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REASONS OF NOT GETTING THE MARKET VALUE OF ASSETS BY BANKS WHILE SELLING NPA ASSETS UNDER SARFAESI ACT

Banks rarely get buyers at market value while selling the mortgaged assets when they try to recover their loan from defaulters by selling the mortgaged property under the provisions of SARFAESI Act. This happens because of their perfunctory sale efforts. In the event of not getting the buyer at market value assessed by valuers, they blame the valuers for wrong valuation. To pre-empt any action against them for their wrong appraisal of borrower and financial viability they lodge complaints against valuers with the investigative agencies for wrong valuation.

The major three reasons for not getting buyers at market value by the banks are:

1. As per the provision of Section 55 of the Transfer of Property Act, 1882 and otherwise, when the transfer of a property is done, the seller is responsible for the liabilities of the property till the date of transfer of the property and thereafter the liabilities are born by the buyer. At the time of the mortgage of assets, banks conduct proper due diligence and obtain non incumbrance on the property through their lawyers and other due diligence agencies and take the mortgage only after ensuring full information about any liability related to the property being mortgaged. But while selling the properties under SARFAESI Act, the banks show their ignorance about any liability on the property and don't reveal anything about the liabilities related to the property and stipulate that if any kind of past liability arises in future, then the same will have to be borne by the buyer. **Due to the uncertainty of any future liability, no sensible or prudent buyer offers to pay the full or market value of the property due to the fear of any future liability.**
2. Apart from this, it has also been found that often the banks give the sale notice in the newspaper without taking physical possession of that property. In such a situation,

many times it happens that the person occupying the property (the owner of the property, the tenant or any third person occupying the property in connivance with the owner) becomes an obstacle for the buyer and unnecessary litigation. Therefore,

due to the uncertain behavior of the occupant of the property and possibility of litigations the buyers offer to buy at a substantial discount or throw-away price.

3. Also, considering such properties related to NPA as tainted, sometime banks refuse to extend loans to the new buyer to purchase these properties, the **buyer has to arrange the entire price from his own resources thereby reducing the number of buyers and competition resulting in lower offer for the property.**

Due to all the above reasons, gradually there is a perception in the market that there are many problems in buying property from banks and people are starting to dislike buying assets from them.

To ensure that the mortgaged properties gets the full market value, banks will have to improve their image among the common buyer that there are no hassles in buying the assets from them. And the banks should disclose all the liabilities of the property to the buyers or in case any kind of past liability arises then that should be borne by the bank. Also, if the buyer's credibility is good, then banks should extend loan to buy the property.

