Trends

Selling a home from across the shores

There are many routes for NRIs who own property in India to sell without hassles

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It is no surprise that many non-resident Indians own high-value property in India. But, be it ancestral bungalows in prime areas such as Juhu or Bandra in Mumbai or large plots of land bought many years ago in suburbs that have appreciated in value, these properties tend to lie idle.

Selling off such properties may seem the best option, particularly as the demand for such prime locales can be good. But sealing a deal and handling the entire sale process from a remote destination can be a challenge. Here's a list of what one can do to hasten the process.

Get ready

If it is an inherited property, the title of the property must be transferred to your name. You need a copy of the Will or a Succession Certificate issued by the local court. This establishes your ownership over the property.

You also need to keep all the property related documents in order. This includes the title, original share certificate for co-operative society property and record of taxes paid. You also need a PAN number for the transaction. Often, for inherited property, these documents may not be available; so, you have to find alternatives. You can engage the services of firms, many of which offer end-to-end support through the entire sale process. For instance, they can advise you on prices in the neighbourhood and the best options based on your tax situation.

Know the options

Going for an outright sale comes with the least hassles. Selling may be the best option if you own a ready flat/commercial office up to 10,000 sq ft, advises Ajay Jain, Executive Director, Investment Banking and Head, Real Estate Group, Centrum Capital. The sale may be done to individuals or corporate homes if the price runs into hundreds of crores. There were many multi-crore bungalow deals in 2015, indicating a lot of buyer interest.

Alternatively, you can also enter into a joint development agreement with developers, especially if the plot of land is large. "Doing joint development with a reputed developer and keeping a few units can help the owners stay connected to their roots," says Jain.

An advantage of joint development is that the owner's share in the profits of the overall project could be higher compared to an outright sale amount. That said, this route may face certain hurdles in terms of delay in permissions from civic authorities, developer's own problems or market-related issues such as slow sales.

It is important to take the help of advisors in suggesting the right local developers and working out an agreement. The credentials of the developer are important and you must ideally opt for those who have completed five to seven lakh sq ft of project in the 5 km radius of your property, advises Jain. You must ascertain the developer's ability to complete projects on time and the quality of work before entering into an agreement.

Another option is to develop the property into a commercial space and lease it out; this way, you can continue to own the property and earn returns. Here again, you must exercise diligence in entering into the right partnerships for development as well as ongoing maintenance.

Managing the process

Your option and the level of support you get can make the process less or more time consuming. As you are not physically present in the country, you need to issue a Power of Attorney (PoA).

You have to either find a relative or a friend to complete the registration process on your behalf or trust your broker to do it. You must take the help of the lawyer to draft the PoA so that the rights of the nominee are limited to specific tasks and specific time period(s). The PoA from an NRI must be witnessed by the Indian Consulate to be acceptable by the registrars. "We recommend that NRIs visit India twice — once to meet the buyer in person, build a level of comfort and enter into a memorandum of understanding to finalise the deal; two, to accept the final payment and complete the transaction. The market is unregulated, the risk remains very high," says Santhosh Kumar, CEO, Operations and International Director, JLL India.

Tax issues

It is important to consult a tax advisor who is adept at international tax laws while selling a property in India. This can help you plan efficiently and avoid issues with the authorities later.

When NRIs sell property, the TDS is deducted by the buyer at the rate of 20.60 per cent for long-term capital gain; the rate is 33.99 per cent irrespective of the tax slab of the NRI, in case the property is held for less than three years, says Nitin Bhatia, a tax consultant. "The buyer should obtain TAN before TDS deduction. The TDS filing process is tedious for a buyer," he says.

Often, there is a TDS refund since TDS is deducted on the total consideration value whereas capital gain tax is due only on capital gains.

Filing to claim the refund can be a long-drawn process for an NRI seller.

Also, the Foreign Account Tax Compliance Act (FATCA) requires that you report tax information across countries.

If an NRI from the US holds property in India and generates any income/capital gain, it will be reported to the US tax authorities and this income/capital gain may be taxed in the US. Rental income will be taxed only in India in such cases, says Bhatia.

But with Double Taxation Avoidance Agreement (DTAA), NRIs will not be taxed twice on the same income. Property sale will be taxed in India and tax credit can be availed of in their home country against taxes paid in India.

"If long-term capital gains tax in India is 20 per cent, but 30 per cent in the NRI's home country, then only the additional 10 per cent tax must be paid in his home country.

"Alternatively, if the long-term capital gains tax rate is only 15 per cent in his home country, there will be no additional tax in his home country," says Bhatia.

Selling avenues

- Outright sale
- Joint development
- Develop the property into commercial space

Power transfer

As you are not physically present in the country, you need to issue a Power of Attorney to a relative or a friend to complete the registration process on your behalf

Source: Centrum Capital

BIG BUYS

Mumbai's iconic Lincoln House on Breach Candy was bought by Cyrus Poonawalla for **₹750 crore**

Jatia House on Malabar Hill was bought by Kumarmangalam Birla for **₹425 crore**

A bungalow on Prithviraj Road, Delhi was bought by Harish Ahuja for **₹173 crore**

Essel group bought a bungalow spread across a 2.8 acre plot in Lutyens' Delhi for **₹304 crore** from Anant Raj group