When paying fees hurts: Why investors favour commissions

TRUTH BE TOLD

HARSH ROONGTA

A prospective client, Mahesh, was recounting his experience on a cruise. He had spent far more than he had budgeted for on-board extras. The cruise fare, which covered accommodation and standard meals, had been prepaid. But for shows, events, drinks and snacks, the cruise issued a ship-specific credit card, and all extra spending went on this card. When Mahesh settled the bill, he realised how much he had overspent. I explained that by separating payment from consumption, the cruise operators had reduced the pain of paying and made overspending easy.

The Nobel Prize–winning economist Richard Thaler described this behaviour in his paper Mental Accounting Matters. He showed that when payment is separated from consumption or made less visible, the pain of paying falls and people spend more. When the cost is explicit and immediate, the pain of paying is high. When it is prepaid or delayed or embedded in some manner, the psychological barrier is much lower.

I was reminded of this when I saw the recent BSE report on the state of the financial planning and investment advisory profession. After more than 12 years of regulation, India has only 376 licensed financial planners (after removing inactive and equity-only advisors). The main reason is the pain of paying a separate visible fee for advice. Investors hesitate when the fee has to be paid out of pocket. The same investors are comfortable paying for mutual fund services through the total expense ratio, which includes fund-management charges and distributor commissions. These amounts are deducted inside the scheme, and investors are unaware of how much they are paying. Since it is never presented as a separate payment, the entire process is painless. This structure, supported by strong product governance, has helped mutual funds reach investors nationwide.

Richer investors have adopted portfolio management services (PMS) for a related reason. PMS fees are transparent, yet the investor does not write a cheque. The amount is deducted from the invested corpus, so it feels like a reduction in investment value rather than a separate outgoing payment. Even a visible deduction is easier to accept than paying a fee directly.

This pattern is not unique to India. The pain of paying separate fees has kept financial-planning services confined to a niche everywhere. When investors can choose between inbuilt commissions and direct fees, most choose commissions. The United States shows the same behaviour. Fee-only advisors have grown since the 1990s, yet only a small number of investors choose such services. The picture is different only in countries that have banned commissions. The United Kingdom did so after the Retail Distribution Review in 2012. Australia followed with the Future of Financial Advice reforms in 2013. Several European countries, including the Netherlands, Denmark and Finland, also have bans. These bans explain why more investors in those markets pay fees for advice.

There is another reason for the low number of financial planners in India. For years, trading-call providers registered as investment advisors even though the regulations were not meant for them. The Securities and Exchange Board of India (Sebi) had to tighten regulations, which made it harder for genuine financial planners to operate. Sebi has since partly corrected this by clarifying that trading-call providers do not belong in the advisory category. Sebi has also recognised that financial planning is a multidisciplinary service that spans regulated and unregulated domains. These steps reflect Sebi's willingness to refine the framework when the evidence supports change. The next step is to reduce the pain of paying by allowing fees to be collected through deductions from investments, like PMS, and to clear the operational barriers erected during the period when trading-call providers entered the advisory space.

Truth be told, behavioural economists have demonstrated that the "pain of paying" fees keeps investors like Mahesh away from financial planning. If Sebi can reduce this friction through the right operational changes, far more investors will be able to plan their financial lives. A "Financial plan for every Indian by 2047" would then become a realistic goal.

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LEGALLY VALID PROPERTY OWNERSHIP

Registration alone doesn't prove ownership, verify seller's title first

An unbroken, valid chain of documents, and lawful possession are other prerequisites

SANJEEV SINHA

A recent Supreme Court ruling has underscored a crucial point for homebuyers and heirs: A registered sale deed alone doesn't guarantee ownership.

In the *Mahnoor Fatima Imran vs M/S Visweswara Infrastructure Pvt Ltd* case, the Supreme Court addressed a property dispute in which the buyers relied on registered sale deeds executed by a housing society to claim ownership. The society itself based its ownership on a 1982 agreement of sale. However, the Court discovered that the land had already vested in the government since 1973 under land ceiling laws. Further, the 1982 agreement was never registered and was later "validated" through fraudulent means. In other words, the society never legally owned the land, and hence was not in a position to pass on a lawful title to buyers.

Key takeaways

Through this case, the Supreme Court has clarified that property registration is merely a public record or notice of a transaction not proof of ownership. "Legal ownership arises only when the seller has a clear and undisputed title and lawful possession. If the seller's title is defective due to fraud, encumbrances, government acquisition, or other irregularities, registration alone cannot cure those flaws," says Shankey Agrawal, partner, BMR Legal.

"IF SELLER'S TITLE IS DEFECTIVE DUE TO FRAUD, ENCUMBRANCES, GOVERNMENT ACQUISITION OR OTHER IRREGULARITIES, REGISTRATION ALONE CANNOT CURE THOSE FLAWS"

Shankey Agrawal, Partner, BMR Legal

Buyers should treat registration as a procedural step, not a guarantee of ownership. They must conduct thorough due diligence before purchasing a property.

Clear title

A clear title refers to property ownership that is lawful, marketable, and capable of being transferred without any dispute or legal hindrance. It must originate from a legitimate owner whose rights can be traced through an unbroken chain of valid and properly registered documents. "A property with a clear title must also be free from litigation, mortgages, liens, or government restrictions, ensuring that no third party has a claim or interest in it. Courts generally determine a clear title by verifying the validity of past transfers and ensuring the property hasn't vested in the government or any statutory authority," says Agrawal.

A title is unclear in the opposite scenario. "It is unclear when there are breaks in ownership, unregistered or fraudulent documents, unauthorised transfers, undisclosed encumbrances, pending disputes, adverse possession, inconsistent revenue records, or violations of land or development laws," says Amit Kumar Nag, partner, Aquilaw.

Proper chain of documents

A proper chain of documents is a complete, legally continuous sequence of ownership records that trace a property's ownership from the original owner to the present seller. "It includes duly executed and registered instruments such as sale deeds, conveyances, gift or partition deeds, or succession documents," says Nag. Each link must be authentic, registered where required, and supported by possession and corresponding entries in revenue or municipal records. "The chain is defective if based on unregistered or informal documents, missing deeds, discrepancies in property descriptions, unauthorised transfers, or land vested in the government," adds Nag.

In short, the chain is the property's ownership trail even if one link is weak or missing, the title is not clear or marketable.

Lawful possession

Lawful possession means having both actual control over a property and a valid legal right to keep it, usually based on a registered sale deed, lease agreement, or lawful allotment. "If someone holds the documents but lacks real control, or their claim originates from an invalid or fraudulent source, the possession isn't lawful," says Agrawal.

Unlawful possession is occupation without legal authority, such as holding government land, occupying after ownership has ceased, possession under an unregistered sale agreement or through a fraudulent or void transaction. "Even long physical possession cannot become lawful if it stems from a void or defective transaction. Lawful possession and lawful ownership must exist together one alone is not enough," says Nag.

Property mutation

Property mutation is the process of updating ownership details in municipal or revenue records (such as the property card or 7/12 extract in Maharashtra) after a sale, gift, or inheritance.

"It is done at the city survey office, municipal corporation, or through a revenue officer. It ensures that property tax and other municipal liabilities are recorded in the present owner's name. Though it doesn't confer ownership, mutation serves as evidence of possession and lawful succession," says Suresh Palav, partner, IndiaLaw LLP.

For inherited properties, mutation records the transfer from the deceased to legal heirs through documents like a probate or succession certificate. "In cases of inheritance, mutation is critical for determining title as property often changes hands without a sale deed," says Manmeet Kaur, partner, Karanjawala & Co. Mutation prevents future disputes or complications during resale or redevelopment.

Check for approvals and liabilities

The property should have all necessary permissions. "Ensure that the property complies with approved building plans, and has all required no-objection certificates from the fire department, pollution control board, water and electricity authorities, and the concerned cooperative society. All taxes, including property tax, should be fully paid," says Kaur.

Ensure complete title

Legal experts advise buyers to conduct thorough due diligence before purchasing a property.

"Engage a qualified advocate to verify the title for at least 30 years and obtain a written title certificate. Ensure the sale deed is properly stamped and registered, and verify occupation or completion certificates, and society registration. After registration, apply for mutation and secure no-dues and encumbrance certificates," says Palav.

The writer is a New-Delhi based independent journalist

Avoid shortcuts like GPA

- Purchase via general power of attorney (GPA) does not confer valid title
- It is not recognised as a conveyance deed
- It only authorises someone to act on the owner's behalf
- Do not use it to avoid stamp duty or speed up possession
- Fake or revoked PoAs can result in illegal sale or mortgage without real owner's consent

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