

[The] Ownership Of Joint Housing Act, 2054 B.S. (1997)

Date of the Royal Seal and Publication

2054/09/07 BS (December 22, 1997)

Amending Acts:

- 1 Act for the Consolidation of Republic and Some Laws of Nepal Amending Acts, 2066 (2010)[♦] 2066/10/7 (10 January 2010)
- 2 Some Laws of Nepal Amending Act, 2072 (2016) 2072/11/13 (25 February, 2016)

Act No. 15 of the Year 2054 (1997)

✂.....

AN ACT MADE TO PROVIDE FOR THE OWNERSHIP OF JOINT HOUSING

Preamble: Whereas, in urban areas of Nepal ✂..... the increment in the price of land as a result of the pressure caused by overpopulation in urban areas of Nepal has led to a situation whereby residents of cities may be deprived of housing facilities;

whereas, it is expedient to solve the existing housing problems and make arrangements for housing in a planned manner by selling apartments smoothly through the development of joint housing and make arrangements for the rights and duties in such apartments;

Be it enacted by Parliament in the twenty sixth year of the resign of His Majesty Birendra Bir Bikram Shah Dev.

♦ This Act come into force on the 15th of Jest 2065 B.S. (May 28, 2008)

✂ Deleted by the Act for the Consolidation of Republic and Some Laws of Nepal Amending Act, 2066 (2010)

Chapter-1

Preliminary

1. **Short Title and Commencement:** (1) This Act may be called as “[The] Ownership of Joint Housing Act, 2054 (2010)”.
(2) It shall come into force on such date as the Government of Nepal may by a notification published in the Nepal Gazettee, specify.▪
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act,-
 - (a) "Joint Housing" means and includes any building consisting of two or more than two apartments with two or more floors built on a plot of land and two or more than two buildings designated as a block, pocket or any building of a similar designation and the land, compound and complex ancillary thereto.
 - (b) "Apartment" means an unit of a building consisting of one or more than one rooms that could be used independently in a joint housing along with collective areas and facilities.
 - (c) "Promoter" means any corporate body incorporated under the laws in force and authorized to build and operate joint housing in pursuant to section 5.
 - (d) "Apartment Owner" means any person or corporate body buying, leasing or possessing, subject to the terms and conditions set forth in the agreement as referred to in this Act, an apartment in any other manner.
 - (e) "Collective Area nad Facility" means the collective areas and facilities as referred to in section 16.

▪ This Act come into force on 2060/1/2 (15 April, 2003)

- (f) "Restricted Collective Areas and Facilities" means areas and facilities built or meant only for certain apartment owners.
- (g) "Agreement" means any arrangement entered into between a promoter and an apartment buyer for the purchase, lease or possession thereof in any other manner.
- (h) "Committee" means a housing management committee formed pursuant to section 24 to look after, manage and operate of a joint housing.
- (i) "Competent Authority" means a competent entity or person designated as such by the Government of Nepal, by notification published in the Nepal Gazettee.
- (j) "Prescribed" or "As prescribed" means prescribed or as prescribed in the rules made under this Act by the Government of Nepal by notification published in the Nepal Gazettee.

Chapter-2

Provisions Relating to the Approval of Joint Housing:

3. **Prohibition on the Construction of Joint Housing Without Approval:**
Nobody may, except as otherwise provided for in the existing laws, build or cause to be built a joint housing without the approval of the competent authority.
4. **Requirement to Make Application for Approval:** A corporate body wishing to build and operate a joint housing shall, along with the proposed drawings, structural design, particulars of the land area and the ownership thereof, the process of selling the apartment thereof particulars relating to collective areas and facilities as well as a plan thereof, make an application

to the competent authority in the prescribed format in order to obtain approval for building and operating a joint housing.

5. **Granting of Approval:** In cases where an application has been made pursuant to section 4, a competent authority shall, if he or she after carrying out the necessary inquiry, finds that the prescribed procedure has been followed, grant the applicant approval to build and operate a joint housing.
6. **Power to Ask for Additional Details or Documents :** If the competent authority deems if necessary, in the course of inquiry conducted pursuant to section 5, to have additional details or documents, he or she may asks for such details or documents from the applicant and it will be the duty of the applicant concerned to submit forthwith the details or documents so demanded.
7. **Prohibition to Pass Drawings Without Approval:** Notwithstanding, anything contained in the existing laws, an entity authorized to pass drawings of a building may not, without the approval of the competent authority authorized to do so pursuant to this Act, pass the drawings for the building of a joint housing.

Chapter-3

Sale, Ownership and Transfer of Apartments

8. **Sale and Other Provisions Relating to Apartments:** (1) A promoter may sell an apartment on a down payment or installment basis.
 - (2) A promoter may, by way of lease or otherwise, give the possession of an apartment to any person or body.
 - (3) In cases where an apartment is sold or rented out or given possession of pursuant to sub-section (1) or (2), an agreement shall be concluded as referred to in section 15.

(4) A promoter shall, in cases where an apartment is sold or rented out or given possession of pursuant to sub-section (1) or (2), issue a certificate to the owner of the apartment in a format as prescribed.

9. **Ownership and Utilization of Apartments:** (1) Upon making full payment to a promoter by an apartment owner pursuant to this Act, the full ownership or such an apartment will be under the owner.

(2) The owner of an apartment shall, subject to the terms and conditions as may be set forth in the apartment agreement, have the right to utilize the apartment as agreed.

10. **Right of Apartment Owner to Sell It or Lease It Out:** An apartment owner shall, subject to the terms and conditions as set forth in section 11 and the agreement, have the right to sell, rent out or transfer otherwise the ownership or the right of possession of his apartment to any other person.

11. **Agreement to be Complied With:** (1) In cases where an apartment owner sells, rents out or transfers otherwise the possession of his apartment under, a person buying, renting or otherwise possessing the apartment shall comply with the terms and conditions set forth in the agreement concluded with the promoter and the matters as set forth in this Act or the rules and working procedures made under this Act.

(2) Employees and workers working in a joint housing should comply with the matters set forth in the rules and working procedures made under this Act and the agreement there of.

12. **Circumstances Under Which Ownership of Apartments Prohibited to be Transferred:** (1) Notwithstanding anything contained elsewhere in this Act, in cases where any amount is outstanding in respect of any apartment sold to any individual or body, the buyer may only use the apartment subject to the terms and conditions laid out in the agreement.

(2) The ownership of an apartment possessed by such individual or body may not be transferred in any manner until the payment of the outstanding amount as referred to in sub-section (1).

- 13. Prohibition to Sell Without Consent:** Until and unless the promoter or committee expresses in writing that there is no amount, charge, fee and so forth outstanding the entity authorized to pass the deed of registration by the existing laws shall not register the deed of the sale of such apartment by the new apartment owner.
- 14. Consent to be Given:** In cases where an apartment owner wishing to sell his or her apartment to any other person has asked for consent therefor pursuant to section 13, the promoter or committee shall, if there is no amount, charge, fee and so forth outstanding, give consent in writing for the sale of the apartment.

Chapter-4

Provisions Relating to the Agreements

- 15. Agreements to be Concluded:** (1) In cases where a promoter sells, rents out or otherwise transfers the possessing right of an apartment, an agreement to that effect shall be concluded with the individual or corporate body purchasing, renting or otherwise acquiring possession right of such apartment.
- (2) The following matters shall be clearly mentioned in an agreement concluded pursuant to sub-section (1):
- (a) Names and addresses of the parties to the agreement,
 - (b) The location, ownership, area, Plot No. of the land and other particulars related to the land and the joint housing,

- (c) Apartment No.; area of the apartment; the number of rooms in the apartment, facilities and other necessary particulars relating to the apartment,
- (d) Particulars relating to the sale, rent or otherwise transfer the possessory right,
- (e) In cases of sale, the price and the process of making payment thereof,
- (f) In cases of renting out or transferring otherwise the possessors right of the apartment, the duration there of and particulars relating to the rent,
- (g) The collective area and facilities to be enjoyed collectively in a proportional way by the apartment owner and particulars relating to restricted collected areas and facilities,
- (h) Terms and conditions to be applied in utilizing the apartment and activities allowed to be done or not allowed to be done,
- (i) Any collective expenses to be borne and liabilities for the maintenance, upkeep and care of collective areas and facilities,
- (j) Matters relating to the rights, duties and liabilities of the apartment owner and promoter,
- (k) Matters relating to the percentage of the area occupied by the apartment in the joint housing,
- (l) Amount of insurance premium,
- (m) Other pertaining matters.

Chapter-5

Collective Interests and Liabilities

16. **Collective Areas and Facilities:** An apartment owner may, without prejudice to the rights of other apartment owners, use the following collective areas and facilities in a proportional manner:
- (a) Land of a joint housing,
 - (b) The base, foundation, pole, sewerage, beam, support, wall, outer wall, roof, hall, corridor, lobby, staircase, fire escape and way in and way out,
 - (c) The basement, solar, courtyard, garden, parking lot and godown,
 - (d) Generator post and guard post,
 - (e) Electricity, gas, parts arranging, making for cold and hot water, and parts of the building used for heating and air conditioning,
 - (f) Items of collective use such as elevator, pump, tank, motor, fan, garbage container.
17. **Prohibition on Separation:** Except as provided for in this Act or the working procedures made under this Act, separation or division of collective areas and facilities as well as restricted collective areas and facilities may not be allowed.
18. **Responsibility for Bearing Collective Expenses:** An apartment owner shall make payment to the promotor or the committee of the collective expenses incurred in connection with the operation, maintenance, upkeep, cleaning up of collective areas and facilities proportionately as stipulated in the agreement.

19. **Prohibition on Refusal to Pay:** An apartment owner shall not have the right to refuse to make payment for the collective expenses incurred as stipulated in the agreement.
20. **Permission to Withhold :** In cases where an apartment owner has not made payment to the promoter or the committee any amount payable for the collective expenses, the promoter or committee may, until the due amount is paid, withhold the use of any of the collective areas and facilities as well as restricted collective areas and facilities being used by such apartment owner or suspend the transfer of such apartment to any person in whatsoever manner.
21. **Insurance of Joint Housing:** It will be mandatory for the promoter or the committee to insure a joint housing against the natural calamities. All expenses to be incurred in connection with the insurance shall be borne by the apartment owners proportionately as stipulated in the agreement.
22. **Cases of Destruction or Damage of Joint Housing:** (1) In the event of a joint housing being destroyed completely in any manner, the right of all apartment owners to the land area of the housing shall be established proportionately.

(2) In cases where a joint housing has been damaged in part and could be repaired or reconstructed, the promoter or the committee shall repair the building so damaged within the prescribed period from the date of such damage.

Chapter-6

Management of Joint Housing

23. **Protection, Care, Repair and Maintenance of Joint Housing:** It shall be the duty of the promoter to protect, care, repair and maintain the buildings and collective areas as well as the facilities of a joint housing.
24. **Housing Management Committee to Protect, Care, Repair and Maintain:** (1) Notwithstanding anything contained in section 23, in cases where a promoter sells all his apartments owned by him or all apartment owners agree in writing to run their joint housing on their own and make a requisition therefor to the promoter or in cases where it has been impossible to protect, care, repair, maintain and clean up a joint housing as a result of the dissolution of the corporate body or the promoter has been insolvent, the apartment owners shall, from among themselves form a housing management committee to protect, care, repair, maintain and clean up joint housing and collective areas and facilities and the committee itself will fix the procedures relating to the meetings of such a committee.
- (2) In cases where a committee has been formed pursuant to subsection (1), the committee shall perform all the functions to be performed by a promoter in accordance with this Act or the rules made there under.
25. **Right to Raise Charges or Fees:** A promoter or committee may, for the operation, protection, care, repair, maintenance and clean up of a joint housing and collective areas facilities, raise charges and fees as fixed in the agreement.

Chapter-7

Miscellaneous

26. **Right to Build Joint Housing for Private Use**: (1) If any person wishes to build a joint housing for his or her private use, he or she shall make a request there of to the competent authority as set forth in section 4 and obtain approval.

(2) Notwithstanding any thing contained elsewhere in this Act, the provisions of other chapters other than those of Chapter -2 will not apply with regard to the operation, management and other matters of a joint housing built for private use pursuant to sub-section (1) and the operation of such a joint housing will be as per the agreement concluded between the builders of that building.

27. **Prohibited Acts**: (1) A promoter and committee shall not do the followings:

- (a) To construct a joint housing building contrary to the standard approved by, and the quality specified by, the competent authority,
- (b) To construct a building contrary to the sketch, structural design or plan approved for the construction of the joint housing building,
- (c) To act in such manner as to be against the interests of apartment owner.

(2) An apartment owner shall not do the following:

- (a) To adversely affect the security of the area of the joint housing and the safety and health of the other apartment owners,
- (b) To carry out any act that may cause decrease in the value of the joint housing,

- (c) To carry out extra works or excavate in, or demolish, the structure of his or her apartment,
- (d) To sell the apartment by fragmenting or dividing it into parts,
- (e) To deprive the other apartment owners of the use of collective areas and facilities and restricted areas and facilities.

28. Punishment: (1) In cases where a person builds a joint housing building without obtaining approval pursuant to section 5, the competent authority may impose a fine in an amount not exceeding one hundred thousand rupees on such individual or body and may also issue an order to demolish the building so constructed.

(2) If a building built by a promoter is damaged as a result of not following the approved sketch, structural design, plan and standard and quality as approved and specified by the competent authority a fine will be imposed on such a promoter in an amount ranging from one hundred thousand to five hundred thousand rupees, and if it is proved that the loss was caused by the collapse of the buildings due to a technical fault, the victim shall have the right to recover a reasonable amount of damage from the promoter.

(3) In cases where a person intentionally violates or commits or omits any order or guidelines issued in accordance with this Act or the rules made there under, the competent authority may, considering the gravity of the offence, imposed a fine on such person in an amount not exceeding fifty thousand rupees, and if he or she repeatedly commits such an offence, an extra fine of five thousand rupees will be imposed on the offender in each case.

29. **Granting of Exemption:** (1) The Government of Nepal may, by notification published in the Nepal Gazette, exempt, in whole or in part, a person from paying registration fee, payable as per the existing laws for the sale of an apartment.
- (2) The Government of Nepal may, by notification published in the Nepal Gazette, exempt from paying taxes, fees and charges, payable as per the existing laws, for the operation of a joint housing, in whole or in part.
30. **Defence-related Provisions:** In cases where a case has to be filed or a legal proceeding has to be initiated against any person on behalf of a joint housing, the promoter or the committee shall take actions for defending the case or the legal proceeding.
31. **Statutory Limitations:** Cases against any offence committed under this Act shall be filed within a period of three months from the date of the knowledge of the commission of the offence, and within a period of one year from the date of the commission of the offence.
32. **Appeal:** A person not satisfied with any decision made by the competent authority in accordance with this Act may file an appeal in the ***District Court** concerned within a period of thirty five days from the date of the decision.
33. **Power to Issue Guidelines:** The competent authority may, if he or she deems it necessary, issue directives to the promoter or the committee for the proper operation of a joint housing, and it shall be the duty of the promoter or the committee to comply with such directives.

* Amended by Some Laws of Nepal Amending Act, 2072 (2016) .

34. **Existing Laws to Prevail:** Matters set forth in this Act will be dealt with in accordance with this Act and other matters will be dealt with in accordance with the existing laws.
35. **Powers to Frame Rules:** The Government of Nepal may, for carrying out the objectives of this Act, make rules.
36. **Powers to Make Working Procedures and Give Effect Thereto:** A promoter or committee may, for the operation and management of a joint housing, and without prejudice to this Act or the Rules made thereunder, make working procedures and give effect to them on the following matters:
- (a) Matters relating to the protection, repair and maintenance of the joint housing,
 - (b) Matters that are required to be followed by apartment owners in the course of the use of a joint housing,
 - (c) Matters relating to the terms, conditions and facilities of the employees working in a joint housing,
 - (d) Other matters necessary for the operation of a joint housing.

Note: Words that were replaced by Some Laws of Nepal Amending Act, 2063 (2006) :-

"Government of Nepal" instead of "His Majesty Government"