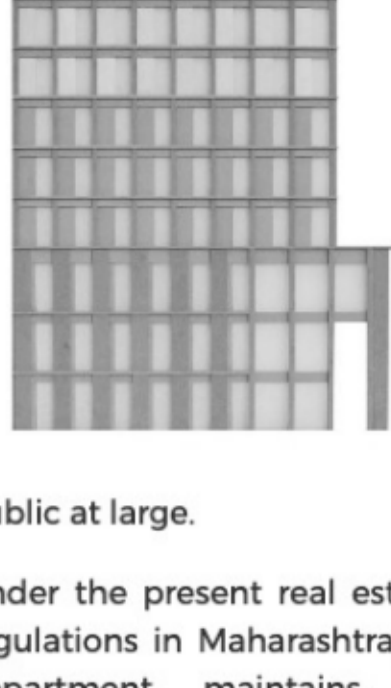


## Property Cards for Apartments – a Promising Reality?



In a first, the Maharashtra Government has resolved to introduce Property Register Cards in the form of Record of Right of Apartments in respect of individual apartments in buildings, which will reflect ownership rights of each apartment owner. Under the provisions of the Maharashtra Land Revenue Code, 1966, the draft of the Maharashtra Land Revenue Record of Rights and Registers for Apartment in Building (Preparation and Maintenance) Rules, 2019 have been circulated for objections, if any from the

public at large.

Under the present real estate laws and regulations in Maharashtra, the revenue department maintains records of ownership for land parcels in Maharashtra viz. 7/12 extracts for rural areas and property register cards for urban areas, which reflect the ownership / title of owners to such land parcels. For an Apartment owner in Maharashtra, it may not be too long before Supplementary Property Card is issued in the form of Record of Right of Apartment reflecting ownership to an Apartment in a building.

**In a first, the Maharashtra Government has resolved to introduce Property Register Cards in the form of Record of Right of Apartments in respect of individual apartments**

The record of rights in respect of an Apartment shall be available to public at large and shall help in assessing ownership including any encumbrances that may have been created in respect of an Apartment.

### Who can make an application?

- For a building under construction / where the construction is yet to begin, an application for Supplementary Record of Rights of Apartment to be made by the Developer / holder of the land immediately on the building plans being sanctioned by the concerned authorities and prior to first sale of an apartment to a prospective purchaser.
- For existing buildings (i.e. buildings constructed prior to the commencement of these rules), applications can be made by Promoter, person appointed by a co-operative society, chairman / secretary of a society / association of apartment owners in case of a condominium, etc.
- The apartment owners may also make individual applications for issue of the Supplementary Record of Rights in respect of their apartment/s and / or for the entire building.

### What are the key features under the draft rules?

- A separate Record of Right for each apartment to be read along with the main Property Card of the larger land shall be issued by the concerned authorities;
- The Record of Right of Apartment shall reflect the survey number of the land on which the building is constructed, name and / or number of the building, apartment number, floor number, carpet area of the apartment, name of the apartment holder and undivided share held by such an owner in the land (if any) along with the common areas, internal development work, etc.;
- The Record of Right of Apartment shall also include a separate column which shall reflect encumbrances that may have been created i.e. mortgages, charges, third party rights, etc.;
- Information relating to any transfer document registered with the concerned sub-registrar shall be furnished to the concerned authority for updating such Record of Rights;
- In the event of a building which has been demolished, the issue of Record of Rights of Apartments shall be held in abeyance till the new building is constructed thereon;
- In the event of a building standing on multiple land parcels, the land will be amalgamated prior to issue of the Supplementary Record of Rights of Apartment;
- The Record of Rights of Apartment will reflect only the carpet area of an Apartment. In the event the document/s submitted reflect the built-up area of an Apartment, then the carpet area used for the purpose of stamp duty shall be taken into account and shall be calculated on the built-up area divided by a factor of 1.2 rounded to the nearest decimal.
- The maps available with the concerned authorities shall also be updated with information regarding structures from the approved building plans and in certain cases, new maps may also have to be prepared, if necessary.

### What are the documents to be submitted along with the application?

Applicant is required to submit documents such as existing record of rights i.e. 7/12 extract / property register card issued in respect of the land/s, N.A. Order / Sanad issued by the concerned authorities in respect of the land, sanctioned building plan; commencement certificate, if any; occupation certificate, if any; building completion certificate, if any; registered conveyance deed of the society; registered agreement of the developer with the land owner/s; any deed conveying the rights over the Apartment to the individual/s or the Society and any other relevant document.

**For an Apartment owner in Maharashtra, it may not be too long before Supplementary Property Card is issued in the form of Record of Right of Apartment reflecting ownership to an Apartment in a building.**

It is unclear as to how the revenue department will deal with cases where the owner/s do not have the aforesaid documents in their possession or apartments where the title deeds have been misplaced and / or are lost and / or where certain records are unavailable. Further, the draft rules do not specify the procedure for apartments / buildings where the ownership right is subject to pending litigation and/or the promoter has failed to convey the land to the society.

### Long Term Transparency

Presently, the process of due diligence followed prior to purchase / mortgage

of an Apartment in a building includes perusal of title deeds and ancillary documents, records available with the society / condominium / association, searches in the concerned office of the sub-registrar, public notice, litigation search etc.

Issue of a Record of Right of Apartment by the revenue department will add to the diligence so carried out and will make the diligence process more thorough. The same would not only benefit individual purchasers / owners but also financial institutions, which grant loans against land / apartments as collateral. As and when a land / apartment is mortgaged, the same will be simultaneously recorded in the Record of Rights of Apartment. Such transparency may lead to reduction in multiple sales of the same apartment and multiple mortgages on the same land / apartments.

For new projects registered under RERA, the Record of Rights of Apartment may form a part of the documents to be uploaded by the Developer on the RERA website, which shall form a value addition to understanding the status of the project. The Record of Rights of Apartment shall also consider the common areas and internal development works which are also covered under RERA, hence, bringing about a lot more transparency in the way the records are maintained.

### Conclusion:

In theory, the draft rules seem promising in terms of issuance of Record of Rights of Apartment to each apartment owner. However, it shall remain to be seen as to how the same will implemented practically in terms of costs, promptness and accountability of the concerned authority responsible for issuing the Record of Rights, etc. Further, the draft rules are silent as to procedure where the title to an apartment / land is subject matter of litigation and / or under dispute and / or the apartment owner does not have in his possession, all the requisite documents set out under the draft rules. Consequences and penalties for failure in obtaining the Record of Rights of Apartment are yet unclear.

It is further to be noted that as with Property Card / 7/12 Extract for lands, Record of Right of Apartment will not be a title document but an effective tool for the purpose of conducting due diligence as regards the title of an apartment.

It would be advisable for societies, association of apartment owners, promoters, developers, apartment owners, etc. to initiate the process of obtaining, collating, verifying and carrying out a legal due diligence of all necessary documents and information required to be submitted to the concerned authorities so that as and when the rules get notified the application can be made without any delay.

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