

FREQUENTLY ASKED QUESTIONS

Registration of Instruments relating to flats and apartments

Q 1	What are the cases to which the Apartment Act is applicable ?
Ans	The Act is applicable in cases where owner or all owners sign the required declaration and register the same as provided in the act. It applies to the apartments used for residential purpose.
Q 2	What is an Apartment?
Ans	Apartment is an independent dwelling unit having one or more rooms and part of a building with one or more stories providing access to place of common usage and road.
Q 3	What is building?
Ans	Building is a structure with four or more apartments.
Q 4	How to acquire ownership under Apartment Act?
Ans	The deed of apartment should be signed and registered (Please see Karnataka Apartment Ownership Act 1972 and Rules 1975 for details)
Q 5	What is a Flat?
Ans	Flat is an independent unit of building for use as residence.
Q 6	What are the conditions to purchase a flat?
Ans	A developer of flats must register an agreement before accepting advance of deposit. Such advance, deposit shall not exceed 20% of agreed condition.
Q 7	How ownership of flat can be acquired?
Ans	Developer of flat is required to transfer it to the registered association, co-operative society or company of buyers of flats within the period of agreement. He should also endeavor for formation of such association, co-operative society or company within prescribed period. Formats are provided in the 'Act' for registration of flats. They may be registered after prescribed stamp duty is paid (Please see Karnataka Ownership Regulation of Promotion of Construction, Sale Management and Transfer Act 1972 and Rules 1975) Registration is compulsory. A purchaser will not get ownership title to the flat without registration.
Q 8	Is it necessary to register transfer deeds executed by or in favour of co-operative society?
Ans	Section 38 of Karnataka Co-operative Societies Act, 1959 is amended w.e.f. 01-04-2001. As per the amendment, documents relating to immovable property executed by or in favour of a co-operative society should be compulsorily registered (Act No.6 of 2001). This amendment applies to flats, apartments built by co-operative societies also.
Q 9	How right is transferred in case of sale of flat/apartment?
Ans	Sale of flat/apartment is as simple as any other sale transaction. A purchaser acquiring rights may register sale deed in office of the Sub Registrar. Purchasers of flats/apartments may note following small difference in transfer of flat/apartment as compared to that of transfer of site, house. Ownership of flat/apartment comprises of the following rights namely,- a) Undivided interest in land; b) Carpet area of flat/apartment and c) Proportionate share in common area.

	Purchaser can become absolute owner of flat/apartment after sale of all the above three rights together describing in sale deed and registered.
Q 10	Is it not possible to become owner of flat/apartment by purchasing undivided interest in land only, through a sale deed ?
Ans	It is not possible to become owner of flat/apartment by describing only undivided interest in land in the sale deed.
Q 11	What are the precautions to be taken while purchasing flat/ apartment?
Ans	<p>While purchasing flat/apartment, the following matters may be verified and ascertained that they are correct:</p> <p>(i) Agreement to sell with promoter should be compulsorily registered in Sub Registry Office, there after sale deed also should be registered.</p> <p>(ii) Permission for construction of flat/apartment and sanctioned plan should have been approved by City development authority/ Corporation / Municipality / Panchayat.</p> <p>(iii) Whether promoter/seller has right to sell the property.</p> <p>(iv) If sale transaction is by a General Power of Attorney holder whether general power of attorney is valid on the date of transaction/sale deed.</p> <p>(v) Flats/apartments constructed in violation of sanction plan should not be purchased.</p> <p>(vi) Verify whether occupancy certificate is obtained from the local authority.</p> <p>(vii) Verify whether deed of declaration and Co-operative society or company is formed and registered.</p>
Q 12	Is it valid to get transfer ownership of flat/apartment through transfer of share by the co-operative society without registered deed?
Ans	It is not legally valid. Co-operative Societies who allot flat/apartment to its members should compulsorily register sale deed in Registry Office under Registration Act, 1908.
Q 13	Is there any concession of stamp duty for sale deed relating to flats/apartments?
Ans	No.