

Paving the way for more urbanisation

The ministry of urban development has effected significant changes in the master plan for Delhi by creating a new category of housing plots in villages along the green belt

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htestates LEGAL REMEDIES

For many people aspiring to invest in a home of their own, the dream of owning large residential plots in the open and green areas of Delhi can as well become a reality. After inviting objections and suggestions from the public, the ministry of urban development effected significant changes in the master plan for Delhi 2021 (MPD) by replacing the earlier category of farmhouse properties with a new category named low density residential (LDR) plot. In May 2013, the ministry of urban development issued a notification permitting LDR plots in notified list of villages falling along the green belt of Delhi and notified list of villages falling within low density residential areas of Delhi. Soon after, in June 2013, the ministry released another notification that contained a list of 23 villages situated in low density residential areas of Delhi as well as a separate list of 47 villages situated along the green belt of Delhi, where LDR plots are permis-

sible. These notifications have also prescribed the building norms that are specific to construction and development on LDR plots, including the following:

- Earlier, the minimum permissible area for a farmhouse property was 2.5 acres or 1 hectare. Now, an LDR plot is permissible on a minimum area of 1 acre or 0.4 hectare, making such properties more affordable for a certain segment of the population.
- The maximum permissible height of a building that can be constructed on an LDR plot is 12 metres.
- One is required to reserve at least 50% of the LDR plot space for green area. That is, a dwelling unit on the LDR plot can be constructed on a maximum of 50% of the plot area.
- Swimming pools/water bodies as well as guard's unit are permissible and shall not be counted in permissible FAR (Floor Area Ratio)

of the LDR plot.

- Whether or not the basement will be counted towards total permissible FAR would depend on its usage. The area will not be counted for FAR if it's used just for recreational purpose, home office, household storage, parking or installation of services/utilities. If it's for personal habitation then the area will be included in total permissible FAR.
- If the LDR plot is situated along a national highway, norms prescribed by the National Highways Authority of India (NHAI) will also be applicable.
- Fitness centres and naturopathy clinics may be allowed on LDR plots measuring between one and five acre, subject to the condition that at least 50% of the plot area is reserved for parking and soft landscaping.
- In the interest of overall development and provision of civic amenities in the notified villages such as roads, land owners shall be required to cede/surrender some land for building of public infrastructure, as per



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the prescribed process. In September 2013, the local municipal corporations of Delhi (ie east DMC, south DMC and north DMC) were designated as the competent authorities responsible for implementation of the

LDR policy in Delhi. Hence, applications for approval of plans for construction on LDR plots may be submitted to the relevant local municipal corporation. These recent changes have paved the way for urbanisation of many

more villages.

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

htestates LAW BOOK Sunil Tyagi

I am interested in buying a portion of a prime residential property which is currently owned and inhabited by two siblings and their respective families. I am planning to purchase the undivided share of one sibling in this joint property (that is, 50%). Can I purchase such undivided share in the joint property? Will I get possession of my share?

—Adarsh Dogra

Despite being a stranger, you may still validly purchase a share in an undivided dwelling house owned by this joint family. However, you will not automatically get the right to joint possession or common enjoyment of the property. Nevertheless, you may file a suit for partition and claim separate possession of your share in the dwelling house.

I had entered into an agreement to sell (ATS) to purchase a flat last year, but the owner has been delaying the execution of sale deed on one ground or the other. Can I file a suit for specific performance even though our agreement is silent on this aspect?

—Vinod Chopra

Even though the ATS in your favour does not contain an explicit clause on your right to sue for specific performance, you are entitled in law to seek the discretionary relief of specific performance and to get the sale deed executed in your favour.

What are the stamp duty implications in Delhi for an ATS

where the buyer also receives possession of a property?

—Shanker Mohan

In Delhi, stamp duty for an ATS under which possession is also given to the buyer is equivalent to 90% of the total stamp duty applicable on sale/conveyance of the property. The remaining 10% of the total stamp duty will be payable at the time of execution of sale deed.

Last year, I entered into a lease for five years, with a lock-in period of three years. However, the lease deed was not registered by the lessor despite my requests to him to accompany me to the sub-registrar's office. Due to other disputes among us, I wish to vacate the property soon. Can I vacate the property?

—Amit Garg

A lease of one year or longer duration, such as in your case, is required to be compulsorily registered. If not duly stamped and registered, such a lease will amount to month-to-month tenancy. Currently, yours is a case of month-to-month tenancy, where both parties have the right to terminate such an arrangement any time. However, registration of the lease deed would have protected the rights of both parties.

The author is senior partner, ZEUS Law Associates. If you have any query, email us at htestates@hindustantimes.com



htestates CHEQUE BOOK Harsh Roongta

My home loan of ₹21 lakh got sanctioned recently by a bank with a floating interest rate of 10.10% and a 25-year tenure. The bank has advised me to sign up for its personal and property insurance scheme. Should I take it? What are the benefits?

—Sagar Saraf

It is not necessary to buy insurance for getting a loan. Sometimes banks insist on taking a term insurance for housing loan as the tenure is normally long, and banks would like to insure themselves

against the risk of the borrower dying during the loan tenure.

Most banks only provide insurance facility as an add-on (for which the borrower needs to pay extra). If the borrower has not chosen the facility, then there is no insurance cover. If the bank insists on insurance you can always buy insurance from an external company and assign the same to the lender.

However, it is in the interest of your dependents that you take a term insurance plan and a critical illness plan so as to

cover the amount outstanding on your loan account and terminate it within your tenure. You will need to assign the policy to the lender. If your lender does not agree, approach another bank. Online term insurance plans are much cheaper.

I had taken a loan of ₹2.5 lakh from a bank for a period of five years at an interest of 10.75%. I was issued a photocopy of the cheque in August 2011 and started paying my EMI of ₹5,528. The registration of my house got delayed because of the builder but I have been paying my EMI on time. However, now the bank is asking me to either submit the registry of the house or withdraw the loan.

When I approached the bank about closing my loan account, they said that the interest amount

debited will not be refunded and they will deduct about ₹35,000. Please tell me how I should take this forward and prevent losses.

—Bhaskar Das

It seems that though the bank sanctioned your home loan, they have not released the payment to you or the builder for more than two years. Since they have failed to disburse the loan amount, there is no question of you paying any EMIs for the amount not disbursed to you. Ask for the refund of the entire amount and the maximum they can deduct is the processing, legal and valuation fees and mortgage charges, if any. The EMI you have paid is at an interest rate of 11.74% pa and not 10.75% pa as you are made to believe. You should ask the

branch manager for clarifications on withholding the disbursement and the discrepancies in the EMI. Address your grievance to the nodal officer of the bank (details on the bank's website). If you are not satisfied, complain to the banking ombudsman on the RBI website at www.bankingsombudsman.rbi.org.in. You will definitely get relief in this case, so do not give up.

I took a home loan at a fixed rate of interest (fixed ROI period of three years) from LICHL for 20 years. I now want to shift my loan to another bank. But as per RBI and LICHL guidelines, I will have to pay 2% prepayment charges if any bank takes over my home loan during the fixed ROI period and 0% prepayment charges for floating

ROI. Is there any way I can transfer my home loan to a different bank without having to pay prepayment charges?

—Suman Gupta

One possible option for you to save on the prepayment charges is to arrange for the loan amount temporarily. You can repay the loan to LIC Housing Finance Ltd through this arrangement. In this case there will be no prepayment charges even during the fixed rate period as per the NHB circular NHB (ND)/DRS/Pol No 43/2011-12 dated October 19, 2011. You can also get a takeover loan sanctioned from another lender.

Harsh Roongta is CEO, Apna Paisa. He can be reached at ceo@apnapaisa.com

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