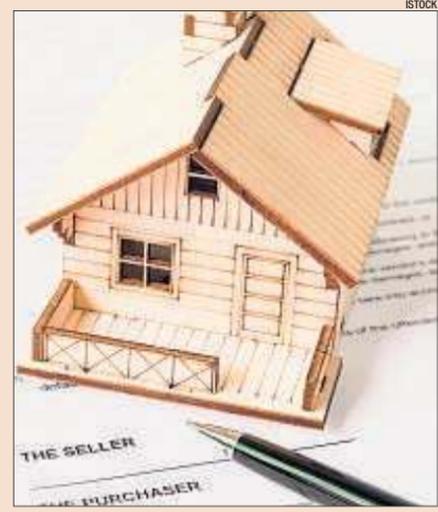
to do so?
— Mahesh Bhalla

Processing fee is charged to get the loan application processed. This fee is non-refundable in most cases. If you examine the loan application form, you will most probably see a line in bold print that says that the processing fee is non-refundable. However, if you have been promised that the fee will be refunded if the loan is not sanctioned, you should lodge an official grievance with the lender.

Can I take a home loan from my father? If yes, how much can I borrow and will I be eligible for all types of deductions for instalment and interest repayment?
— Sumit Saxena

There are no complications on taking a home loan from your father or relatives. In respect of the loan taken from your father, you will be able to claim deduction for interest payable on such a loan. You will have to obtain and keep on record a certificate of interest payable for housing purpose. However, you will not be able to claim any tax deduction benefits for the principal amount of loan repaid to your father under section 80 C.

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An invitation to prosperity

You deserve the best returns on your money. Take Vaastu advice on Dhanteras and prosper this festive season

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Buying new property or shares or signing a deal is a significant event. If you wish to invest in shares, make sure that your table/desk is in the west Vaastu zone, if it happens to be in the east-south-east Vaastu zone, you will remain confused and make the wrong choices. Avoid the south-south-west and west-north-west Vaastu zones, too — these will cause financial damage.

To gain financial support of banks and relevant people in your ventures, make sure that north-west Vaastu zone is Vaastu compliant. Also remember to keep all important property and investment related papers in the west Vaastu zone. This zone supplies the energy for capital gains, and it will help your investments and property appreciate considerably. Also, mental clarity is shaped by a healthy north-east

Vaastu zone—check if there is a puja room here. This will be really beneficial for you.

There are 32 Vaastu entrances, and if you pick an inauspicious one, troubles will hound you. Check which zonal entrance your selected flat/house has. The south-west door will bring in debts, loans and financial problems. Ensure your house brings you happiness and prosperity by choosing a north or west or south Vaastu entrance.

The north Vaastu zone brings good career opportunities and money, and a higher bank balance. The west Vaastu zone brings in stability, wealth and prosperity. If you wish to improve your public image and have a bustling social life, the east Vaastu zone is good. Reject a house with an entrance in the south-south-west Vaastu zone it will be a huge mistake to buy such a house.

Each room is important, especially the bedroom. The

east-south-east Vaastu zone causes anxiety and the west-north-west Vaastu zone causes depression. See if bedrooms are beneficially located in the permissible Vaastu zones in south, west and east directions. The best place is a bedroom in the south, which will relax you and promote good sleep. It is even said to bring fame, so choose the best location for yourself.

Buy a house with a kitchen in the south-east to south-south-east Vaastu zones. One spends a lot of time here, and your family's nutritional health is determined by how well the food is cooked. This will keep the spark of life burning brightly in your house, and confidence and strength will be ample. Any other location might be harmful for health and career.

The toilets and bathrooms are zones of waste disposal, so check whether the toilets are in the south-south-west, west-north-west and east-south-east Vaastu zones. If anywhere else, problems will ensue.

Many of the houses and flats nowadays are fully furnished and equipped with common household items. Check and see if the washing machine is in the east-south-east — here, it will ensure that negativity is removed successfully. Make sure that electrical heating appliances are in the south-east to south Vaastu zones, as they will work safely in the zone of fire.

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A BREATH OF FRESH AIR

With pollution at an-all time high, use plants at home as effective indoor air purifiers

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Plants "breathe" in carbon dioxide and release oxygen. This is of utmost importance to maintain the delicate balance of the earth's atmosphere. While this is a commonly known fact that takes us back to our elementary school science, a lesser-known fact is that plants can also be used to extricate harmful chemicals from the air we breathe inside our homes.

Studies conducted by NASA have unearthed that certain plants used as houseplants can act as "filters" to effectively remove toxins from indoor air and replace it with breathable oxygen.

Keeping in mind the fact that pollution levels are at an all time high and Diwali is round the corner, which along with its festivities has

adverse environmental repercussions, pure breathable air in our own homes has never been more important.

The upside to this rather serious situation is that most of the plants are not only visually appealing, these are also easily available and require minimum care and maintenance. A few simple tips to beautify a corner in your house will simultaneously eliminate significant amounts of benzene, formaldehyde and other harmful substances.

For instance, Sansevieria, also known as mother-in-law's tongue, is one of the best for filtering out formaldehyde, which is common in cleaning products, toilet paper, tissues and personal care products. Put one in your bathroom — it'll thrive

with low light and steamy humid conditions while helping filter out air pollutants.

Likewise, Dracaena Marginata (or red-edged Dracaena) is optimum for removing xylene, trichloroethylene and formaldehyde, which can be introduced to indoor air through lacquers, varnishes and gasoline. Additionally, the red edges of this plant add a pop of color to any dull corner of the house.

Ficus Benjaminia requires slightly more attention, but once you get the light and water conditions right, this plant can act as a powerful filter in your living room for pollutants released by carpeting and furniture.

Other easily available, aesthetically appealing plants that have great air purifying qualities are Areca Palm, Lady Palm, Dracaena Janet Craig, Bamboo Palm, Ficus Robusta,

Philodendron and Ficus Alii. Plants can be worked into gardens and landscapes in a creative manner. Another helpful technique is to use coco-peat as a planting/potting medium. It is a myth that gardens consume "too" much water — logical watering patterns not only safeguard the natural resource but add to the ecological growth of a garden — no plant likes excessive water anyway.

Use eco-friendly potting techniques for indoor and outdoor purposes — the air has so many pollutants each one of us must try and do our bit.

The author is a luxury exteriors designer with over a decade-and-a-half experience in landscaping, garden design and beautification projects

Dracaena and Sansevieria are easy to maintain

Ficus Benjaminia and Areca Palm can be placed in any corner for clean air and decoration

Plants act as powerful filters and remove pollutants from the air

