

# Purchase of Land - Legal Checklists

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Owning a house is an important thing in one's life. However, one needs to be careful while buying a property to avoid falling into legal hassles. Before buying a land, a number of checks need to be done to confirm that the land has a clear and marketable title. The legal status of the land is one of the first issues that should be addressed before confirming a property.

## **Title deeds**

The first step is to see the title deed of the land, which you are going to buy.

- \* Confirm whether the land is in the name of the seller and that the full right to sell the land lies with only him and no other person.
- \* It is better to get the original deed examined by a lawyer. This is to check details like whether the seller has permitted any entry/access to others through this land and whether any other fact has been suppressed/left undisclosed by the owner of the land.
- \* Along with the title deed, you can also demand to see the previous deeds of the land available with the seller.
- \* In some cases, more than one person may own the land. So before registering, check if there is more than one owner, and if there is, get release certificate from the other people involved.

## **Conveyance Deed or Sale Deed**

A sale agreement is a document by which the title of property is conveyed by the seller to the purchaser. Here, conveyance is the act of transferring ownership of the property from a seller to the buyer. This document will help you ascertain whether the property, which you are buying, is on land belonging to the society/builder/development authority in which the property is located.

## **Tax receipt and bills**

Property taxes, which are due to the government or municipality, are a first charge on the property and, therefore, enquiries must next be made in government and municipal offices to ascertain whether all taxes have been paid up to date.

- \* Inspect whether the latest tax paid receipts have been paid.
- \* Enquire with various departments of the municipality to ascertain whether any notices or requisitions relating to the property are outstanding.
- \* If you are buying a house along with the property, then the house tax receipt should also be checked.
- \* Also ensure that the electricity and water bills are up-to-date and if there any is balance payment to be made, ensure that it is made by the seller.

### **Encumbrance Certificate**

Before buying any land or house, it is important to confirm that the land does not have any legal dues.

- \* Obtain a certificate called encumbrance from the sub registrar office where the deed has been registered, stating that the said land does not have any legal dues and complaints.
- \* You can check the encumbrance certificate for the past thirteen years or could demand verify the 30 years encumbrance certificate.

### **Pledged land**

Some people may have taken loan from the bank by pledging their land.

- \* Ensure that the seller has paid back all the amounts due.
- \* Ask for a release certificate from the bank, which is necessary to release all the debts over the land legally.

### **Measuring the land**

It is advisable to measure the land before registering the land in your name. Take the help of a recognized surveyor to ensure that the measurements of the

plot and its borders are accurate. You could also take the survey sketch of the land from the survey department and compare for accuracy.

### **Purchasing land from NRI landowners**

A person staying abroad can also sell his land in India by giving a Power of Attorney to a third person authorizing him the right to sell the land on his behalf. In such cases, the power of attorney should be witnessed and duly signed by an officer in the Indian embassy in his province.

### **Power Of Attorney**

Power of Attorney is the power given to an agent by the principal to execute several acts and deeds for and on behalf of the principal. Stamp duty payable depends on the nature of power given.

When 'power' is given in respect of a number of acts in a number of transactions it is called General Power of Attorney. It is always advisable to hold a registered GPA while registering an immovable property in order to give better title to the property.

When 'power' is given in respect of a particular act pertaining to one transaction it is called Special Power of Attorney.

### **Agreement**

Once all the matters, financial/otherwise are settled between the parties, it is better to give an advance and write an agreement. This ensures that the owner does not change his word regarding the cost as well as make a sale to someone else who offers more money.

- \* The agreement should be written in Rs.50 stamp paper.
- \* The agreement should state the actual cost, the advance amount, the time span within which the actual sale should take place and how to proceed in case of any

default from either parties, to cover the loss.

\* The agreement can be prepared by a lawyer and should be signed by both the parties and two witnesses.

\* After signing the agreement if one of the parties makes a default, the other party can take legal action against him.

### **Stamp Duty**

It is tax, similar to sales tax and income tax collected by the Government, and must be paid in full and on time.

\* A stamp duty paid is considered a legal document and such gets evidentiary value and is admitted as evidence in courts.

\* Stamp duty is a State subject and hence would vary from state to state.

\* When an agreement is to be stamped, it needs to be unsigned and undated one may execute the agreement only after the Stamp Office affixes stamps on the agreement.

### **Registration**

Registration is the process of recording a copy of a document, transferring the title in immovable property to the office of the Registrar. It acts as proof that a transaction has taken place.

\* A draft should be prepared before actually writing the document in stamp paper. Registration is done after the parties execute the document.

\* The agreement should be registered with the Sub-Registrar of Assurance under the provisions of the Indian Registration Act, 1908 within four months from the date of execution of the document.

\* Make sure all the details mentioned are accurate.

\* Original title deed, Previous deeds, Property/House Tax receipts, etc plus two witnesses are needed for registering the property.

\* The expenses involved during registration include Stamp Duty, registration fees, Document writers/ lawyers fees etc.

\* Make sure that the deed is registered within the time limit mentioned in the agreement.

\* Stamp duty should be paid prior to the Registration.

### **Changing the title in Village office**

The whole legal procedure of buying the property will be complete only if the new owners name is added in the village office records. An application can be made along with the copy of the registered deed to the Village office to get this done. Purchase of property is a lifetime investment. A lot of care is needed from the beginning- right from site seeing till the registration of the land. Ensure that the documents of title are scrutinised for marketability with due care by an experienced advocate.

Popularity: 100% [?]