

DEED OF DECLARATION

A declaration is an instrument by which a property is submitted before the provision of the relevant of law. It is defined in the Oxford Dictionary as

“the act or process of declaring”

“a formal, emphatic, or deliberate statement or announcement”

“a statement asserting or protecting a legal right”

Hence declaration can be understood as any statement meant to assert the legal right of a person, which is done deliberately in compliance of law.

A deed of Declaration (DOD) in context of any transfer of property can be understood to be a document that covers the entire description of the property such as the no of buildings, the apartments, facilities offered such as gyms, pool, lifts, generator, fire fighting measures et al. It also consists of the bye laws of the apartment’s owners association along with copies of the approvals taken from the respective local authorities. Further information included consists of the ownership of the apartments or the percentage owned by each person.

The sole purpose of registration of a deed of declaration is to link it to the deed of the individual apartments at the time of registration, such that there is complete transparency and traceability in regard to the registration details such as the ownership, date of registration, the registration number, the details of the sub registrar’s office etc which all the more help clarify the title. This gives comprehensive information in reference to the entire property where an apartment is situated in addition to the apartment deed. This hence allows complete passing over of the property from the owner and/or the builder/developer to the final buyer of the flats/apartments.

The DOD is required to be filed by the owners of the apartment such that it allows transfer of an undivided interest in common areas of the property to the buyer.

The DOD is required to be filed under the respective apartment ownership act of the State. There is no centralised law in this regard and hence it varies on a State to State basis. A deed of declaration further requires registration under the Registration Act, 1908.

However a deed of declaration is not acceptable per se as per the provisions of law as the deed is required to be filed only in addition to the apartment agreement as per the relevant apartment ownership act of the particular State. A declaration agreement hence itself does not constitute a binding authority upon the parties involved to abide by such but along with other documents constitutes a declaration to abide by all the terms and conditions pertaining to the common areas or other such formalities which might not be present in the apartment agreement in specific.