

Can a trust structure to manage real estate assets help mitigate family disputes?

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Representative image

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Owning a home is a cherished dream for nearly every adult. For many, the pursuit of property ownership begins as soon as they enter the workforce. But beyond acquiring a home, the questions of how to protect and transfer this assets to the next generation without legal hurdles can be more complex. One of the major challenges Indian families face is how to navigate the legalities of real estate transactions, including the burden of stamp duty and potential family disputes.

In India, [transferring real estate to a family member](#), whether through a gift, inheritance or other family arrangements, often becomes a complicated process due to stamp duty implications. Stamp duty on property transactions, a state-specific matter, must be considered whenever there is a change in the title of a property—whether the transaction involves an individual or a legal entity. The amount of stamp duty varies depending on the state in which the property is located.

Stamp duty on the transfer of real estate to lineal descendants (such as children or grandchildren) in some states is either nil or a very small percentage. However, if the property is gifted to a sibling or a more distant relative, stamp duty is applicable at a nominal rate, which is determined by the value of the property.

One of the key issues in Indian real estate transactions is the high incidence of family disputes. Indian courts are often overwhelmed with litigation concerning property disputes within families, especially when ownership is shared. To avoid these conflicts, it is advisable for families to plan the acquisition and transfer of real estate in a way that simplifies the process, reduces costs and ensures a smooth transition of assets.

Also read: [Estate planning: How to navigate the emotional journey of passing on your assets](#)

The role of private trusts in succession planning

A growing number of Indian families are turning to private trusts as an effective tool for succession planning. Private trusts, commonly used around the world, are increasingly being adopted in India for managing family-owned real estate. There are several advantages to this approach, particularly when it comes to the consolidation and protection of family assets.

One of the key benefits of holding real estate in a trust is the consolidation of assets. A family trust allows for the pooling of multiple properties under one structure, where all family members can be designated as beneficiaries. This can prevent the fragmentation of assets, which often occurs when real estate is individually owned and passed down piecemeal. Furthermore, properties held in trust can be distributed "in specie" (in their original form) to beneficiaries without incurring additional costs.

Asset protection and mitigating of family disputes

A trust also provides an added layer of protection for the family's assets. By holding real estate in the name of the trust rather than in individual names, family members are shielded from personal or professional risks. For example, in cases of creditor claims, divorce settlements or other financial disputes, the assets within the trust remain protected. This is particularly beneficial in preventing the assets from being compromised or liquidated due to external pressures on individual family members.

Joint ownership of real estate among family members is common, but it often creates complications. For instance, when multiple individuals hold an interest in a property, disagreements may arise regarding its use, sale or management. In some cases, one owner may wish to sell their share to access liquidity, while another might prefer to retain the property, anticipating an appreciation in its value. Such disputes can lead to deadlock, making it difficult to manage the asset effectively.

This is where a trust structure can help. With the property held in the name of the trust, the trustee—the person appointed to manage the trust—becomes the decision-maker regarding the asset. The rights of the beneficiaries and the decision-making process can be clearly outlined in the trust document, reducing the likelihood of disputes. Beneficiaries must adhere to the terms set by the settlor (the individual who creates the trust), ensuring that the wishes of the property's owner are respected even after their passing.

Also read: [Why Young Indians need wills](#)

Trusts can ensure seamless succession

A private trust also offers significant advantages in terms of succession planning. Unlike a [will](#), which can be contested in court (often on grounds of coercion or undue influence), a trust is a more robust legal structure that is not susceptible to such challenges. Because the trust is established during the settlor's lifetime and is actively managed by a trustee, it offers clarity and stability in the transfer of assets. There is no question of the trust being a "fake", an issue that frequently arises in the case of disputed wills.

Moreover, the trust operates under clear legal guidelines, ensuring that the settlor's intentions are upheld and that family members can enjoy the assets without the fear of complicated legal challenges or disputes.

For Indian families looking to protect their real estate assets, avoid disputes and ensure smooth succession, the creation of a family private trust offers a practical and effective solution. By consolidating real estate holdings under a trust structure, families can safeguard their wealth, protect their assets from external risks and provide clarity in the transfer of property to the next generation. As the legal landscape surrounding real estate transactions continues to evolve, embracing tools like private trusts will become an increasingly essential part of family wealth management in India.

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