

LIBERAL TRANSLATION OF MARATHI

- Read: 1. Government letter by Revenue and Forest Department bearing Reference No. Stamp Duty-2010/Subject No.97/M-1 dated July 2001 (undated)
2. Government letter by Revenue and Forest Department bearing Reference No. Stamp Duty-2010/Subject No.97/M-1 dated 20/10/11
1. Government Notification No. MHS-200/S.No.170/D.P – 2 dated 27/10/2010
4. Circular of this office bearing No. Ka.5/Mudrank-12/S.No.44/11/501/12 dated 12/04/12
5. Government Circular No. Mudrank 2012/1046/S.No./294/M-1 Mantralaya, Mumbai 26.11.12
6. Government Resolution Housing Department Sakirn-2012/S.No.220/Du Va Pu-2 dated 5/12/2013.

No. Ka.5/Mudrank-14/S.No.44/11/105/14
Office of the Inspector General of Registration
and Controller of Stamps, Maharashtra State
Pune 411001
Dated : 18/03/2014

Circular,

Agreements for Sale are executed with respect to Flats, Shops, Tenements, Office Tenements etc. under the provisions of Maharashtra Ownership Flats (Regulations of the Promotion of Construction, Sale Management and Transfer) Act, 1963. After realizing that these agreements are not considered as the Conveyance, the Government amended Section 11(3) introducing the provisions for execution of Unilateral Conveyance (Deemed Conveyance), in the case the developer and land owners fail to give conveyance to the concerned flat / tenement holders. Similarly, directions have been given for implementation of the amended provisions.

This department issued a circular on 12/4/2012 for implementing the object and procedure for the Deemed Conveyance in the entire Maharashtra State and accordingly directions have been given to the concerned Deputy Inspector General of Registration, Asst. Collectors and the Registrars / Sub-Registrars of Assurances to implement the same.

In this reference, meetings were held from time to time under the presidency of the Hon'ble Revenue Minister. In the said meeting three issues were raised. It was decided to take opinion from the Law and Judiciary Department on the aforesaid issues and accordingly a proposal was sent by M-1 Division of the Revenue and Forest Ministry to the Law and Judiciary Department. The following issues were raised therein:

- 1) In the case some unsold flats / tenements have been retained by the landowner/s or developer/s for themselves and the stamp duty on the said flats / tenements is unpaid. Whether execution of deemed conveyance is possible by not considering such flats / tenements?
- 2) Whether on execution of Deemed Conveyance, such unsold flats / tenements on which stamp duty has not been paid is conveyed in favour of the cooperative housing societies or the same will be the property of the land owners / developers ?

- 3) Whether the Owner / Developer of such unsold flats / tenements can be considered as authorized (bonafide) members of the cooperative housing society ?

In this reference, the M-1 Department of Revenue and Forest Department has received the following directions from the Law and Judiciary Department. Such directions are forwarded to this office for issuance of the circular.

Issue No.1 : As per Section 6 of MOFA, it is obligatory on the part of the Developer to pay all the outgoings with respect to the flats / tenements till the same is transferred. Similarly, as per Section 10 it is obligatory on part of the Promoter / Developer to do the requisite acts and deeds to form a cooperative housing society.

As per the aforesaid provisions, as soon as a minimum persons required for a form a cooperative housing society purchased the flats / tenements, it is obligatory on part of the Developer to form a cooperative housing society. From this, it seems that the Deemed Conveyance can be executed by not ignoring the unsold flats / tenements on which the stamp duty has not been paid.

Issue No.2: It has been made clear that as per the provisions of MOFA the right to sell the remaining unsold flats / tenements shall always be with the Developer / Promoter. Hence, it is made clear that the possession of the unsold flats / tenements shall be with the Developer / Promoter as a member of the Cooperative Housing Society.

Issue No. 3: After the execution of the Deemed Conveyance the ownership of the land shall be transferred to the cooperative housing societies and the right and possession in the unsold flats / tenements shall be with the Promoter / Developer and not to be transferred to the cooperative housing society.

Hence, the aforesaid issues should be considered for adjudication of the Deemed Conveyance and immediate necessary action should be taken.

Sd/-

Inspector General of Registration and
Controller of Stamps,
Maharashtra State, Pune-1.

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1. Additional Controller of Stamps, Mumbai
2. All Divisional Deputy Inspectors of Registration and Controller of Stamps
3. All Joint District Registrars, Class-1 and Collectors of Stamps
4. All Concerned Officer, Inspector General of Registration, Maharashtra State, Pune.

Sd/-

Inspector General of Registration and
Controller of Stamps,

Maharashtra State, Pune-1.