

an important place in the history of the country. But the condition of the building is deteriorating day by day and presents a heart-rending scene. This timber used in it was brought from Burma. Moreover, the carpets and other articles used in it are not in good condition. In this connection the Estimate Committee of the Parliament had also visited it and submitted its report but so far no action has been taken. At present, the building is being used by the Society for Advanced Studies where very few scholars come.

I urge upon the Government of India to transfer this building to Himachal Pradesh Government so that the State Government may maintain it properly and utilise it. The State Government is ready to provide accommodation in Himachal University for the employees and scholars of the Advanced Studies Society.

I would request the Government to take immediate action to protect the building.

[*English*]

- (ix) Need to safeguard the interests of the workers and their families residing in Labour Colony of Orient Power Cables Ltd. Kota, Rajasthan

SHRI BASUDEB ACHARIA (Bankura) : A serious situation has arisen in the labour colony of the Orient Power Cables Ltd., at Kota, Rajasthan, which was first declared as a "Relief Undertaking" by the State Government and then coercive methods were being used to harass the workmen, who are struggling against retrenchment and other attacks on their livelihood. The power line and consequently the water supply system has been cut off in the labour colony resulting in terrible hardships to the employees and their family members residing in the colony, which is situated in remote areas of Kota city. This act has been done by the management deliberately to harass the workers and in line with their earlier acts of stopping medicine to dispensary since the beginning of this year, stoppage of disbursement of salary and defuncting the workers' co-operative store.

The undertaking was having a turnover of Rs. 12 crores per year, with the

export content being Rs. 2.5 crores and having a potential for further growth with some additional funding for full utilisation of modern machines just installed.

I, therefore, urge upon the Government to safeguard the lives of workers and their families through restoration of water and electricity in the labour colony and payment of due wages to them as soon as possible and request the Minister to make a statement in the House in this regard.

12.20. hrs.

DELHI APARTMENT OWNERSHIP BILL

[*English*]

THE MINISTER OF URBAN DEVELOPMENT (SHRI ABDUL GHAFOOR) : Sir, I now move that the Delhi Apartment Ownership Bill, 1986, be taken into consideration and that the Bill be passed.

An Apartment Ownership Legislation for Delhi has been a long felt need especially in the changing pattern of the Urban Scene. It has become necessary to ensure judicious optimum utilisation of urban land resources and also to achieve maximum utilisation of services. This has given rise to the requirements for construction of group housing instead of plotted housing which used to be the earlier practice. In consonance with this policy, the DDA is allotting only flats to individual applicants and land only to group housing societies. On the commercial side, due to the requirements of parking and for aesthetic and architectural considerations, the concept of integrated development has emerged and multi-storeyed buildings are being put up where floor area is being allotted to individual commercial units. On the industrial side, the concept of flatted factories has come into existence. In the institutional field in Delhi, the Delhi Urban Art Commission has been insisting on integrated development of institutional areas and preparation of Urban Design Form. The need for an Apartment Ownership

Legislation for Delhi has, therefore, arisen in order to provide for the ownership of an individual apartment and to make such apartment heritable and transferable as a unit of property.

Under the existing laws, in order to have full ownership over the building, the person has to have ownership of the land as well. In a multi-storeyed building with different apartments even though the super-structure which forms the apartment is a separate entity divided by metes and bounds and can be owned independent of the other apartments, the same is not the case with the land on which the entire building stands. The owners of these super-structures can at best have only an undivided co-ownership with the other flat holders for purposes of transfer. This joint co-ownership of the land comes in the way of easy transferability of the property. Also when a person is in need to mortgage the property to raise a loan, the property is to be mortgaged and a charge required to be created, not only on the particular apartment but also on the land, and unless all the owners of the land join, it is not possible to create a mortgage and raise loans.

It is primarily to overcome these difficulties that it is proposed to have a legislation in Delhi whereby the apartment will be defined as a unit of property and the undivided share in the land would be looked upon as an adjunct to this property. In this manner the apartment would be capable of inheritance, transfer, mortgage etc. without reference to the other owners. This is a most important thing.

Another reason for having this legislation is to protect the interest of the apartment owners from the hands of such builders and promoters of multi-storeyed buildings against whom Government have been receiving complaints about their dealings in what ought to be the common services and facilities of the flats such as parking space for the vehicles, access to common areas, etc. The legislation, which is proposed, would clearly define what are the common facilities and services and at the time a building is completed, make it

incumbent on the promoter/builder to clearly declare the common facilities and services.

The legislation is proposed to be applicable to buildings on lease-hold and free-hold land as well as those built by a private builder or DDA.

So far as Cooperative Societies are concerned, the Act will apply only in so far as it will make the apartment an individual unit of property which will be jointly owned by the Cooperative Society and the member of the Cooperative Society to whom the apartment is allotted. Apart from this, the maintenance of common facilities, the rights of transferability etc. will be as provided in the relevant rules under the Cooperative Societies Act.

Suitable provisions have been made in the Bill for protecting the interests of the lessor in the case of lease-hold properties which is again a peculiar feature for Delhi.

To sum up, the object behind the proposed legislation is to enable the conferment of a heritable and transferable right in an apartment including its proportionate and undivided interests in common areas in multi-storeyed buildings.

I now request that the Bill may be taken up for consideration and be passed by this august House.

Sir, I beg to move* :

"that the Bill to provide for the ownership of an individual apartment in a multi-storeyed building and of an undivided interest in the common areas and facilities appurtenant to such apartment and to make such apartment and interest heritable and transferable and for matters connected therewith or incidental thereto, be taken into consideration."

MR. DEPUTY SPEAKER Motion moved :

*Moved with the recommendations of the President.

[Mr. Deputy Speaker]

"That the Bill to provide for the ownership of an individual apartment in a multi-storeyed building and of an undivided interest in the common areas and facilities appurtenant to such apartment and to make such apartment and interest heritable and transferable and for matters connected therewith or incidental thereto, be taken into consideration."

Dr. D.N. Reddy.

SHRI D.N. REDDY (Cuddapah) : Mr. Deputy Speaker, Sir, the scarcity of land in the Capital city due to rapid urbanisation has led to construction of multi-storeyed buildings containing a number of apartments where a number of people share common facilities. This has led to mushrooming of Housing Cooperative Societies, and the Societies naturally took advantage of the owners of the apartments who first gave their share of money and this has led to a lot of litigation and delay in construction of houses. We are informed that there are nearly 380 such Societies working in the Capital City and this has also led to a number of irregularities like unauthorised structures, delay in construction and other irregularities. We are informed that there were about 45,000 irregularities in 1984 which have increased to about 48,000 at present. All these are attributed to Cooperative Societies. I am really surprised why Government took such a long time to redress their grievances. There have been a number of times when apartment-owners approached the Government for some sort of legislation and yet, the Government did not move. At last, they have now come forward with a legislation which seeks to redress the grievances of the owners of apartments in multi-storeyed buildings. It is not a question whether I would vote for it or not. Everybody will support it. But I am very much surprised why Government took such a long time in coming forward with this Bill.

There have been some instances where the Societies brought the owners of the flats into trouble because the visible part of the building was in the name of the owner of the flat and the indivisible and invisible part, the land, was in the name of the Coopera-

tive Society. There were many undesirable Cooperative Societies registered. So, it led to a lot of litigation and many owners were in trouble and there was a lot of delay in construction.

This Bill recognises Delhi's multi-storeyed building apartments as properties which can be inherited and transferred to other owners. The legislation proposes to meet the demand for statutory recognition of an apartment as a unit of property, capable of transfer, or to be inherited as any other property and also provides a statutory organisation clothed with adequate powers for management of common areas in multi-storeyed buildings. Often, the Delhi Development Authority was also helpless and they approached the Government for some sort of legislation so that there can be smooth running of affairs in multi-storeyed buildings. Now, after this Bill is passed, the owner can transfer the apartment on sale, mortgage, lease, gift, exchange in any manner, with the same limitations and privileges applicable to any other immovable property. As a matter of fact, this Bill should be extended also to the other areas in the country. It should be applicable not only to Delhi but to almost all the cities in our country so that the middle class people who are usually the owners of apartments do not suffer. Not only that, when the registration of Cooperative Societies is done, Government should be fully conversant with the origin of the Society, the background of the Society and the capacity of the Society. Often, many dishonest persons form themselves into a Society and then they give their own directions to the applicants. So, Government would do well, before recognising or registering the Society, to go into the background of the Society and then allot the site on which the multi-storeyed building is to be constructed, because once the building comes up it is very difficult to either manage the surrounding areas or demolish the building. So, the Government should go into all these things when allotting the land, so that the atmosphere does not get polluted. Enough greenery and air-space should also be looked into by the Government.

As a matter of fact, the housing is one of the most important problems in our

country which we are facing. AP Government also has done very well, not in multi-storeys, but in providing housing for the poor. So, I welcome the Bill because it meets the persistent demands of the citizens and seeks to recognise the apartments as properties that can be transferred or inherited. I support the Bill.

SHRI K.S. BAO (Micchilipatnam) : I equally am of the opinion that the Bill is very good particularly for the lower middle class and the middle class people and the employees who are in good number. I feel that, as my other friend said, the Minister should have come with this Bill much earlier. Anyway it is not late and the benefits can certainly go to them, though delayed.

Sir, in the recent past, with the spurt in prices of the land in various cities, most of the people who are not in the affluent category are not in a position to acquire a house of their own, though, particularly for employees, they are given a lot of facilities by the Government giving loans at lesser rate of interest. They are not in a position to make use of the loans because the banks will question them whether they have got the clear title, transferability which was not there earlier with the apartments.

So, once again the apartments are being owned by the affluent sections only as a matter of investment and certainly not for occupation or possession. The net result is that though flats have been constructed in various cities, it is not the middle class or the lower middle class who enjoyed the benefits of it; but once again it is only the rich people. In that context also the Bill is very much desired and very good.

Apart from this, these days it has become a problem for the individuals to procure materials for sometime like cement, of course not now, and several other construction materials—as well as the skilled man-power who can be engaged in construction but who have left this country for Gulf and other countries.

It has become possible to construct apartments in a cheaper way in good number rather than individually. Once

again there also, the ownership come in the way and that also is solved by this Bill. So, from every angle, this Bill is designed very well.

I propose certain amendments not with a view to delaying the Bill or anything like that, but knowing fully well the intricacies of the ownership of the apartments and the prospective problems that arise in the course of ownership I have suggested certain amendments which will be taken up later.

The intention of the Government is only to aid the people who are deprived of the urban housing. The Bill should not create complications or lead to harassment by the officers concerned by making certain provisions of time limit and all that. I certainly agree that if there is an opportunity for the promoter or the builder to harass the apartment owner or to put him to inconvenience, the need for introduction of these clauses is OK. I am of the opinion that the moment a lower middle class or a middle class man purchases an apartment, he will invariably be getting the building or the apartment registered immediately. So there is no need for the Government to insist on the time-limit for registration as the owner himself will take care of it. Supposing a set of apartments or a multi-storeyed complex is taken up in a phased manner, which will take couple of years to be completed, because it will depend on the financial capacity of the promotor, the demand and supply position in that particular period, constraints of permission from the different Governmental authorities and availability of building and other materials, all these things may lead to certain delay in completion of the entire complex. Part of it may get completed but the entire complex is taken as one unit. Further even in one unit there may be delay in constructing further floors. So, I urge the Minister not insisting upon the time-limit for registration for the apartments, which are constructed both prior to commencement of this legislation, as well as later.

The Minister has mentioned that the object is to give ownership, heritability transferability and opportunity to the middle class and lower middle class people to

[Shri K. S. Rao]

pledge the apartment to the institution to get loan. This object is laudable but at the same time the Minister must take into account that the registration fee or the stamp duty must either be not there in respect of the first registration or it is totally eliminated in respect of apartment registration. A rich person who constructs a house does not pay any registration fee for the cost of building whereas a poor man when he has to purchase an apartment from the promoter he is made to pay the registration fee for the entire cost of construction. Thus he is put to loss. Therefore, even though the intentions are very good yet the real benefits are not going to him. This aspect must be taken care of by making a provision to see if not for every time at least for the first registration of the apartment it should not attract any stamp duty.

Similarly he must also advise other State Governments to come forward with a similar legislation which gives similar facilities to the people living in other places like Andhra Pradesh and Tamil Nadu where there is land problem.

Coming to 'definition' it is said that lease is for 30 years. I do not know if the lease is beyond 30 years it becomes perpetual or not. If it is not perpetual, then I wish the Minister to see that the apartment owners are not put to any inconvenience after the lapse of 30 years of lease. The purchaser of an apartment who has purchased the apartment with his meagre resources must have the perpetual right on land.

Further, Sir, as he has already brought this Bill for apartment owners, I request the hon. Minister to think about the havoc that has been created in certain parts of the country on account of the Urban Land Ceiling Act. Though it is intended to take the extra land from the rich people it has become a source for increasing the prices in various parts of the country. So, the Government should think in terms of at least bringing forward such amendments which would remove the ills of the earlier Act. Sir, in regard

to the percentage of the rights on the common areas—as the apartments might be sold at various times, during the construction, the prices also for the same type of apartments might vary—while arriving at the percentage of the rights of the common areas the value of the apartment that is mentioned in the sale deed should not be the criteria, but the weighted average of the value of the apartment purchased or sold should be the basis for giving the right on the common areas.

Sir, I will take up the individual clauses of the Bill and give reasons for my amendments to the various clauses. I would only request the hon. Minister kindly not to take my amendments with a negative mind, but certainly with a view to giving aid to the apartment owners so that they may get the real benefits as envisaged in the Bill so that there is no scope for any type of harassment from the unscrupulous persons. Thank you.

[Translation]

*SHRI AJIT KUMAR SAHA (Vishnupur) : Sir, I rise to support this Delhi Apartments Ownership Bill, 1986, although it has been brought forth very belatedly. All those who have purchased flats or apartments were demanding these facilities provided in this Bill for a long time. I thank the hon. Minister for bringing this Bill which should have been brought much earlier. This Bill will help those persons in Delhi who are buying flats or getting them through the cooperatives etc. But the number of such persons who are in a position to buy apartments is only 2 or 3% and they only will be benefited by this legislation. In Delhi several lakhs of people live in slums, jhuggis, jhonpris etc. The Govt. is not thinking about them. No steps have been taken for the amelioration of their condition. In our country 63% of the people live in the rural areas and 37% live in urban areas. For all such people who have no houses, the Central Government has repeatedly assured that housing provision will be made for them. Several seminars have also been held in Delhi in this connection. Sometimes back one seminar was held here where the

*The Speech was originally delivered in Bengali.

Secretary General of U.N., Dr. A. Ramachandran was also present. This seminar was on "Shelter for all by 2000 A.D." In that seminar Dr. Ramachandran said, I quote, "Dr. A. Ramachandran, Secretary General of United Nations today said, the lack of adequate political will was actually holding up the programme of housing for the homeless in India." The Secretary General of U.N. who visited India had said that the Government of India lacks the political will in this regard. We also see that today not only in Delhi alone, in U.P. also there are 18 lakhs of people who have no roof on their heads. In Kerala there are $1\frac{1}{2}$ lakh families without any roof. In Bombay there are 28 lakh people who live in Jhuggis and jhonpris. In Calcutta there are 30 lakh such people and in other big cities like Madras, Bangalore etc. the condition is the same. For all these multitude of unfortunate people the Government is not taking any worthwhile steps. They are of course talking about Housing Banks etc. and some funds have been allocated in the 7th Five Year Plan for this purpose. But this is a very gigantic problem and adequate effective steps are not being taken to solve it. Much needs to be done. In this context the UN Secretary General, referred to earlier, stated that, I quote, "In India where 63% of the people live in the rural areas and 37% live in the urban areas, there is an urgent need to create a Ministry of Human Settlement both in the Centre and in the States." Therefore, a separate Ministry should be created to solve the housing problem of the homeless. Then there are some Government agencies like HUDCO etc. who render some help in housing matters. But their activities are mostly confined to big cities like Delhi etc. In smaller towns where the population is say 3 or 4 or lakhs, the HUDCO is not functioning. I will request the hon. Minister to see that the HUDCO and similar agencies function in these small towns also so that the Government employees and other classes living in these small towns may also get the benefit. This Delhi Apartments Bill is applicable to Delhi only. I feel that it would be better if the Central Government persuades all the State Governments to bring forth similar Bills in their respective States also so that the people going in for apartments

there may derive the benefit of ownership of their flats which will facilitate obtaining of loans from the banks and other financial institutions as well as the sale of their flats if the need arises. These advantages of ownership of property should be made available to the flat owners all over the country. I want to say some things about the condition prevailing in Delhi. Take the DDA. The working of the DDA has been discussed in this House many times. After this Bill is passed, the allottees of DDA flats will get ownership of the flats. But the flats or apartments constructed by the DDA are very defective. Within a few days of their construction it is found that the walls develop cracks, the roofs start leaking, the doors and windows are of sub-standard material, all such complaints are coming. Apart from that other facilities and amenities like drinking water supply, electricity supply etc. are not provided for a long time. The flats that are being constructed under the cooperative housing system also have similar type of complaints. These have been discussed in Parliament at various times and they have been published in the newspapers also. In spite of that the Government has not taken any measures to ensure that these flats are constructed according to approved specifications. I will request the hon. Minister to see that in future all such flats and apartments are constructed in accordance with the approved specifications. Now, Sir, I want to say a few things about the private builders of multistoried apartments. We know that in our country the urban land ceiling has not been enforced. Taking advantage of that those constructing multistoried apartments will sell the flats at exorbitant prices. The actual prices will not be disclosed to the Government and this process will generate black money in the hands of private builders. The rent of the flats in the multistoried buildings should also be fixed by the Government. It is a common experience that if one goes to rent a flat, about 1 lakh of rupees has to be deposited in advance which is called 'Pugree' and over and above that a heavy rent is charged. This practice is in vogue in Delhi, Calcutta, Bombay and other big cities too. The Government should see to it that these private owners may not cheat the people in this manner. Some legal

[Shri Ajit Kumar Saha]

provisions should be made to check this. With these few words, Sir, I support this Bill.

SHRI JAI PRAKASH AGARWAL (Chandni Chowk) : Mr. Deputy Speaker, Sir, I am happy that the hon. Minister has presented this Bill, though belatedly. Multi-storeyed buildings have been coming up for about 20 years. Today he has solved many difficulties by presenting this Bill. But there are several things in it which still require a solution. Firstly, Shri Rao has pointed out about the lease money and you have said that on land which is given at least on 30 years lease, multi-storeys will be allowed to be constructed. But what will happen after 30 years? Will that land go to the promoter or the owner, or the flat owner? After thirty years the Government cannot realise lease money from them. It is feared that the builder or promoter may go away after the construction and the flat owner, who purchased the flat for residential or commercial purposes after selling his belongings or the ornaments of his wife, may have to pay the money and later on the Association may decide that he will have to pay, say one thousand rupees or five hundred or two hundred rupees. Therefore, you should provide that the lease money should be taken from the builder or the promoter in advance because later on that burden may fall on the flat owners.

Secondly, I want to know as to what will be the position of those old buildings where 25 to 30 tenants are living in separate flats? Will those buildings be registered under the Act as apartments merely at the instance of the building owner? Will the owner again become landlord of those tenants who have already paid the amount and are now not paying anything? Will those tenants be harassed again and will any decision again be taken that they will have to pay for the repair of the building or part of the building? At present, people living in them make their own arrangements. If a builder or a promoter says that he will use marble, what will be the position of those poor people living there who have nothing to eat even...*(Interruptions)*. They are not the tenants; they do not pay rent.

He has already sold his portion after construction. Therefore, they have become owners. They pay rent. Now when one person becomes owner, what will be the position of those fifty person?

The persons responsible for constructing the building will leave after the construction has been completed. Now if any defect is detected in the building later who will for its repair? You know the condition of DDA and Corporation in Delhi. You can get anything approved by greasing their palms. When some one submits the layout plan for the walled city area, initially it is rejected on the ground that it does not conform to the rules. But you can go and see that people have constructed six-storeyed buildings and upto 150 offices in one building and no one has bothered about them. It may not so happen that the Authority responsible for passing layout plan may pass them without looking into it, and later on the burden of repairing the defects may fall on the flat owners and they may have to pay that money which was to be paid by the promoter or the builder.

THE MINISTER OF URBAN DEVELOPMENT (SHRI ABDUL GHAFOOR) : The purchaser will have to see to these things.

SHRI JAI PRAKASH AGARWAL : It is your Department which passes the layout plan and gives the completion certificate.

SHRI ABDUL GHAFOOR : If it is defective, do not buy it.

SHRI JAI PRAKASH AGARWAL : Then there is no need to bring forward this Act. Then they will find out the solution mutually. What for will it be needed? DDA has constructed multi-storeyed buildings without foundation. Who has looked into that?

SHRI ABDUL GHAFOOR : Allotment of such flats has been stopped.

SHRI JAI PRAKASH AGARWAL : Similarly, these promoters charge arbitrary prices from the flat owners. Sometimes they will charge in the name of vacant land tax and that money is not deposited in DDA

or Corporation. In the same way, they collect House Tax also whereas they do not have any direct connection with the authority concerned. They also charge from the flat owners in the name of fire fighting equipment but they do not make available to them the necessary fire-fighting equipment. You must have observed that in Delhi two or three multi-storeyed buildings caught fire. What was the result? So you should include all these things in the Act and define the responsibility of the flat owners and the builders or promoters. It should not happen that after construction the promoter may go away and the flat owners may go on chasing him or they may have to pay the money due from him. —(Interruptions)

I want to submit two or three things more. If a dispute arises between the flat owners' association and a flat owner, and the association levies a penalty on him, then what will be the result? I feel that work in my flat will be done for Rs. 50 or Rs. 100 but the Association feels that it will be done for Rs. 50 thousand and imposes a penalty of that amount. Now the provision you have made is that when he files an appeal before the District Judge, he will have to deposit 25 per cent of the penalty. Why should he do so? If the penalty imposed is Rs. 50 thousand, that will mean that he will have to first deposit Rs. 12.5 thousand and then file an appeal. I think this provision is wrong and it should be withdrawn.

Similarly, you have made a provision in connection with re-entry or fresh allotment. Suppose I have purchased a flat and have paid for it. If you have to realise some money from me, then it should not be recovered by seizing my flat. Rather, you should go in for a decree from a court against me as is done in the civil cases of recovering money by obtaining decree from the court. You seize my flat, purchased through my hard-earned money simply because I have to pay some money to you—I feel it is not right. May be I want to rent out the flat and pay you from the rent received. Therefore, I think that the provision for eviction of flat is wrong. It will be an arbitrary action if you decide like this.

Similarly, you should make a provision to clarify as to who will pay for the develop-

ment of the area surrounding the flats. It would not be proper that you prepare a development budget involving lakhs of rupees and ask the flat owners to pay for that. You should make it very clear in the Act as to how that money will be arranged.

I feel that where registration has already been made before the Registrar, there should be no need to appoint another body to get that flat re-registered. Registration should be done with the consent of those persons to whom houses, apartments etc. have been sold.

I think before deciding finally, all these things will be considered carefully.

SHRI RAM SINGH YADAV (Alwar) : Mr. Deputy Speaker, Sir, I rise to support the Delhi Apartment Ownership Bill presented by the hon. Minister in the House. Through this Bill some 50,000 apartment owners are going to get the ownership of their apartments. This would also remove the uncertainty that was in their minds regarding the ownership issue. The year 1987 is going to be observed as the International Year for the Homeless and Destitute. I would thank the hon. Minister for making a beginning in this direction by holding a conference in Delhi and announcing that a National Housing Department would be established in the country. The bank which has been allocated Rs 250 crores for the National Housing Development Bank in the current Seventh Five Year Plan.....

13.00 hrs.

MR. DEPUTY SPEAKER : Mr. Yadav, you can continue your speech after 2 O'clock. We now adjourn for Lunch, and will reassemble at 2 P.M.

13.01 hrs.

*The Lok Sabha then adjourned for Lunch
till Fourteen Hours of the Clock.*

*The Lok Sabha re-assembled after Lunch
at Seven Minutes past Fourteen of
the Clock.*

(MR. DEPUTY SPEAKER in the Chair)