



Roof Rights

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TAKE COVER

When one purchases, buys or sells property, one should CLEARLY EXPRESS WHAT IS BEING SOLD, BOUGHT OR PURCHASED

When, buying the first floor of a property, the instrument should state WHETHER THE ROOF ABOVE THE FIRST FLOOR IS INCLUDED IN THE SALE OR NOT

IN A GROUP HOUSING COMPLEX built by a society, however, THE RIGHTS TO THE ROOF BELONG TO THE SOCIETY

The right to the ROOF IN DDA DWELLINGS IS NOT AN EXCLUSIVE RIGHT OF THE OWNER of the uppermost floor

IN THE MCR AREA, it is common knowledge that while selling the top floor, THE BUILDERS RETAIN THE ROOF

Legal eagle

The rights regarding the common areas and the roof should be settled in advance, says **Navin Kumar**

Roof Rights

Right words at the right place acquire more significance when one draws up an instrument of transfer of an immovable property. I often find that due care is not taken with respect to the contents of the instruments, which, at a later stage, results in misunderstandings and irrelevant meaning being granted to the words and sentences intended. Choosing the right words gives clarity to an instrument. By an instrument, I mean a sale deed, a deed of gift, relinquishment deed etc.

When one purchases, buys or sells property, therefore, one should clearly

floor of a property, the instrument should state whether the roof above the first floor is included in the sale or not. Similarly, it should also be clarified whether the roof is included, and if so, up to what level?

A roof is the uppermost, (covering) part of a building. As the title goes, it means to convey the rights of the owner with respect to the roof. These may be absolute rights or may include the right to build further floors, the right to use the roof to dry clothes or the right to further grant lease or the licence to build telecom towers.

top floor, the builders retain the roof. This ultimately results in inconvenience to those who have bought the upper floors. It has been observed that roofs are being used to grant licences to telecom companies to erect towers. While erecting these towers, telecom companies also install generators which often result in constant disturbance thereby causing inconvenience to those residing on the top floor. Therefore, the rights regarding the common areas and the roof should be settled in advance. It is common assumption in Delhi, particularly with respect to flats allotted by the Delhi Development Authority, that the owner of the uppermost floor, has exclusive rights to use the roof of the building. Residents of other floors of the same building, have been seen fighting about the issue. But, it is not correct as far DDA flats are concerned. The right to the roof in such dwellings is not an exclusive right of the owner of the uppermost floor. All the residents are free to enjoy or use the roof, but should not do so in derogation of the rights of other residents or cause inconvenience to others.

In a group housing complex built by a society, however, the rights to the roof belong to the society, unless it grants these expressly to someone. Whereas, in a resident building built and sold by a private builder, the rights to the roof, if not expressly given/transferred to flat buyer, remain with the builder.

Let me say, when the roof is not sold to anybody, it belongs to all the flat buyers for common use and occupation. So, the next time you intend purchasing a flat in a building, be careful to incorporate the rights with respect to the roof over your head into the instrument.