



WIRC OF ICAI

MAHARERA REFRESHER COURSE

7TH July, 2021

TITLE TRANSFER OR CONVEYANCE

By CA. Ramesh Prabhu



AGNEDA FOR TITLE TRANSFER OR CONVEYANCE

- “Conveyance” which means to convey the title of a property from one person to another by an instrument or by a deed.
- The transfer of title means the act of transferring ownership of the property from one person to another
- Section 17 provides the obligations of promoters to transfer of title of Apartment, plot and building to allottees and
- Transfer the title of the land and common areas to the Association of Allottees.
- MahaRERA Rules provide for the Deemed conveyance provision to get the common area is transferred in the name of the Association of allottees.

The obligations of the promoters regarding conveyance under RERA

- **U/s 4(2)(g)** :At the time of registration of the project upload :
 - Proforma of the allotment letter,
 - agreement for sale, and
 - the conveyance deed proposed to be signed with the allottees
 - conveyance deed proposed to be signed with the Association of Allottees
- **U/s 11(4) (c)**:, Promoter to obtain the lease certificate,
 - where the real estate project is developed on a leasehold land,
 - specifying the period of lease, and
 - certifying that all dues and
 - charges in regard to the leasehold land has been paid, and t
 - o make the lease certificate available to the association of allottees,

The obligations of the promoters regarding conveyance under RERA

- **U/ s 11(4) (e)** : the promoter shall enable

- the formation of an association or
- society or
- co-operative society, as the case may be, of the allottees,
- a federation of the same, under the laws applicable:

Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of 3 months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project

- **U/s 11(4) (f)** :

- The promoter shall execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with

- the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;

TRANSFER OF TITLE UNDER RERA

BOOKING/ALLOTMENT

- The allottees book the apartment
- Allotment letters are issued as per section 4(2) of RERA

Agreement for sale

- As per section 13 of RERA
- As per Rule 10 of RERA
- Model Form of Agreement prescribed.

Conveyance of Apartment to Allottees

- Section 17(1), the title of the apartment, plot or the building as the case may be transferred to Allottee

Conveyance of Common areas to Association of Allottees

To Society or
To Company
To
Association
Or
Any Legal
Entity

Objects and advantages of Title Transfer

- To Become Legal Owners
- To record entries (mutation) in Government Records
- To have free and marketable title
- To get the proper title
- Retaining Additional FSI
- Loan can be raised by Mortgage
- Redevelopment is possible
- Construct additional TDR
- Receive Compensation on redevelopment
- Complying with obligations under RERA and MOFA
- Complying with the Objectives of formation of legal entity by allottees.

TRANSFER OF TITLE U/S 17

CONTEMPLATES TWO CONVEYANCE TO BE DONE BY THE PROMOTERS

CONVEYANCE OF
APARTMENT, PLOT OR
BUILDING IN FAVOUR OF
ALLOTTEES

CONVEYANCE OF
COMMON AREA OF
UNDIVIDED SHARE IN
THE NAME OF THE
ASSOCIATION OF
ALLOTTEES

Section 17(1) obligates the promoter in respect of the following five items

- (i) executing a registered conveyance deed in favour of the allottee;
- (ii) executing registered conveyance deed for undivided proportionate title common areas to the association of the allottees or the competent authority;
- (iii) hand over physical possession of plot, apartment or building to the allottee;
- (iv) hand over the common areas to the association of allottees or the competent authority and
- (v) hand over the other title documents pertaining thereto.

•

Section 17(2) provide

(1) for hand over of the necessary documents and plans

(2) including common areas to the association of allottees or

(3) competent authority as the case may be as per local laws.

- It is to be noted that section 17(1) deals with the transfer of title document whereas
- section 17(2) deals with necessary documents and plans including common areas to the association of the allottees or competent authority
- **Clarification that the promoter u/s17 of RERA has to transfer the title within 3 months of OC (MahaRERA OrderNo: 4 dated 27.06.2017):**

MahaRERA Rules 9(1)- Registration of Association of Allottees- Legal Entity

- The above rules give following situations in which promoter is liable to register the society or the federation or any other legal entity as the Association of allottees within 3 months of receipt of Occupation Certificate(OC).
- In the case of single building or wing within 3 months of more than 51% of the apartments are booked in that building or Wing.
- In case of layout the Federation or Apex body has to be formed within 3 months of receipt of the OC of the last building in the layout.
- In case the promoter does not comply with this obligation, the Authority may order the promoter to do it or authorise the allottees to form the legal entity.

MahaRERA Rules 9(2)- Conveyance in favour of Plot & Association of Allottees- Single Building in one plot

- The above Rules, provides different situation for grant of conveyance and its timeline
- In the case of plotted development, the conveyance of the plot has to be done within 3 months of receipt of the full consideration
- In the case of single building, the conveyance has to be done within 3 months of receipt of Occupation certificate(OC)
- In case of single building or wing in a layout development, the promoter has to give the conveyance of the structure of that building or wing of that building within 3 months of receipt of OC.
- In the case of layout, the conveyance of entire land or the proportionate undivided land within three months to the Apex body or the federation within 3 months of receipt of OC of the last building

Remedies for conveyance U/R 9(3) and 9(4) of MahaRERA Rules, 2017

- **U/R 9(3) The first option:**

The association of allottees or the aggrieved person in the case of private building, if the promoter fails to give the conveyance to the legal entity may file a complaint before the Authority or the Authority so motto may direct the promoter to execute and register the conveyance deed in favour of legal entity.

- **U/R 9(4) The second option :**

(i) the said legal entity of private buildings shall also be entitled to have a unilateral deemed conveyance executed in their favour and have it registered under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act 1963:

The detailed discussion on deemed conveyance will be done by the next speaker Adv. Naresh Pai

- **In the case of the project developed by any public authority like Mhada or any other authorities, the conveyance will be done as per the provisions made in the respective laws.**

Promoter Rights after conveyance

- The promoter shall continue to have the rights and entitlement to advertise, market, book, sell or offer to sell or allot to person to purchase any apartment or building or plot which is still not sold or allotted and shall be allowed to do so by the association of allottees without any restriction or entry of the building and development of common areas.
- The promoter shall be permitted the entry of premises of the building and common areas to also discharge his obligations under sub-section 3 of section 14 (i.e to carry out the obligations of defect liability for a period of 5 years from the date of handing over the possession of the apartment or the common area).

Disclaimer

All the efforts are made to cover the important provisions of the law. The material contained herein is not exhaustive, and contains certain generalizations. The latest Provisions and Notifications must be viewed. The presenter is not responsible for any loss incurred on the actions taken based on the material presented. -----

CA. Ramesh S. Prabhu



**Thank you for Getting involved in
the discussion!**

**CA RAMESH PRABHU ,
EMAIL:rsprabhu13@gmail.com**

CHAIRMAN

MAHARASHTRA SOCIETIES WELFARE ASSOCIATION, MEMBER OF TASK FORCE FOR NPOS & CO-OPS OF MAHARASHTRA, CONVENER TO PREPARE GUIDANCE NOTE ON AUDIT OF DISTRICT AND STATE CO-OP BANKS –PUBLISHED BY PDC OF ICAI, CO-OPTED MEMBER OF CO-OP COMMITTEE (MAHARASHTRA) OF WIRC OF ICAI.