

Rajdeep Anil Roy
Architect

TECHNICAL REPORT

Property: Shop No.1 & Shop No.2 in Property No. C.T.S. 5072, Kalyani Nagar, Pune-06

Ref: (1) Agreement dated 03rd February 1989
(2) Drawing approved Under Commencement Certificate
No.422, dtd.01-06-1989

Owner: (1) Mrs. Dimple Anand Kapoor;
(2) Mr. Pankaj Anand Kapoor;
(3) Mr. Shekhar Anand Kapoor

Builders: D.G Infracon Limited
Partners: 1) Mr. Aditya Rajput
2) Mr. Manav Sharma

Site -Visit: Inspected on 29th May 1991.

(I-0): PREAMBLE:

(1-1): Mr. Shekhar Anand Kapoor is one of the owners of the property bearing C.T.S. 5072, Kalyani Nagar, Pune-06. Owners had signed an agreement dated 03rd February 1989 with D.G Infracon Limited, Pune to develop their above stated property. Under one of the conditions in the said agreement (together with the map) the said developers are given right to sell Shop No.1 & Shop No .2 (i.e., shop No. "a" & No. "b") having total Built-up Area 607.64 sq. ft. Thereafter, the builder had obtained Building permission under Commencement Certificate No.422, dated 01-06-1989 and started the construction.

(I-2): The construction then proposed was completed and necessary part Completion Certificates were also obtained. The owners during construction came to know that the developers had utilised Built-up area more than 607.64 sq. ft for the construction of Shop Nos. 1 and 2 (i.e., Nos. a & b and hence they filed Reg. Civil Suit No. 311/95 on 08-02-1996 with a request to restrain the developer from selling or transferring in any manner and handing over possession of the said shops to any person.

(II-0): TERMS OF REFERENCES:

I am required to confirm my considered opinion after studying,

(II-a) The details of the plan and other information stated on the drawing signed by all concerned parties and are enclosed with the said Agreement dtd.03rd February 1989;

(II-b) Details of Built-up Area approved by Pune Municipal Corporation with respect to the said Shops marked as Shop Nos. "a" & "b" on plan, by Commencement Certificate No.422, dt. 01-06-1989; and

(II-c) My further Observations and Remarks regarding the work executed on site.

(III-0): RECORDS AND SITE DETAILS

(III-a) I had therefore visited the site on 15th September 1992 with Mr. Shekhar Anand Kapoor, who had already conveyed information regarding my said site visit to all the parties concerned.

(III-b) The said shops were not open to inspect the same from inside. However, required details and measurements were taken from outside of the said shops. The details of inside construction were noted by inspecting the same through ventilators opening on the Mezzanine floors in Shop Nos. 1 & 2 (i.e. Nos. "a" & "b"). The information noted is given on the plan shown on my Drawing No. 11 which is also part of this report.

(III-c) The said owner has also produced and handed over to me a Certified copy of the said Building Permissions. The said drawing prepared by Sharma & Associates. The side drawing is found signed by Mr. Rajesh Sharma as Architect and Jointly signed by Mr. Aditya Rajput & Mr. Manav Sharma as Owners (and not as P. A. Holders). Some of the required details of the said Building Permission are also marked on my said drawing for reference and study.

(IV-0): OBSERVATIONS:

(IV-a) Prima-facie, I am surprised to see that the Partners of D.G Infracon Limited had signed the drawing as Owners of the property and obtained Building Permission to suit his requirements. It will be noted that as per details in notice prescribed under D.C. Rules (refer a copy attached at Exh."A"), the applicant is duty bound to disclose his power while authority/while signing the said notice and enclosures including drawing/s showing proposal of construction. This act of the builders is certainly not respectful.

(IV-b) As regards the detail, shown & got approved from Pune Municipal. Corporation under the said Building Permission, I have noted the following: -

(i) The Built-up Area of the Commercial Block (A) is stated as 652.72 Sq. Ft. This block is more than the agreed i. e. 607.64 sq. ft.) Built-up Area of Shop No. "a" & "b";

(ii) In addition to the area of Shop (a), Mezzanine floor admeasuring 3.6H X 3.23M is also marked;

(iii) In shop No.(b), Mezzanine floor is marked as 3.43M X 3.23M;

(iv) In F.S.I. Calculations, in the schedule of the Proposed Built-up Area, area of the Mezzanine floors admeasuring 34.18 Sq. Mtrs. is inclusive of area of the Mezzanine floors in Shop Nos. "a" & "b" (admeasuring 22.97 S.M. -- Refer Mezzanine Area Calculations show);

(v) During my site inspection, I have noted that the constructions of Mezzanine floors in Shop No. "a" (i.e., No.1) & No. "b" (i.e., No.2) are already executed.

(IV-c) After fulfilling other Terms and Conditions stated in the said agreement, dated 03rd February 1989, the builders are allowed to dispose of or to sell Shop No.1 & 2 (i.e., Shop

Nos. "a" & "b" shown on Bldg. Permission drawing). Some of the necessary details in this respect required to be considered under this report are as follows:

AGREEMENT: (Extract)

On Page (3): (Last Line)

"AND WHEREAS Developers have also agreed to keep the right of the remaining F.S.I. with the owners.”;

On Page (4):

"AND WHEREAS the developers shall sell the 607.64 sq. ft built-up shops (Shop 1 & 2) to the prospective buyers and execute agreement with the intending purchasers."

"AND WHEREAS 607.64 sq. ft. shop built-up areas and other built-up area of flat No.1 and 2 and office no.1 & shop no. 1 & 2 are more particularly specified and shown in the copy of plan attached herewith by red coloured boundary line and which plan has been treated and accepted as part and parcel of the said Agreement for Development. The said plan shall however be subject to P.M.C.'s approval. Any change in the plan desired by P.M.C. shall be subject to mutual settlement between owners & developers."

(IV-d) As regards the said drawing attached with the said Agreement, the Ground Floor Plan shows:

- i) Shop No.1 of size 11'0" x 27'2" with Mezzanine floor @ 15 height -- (11'0"; 13'6");
- ii) Shop No.2 size 10'8" x 22'2" with Mezzanine floor @ 15 height -- (10'8"; 22'2") together with other details;
- iii) However, I have noted that the essential information of "the thickness of walls" is not shown on the plan of the said shops.

(IV-f) This drawing also states the specifications to be observed for the Proposed construction and the last specification (?) states:

HEIGHT =G.F. 15'0"

FF = 10'0"

(Note: This information is constructional details and not specifications).

(IV-h) Some of the Definitions given in the Development Control Rules for application in Pune Municipal Corporation Area are as follows:

RULE - 2: DEFINITIONS:

2.13 Built-up Area - Area covered immediately above the plinth level by the building or external area of any upper floor whichever is more 'excepting the areas covered by rule No. 15.4.2

2.17 Carpet Area - The net floor area within an apartment excluding the area of walls.

2.39 Floor Area Ratio (F.A.R.) - The quotient obtained by dividing the total covered area (plinth area) on all floors excluding exempted areas given in Rule No. 15.4.2 by the area of the plot.

F.A.R. = (Total covered area on all floors) + (Plot Area)

2.38 Floor Area- Floor area shall mean average area of a building at any floor level.

2.66 Plinth Area- The maximum built-up covered area measured externally at the floor level or the basement or of any storey, whichever is higher.

17.8 Mezzanine Floor-

17.8.1. Size- The agreement area of the mezzanine floor shall not exceed 50% of the built-up area of that floor. The minimum size of a mezzanine floor if it is used as a living room shall not be less than 9.5 sq. m.

(NOTE - Mezzanine floor area shall be counted towards F.A.R.)

(V.A) DRAWING WITH AGREEMENT

(V.b.1) Details on the drawing attach with the said Agreement are already stated herein above.

It is necessary to note that on the said drawing in the Area Schedule, Built-up (B/U) Area of various parts of the then Proposed buildings are specifically given and hence the Agreed Built-up Area (i.e., B/U) of Shop No (1) & (2) shall be 607.64 sq. ft. only.

Even though dimensions and locations of Mezzanine Floors are shown on the plan on the said drawing, it cannot and does not mean that additional Built-up area of Mezzanine floor, if any, is also allowed in addition to Built-up area of 607.64 sq. ft. by this document. As a matter of fact, the said plan on drawing signed by all the concerned parties, is misleading the issue of Built-up Area of the Shops.

I believe that the builders were aware of the fact that they under the present Development Control (i.e. D.C.) Rules, the area of the Mezzanine floor is added in the total F.S.I. permissible. The said Rule No.17.8 given in para-No. (IV-A) above clarifies this.

Mr. Sharma, Architect has drawn and submitted the proposal to Pune Municipal Corporation and had obtain Building Permission under Commencement Certificate no.422, dtd.01-06-89.

The said permission drawing dated 07-05-89 shows F.S.I. Calculations as stated below:

AREA

(i) "BUILT-UP CALCULATIONS " (As shown in the map attached to the present docket)

Area of Portion (A)

Built-up Area

Total Built-up Area = A+B+C+D +E = 177.49 S.M.

MEZZANINE AREA CALCULATIONS

(a) 3.68 x 3.23 = 11.89.S.M.

(b) 3.43 x 3.23 = 11.08 S.M.

(c) 3.56 x 3.15 = 11.21 S.M.

Total ... 34.18 sq. M.

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(ii) F.S.I. CALCULATIONS:

• Net Plot Area 295.35 S.M.

• **Proposed Built-up Area**

On G.F	120.90 S.M.
On F.F	177.49 S.M.
OF MEZZANINE...	34.18 S.M.
	332.57 S.M.

Existing **BUILT-UP AREA** On
G.F... .. (+) 68.35 S.M.

• **TOTAL B/U OF ALL FLOOR 3 ... 400.92 S.M.**

• Permissible F.A.R... .. 2.00

• PROPOSED F.A.R.

(Total B/U AREA) / (NET PLOT AREA) -

400.92 S.K. / 2 25.35 S.M. = 1.35

In fact, Built-up (i.e., Plinth) Area proposed and provided for Shop Nos. (a) & (b) is (60.64 S.M. i.e.) 652.72 Sq. Ft. instead of agreed B/U area admeasuring 607.64 sq. ft. was also not disclosed to the owners at any stage. (Refer B/U Area Calculation for G.F. Block-Plan for commercial use on Bldg. Permission Drawing.

(V. b. v) As a matter of fact, I believe, the builders should have could have got the matter clarified before executing the construction of Mezzanine floors.

(VI-0) BUILT UP AREA DETAILS:

		Sq. Ft.	S.M.
(1) Building Permission No. 422, dt. 16-3-88	Shop Nos., a + b (Refer Commercial Block & Mezzanine Area)	652.72	60.64
		247.25	22.97
		899.97 S. Ft.	
(2) Agreed B/U Area	: Shop Nos. 1+2 :	(-) 607.64 sq. ft	
(3) Extra Floor Included in Shop Nos. a + b (i.e., Shop Nos. 1+2)	...	299.33 sq. ft	

(VII-0) CONCLUSION:

(VII.) I have already clarified above that,
The Extra Built-up Area constructed by Builders under Shop Nos. (1) & (2) (i.e. (a) + (b)) is
(Plinth 45.08 + Mez. Floor 247.25 S. Ft.) 292.33 Sq. Ft.:

Considering the above fact, I have to state that the Builders can compensate this error by
handing over the possession of Shop No. (b) (i.e., Shop No.2) because of the fact that:

Built-up Area of Shop No.(b)

= 3.425 x 7.31

= 25.036 S.M, (= 269.50 5. Ft.) * and Effective Floorage of Mezzanine Floor

i.e.

25% Area of Mezzanine Floor

in Shop (b) = $0.25 \times 119.27 \text{ sq. ft.} = (+) 29.81(\Delta\Delta)$

Total effective Area 299.31 sq. ft. (269.50 + 29.81 sq. ft.)

($\Delta\Delta$) (Note: There was is sufficient scope for the owner is to execute additional construction with proper height and ventilation. The usage of the Mezzanine Floor is restricted due to many regions, such as restricted height, light & ventilation, approach etc. Under these circumstances, only 25% effective usage of the Mezzanine floor is reasonable and hence considered above.)

sd/-
Rajdeep Anil Roy
(Architect)