Chapter II-D - Election and Apportionment

Identify inconsistent benefits, election consequences and allocation of periodical or severed obligations.

Authors: CA Nikhil Gupta and Kajri Singh | Legal review cut-off: 2026-07-18 | Professional Corpus Batch 07

Dedicated Finin2min Summary - Chapter in 2 Minutes

• Section 35: Election when necessary - convert every statutory limb into evidence-backed transaction controls.
• Section 36: Apportionment of periodical payments - convert every statutory limb into evidence-backed transaction controls.
• Section 37: Apportionment of benefit of obligation - convert every statutory limb into evidence-backed transaction controls.
• Identify inconsistent benefits, election consequences and allocation of periodical or severed obligations.
• Apply the current official Act and transaction-date State stamp, registration, land, tenancy, RERA and procedural law.

Current statutory text / controlled source map

Section 35 - Election when necessary.
Section 36 - Apportionment of periodical payments.
Section 37 - Apportionment of benefit of obligation.

Section-by-section provision map

Provision	Subject / status	Finin2min clause-by-clause decode and implementation
Section 35	Election when necessary *Operative subject to current official/State law*	Section 35 governs election when necessary. Identify actor, property/right, transfer event, statutory conditions, exceptions, notice and legal consequence within the election and allocation control framework. **Implementation:** Record title and authority, transaction dates, consideration, possession, instrument form, stamp/registration status, notice, approvals and third-party claims. Obtain State-specific review before execution or enforcement. **Evidence:** Official source snapshot; title chain; encumbrance/litigation search; authority; executed instrument; valuation; payment and tax proof; possession/delivery record; notices; registration receipt.
Section 36	Apportionment of periodical payments *Operative subject to current official/State law*	Section 36 governs apportionment of periodical payments. Identify actor, property/right, transfer event, statutory conditions, exceptions, notice and legal consequence within the election and allocation control framework. **Implementation:** Record title and authority, transaction dates, consideration, possession, instrument form, stamp/registration status, notice, approvals and third-party claims. Obtain State-specific review before execution or enforcement. **Evidence:** Official source snapshot; title chain; encumbrance/litigation search; authority; executed instrument; valuation; payment and tax proof; possession/delivery record; notices; registration receipt.
Section 37	Apportionment of benefit of obligation *Operative subject to current official/State law*	Section 37 governs apportionment of benefit of obligation. Identify actor, property/right, transfer event, statutory conditions, exceptions, notice and legal consequence within the election and allocation control framework. **Implementation:** Record title and authority, transaction dates, consideration, possession, instrument form, stamp/registration status, notice, approvals and third-party claims. Obtain State-specific review before execution or enforcement. **Evidence:** Official source snapshot; title chain; encumbrance/litigation search; authority; executed instrument; valuation; payment and tax proof; possession/delivery record; notices; registration receipt.

Finin2min implementation explanation

Classify the property interest, parties, authority, consideration, possession and intended legal result. Complete title, encumbrance, litigation and State-law diligence. Select the correct instrument, stamp, registration and perfection route. Block payment or possession until closing conditions and evidence are complete.

Practical examples and calculations

Scenario: A property transaction is approved commercially before legal classification is complete. The professional file must identify the statutory transaction, authority, title, form, consideration, possession, registration, third-party rights and remedies before execution.

Calculation/control	Method	Evidence
Consideration/value	Reconcile stated price, market value, taxes, retention, debt and non-cash consideration.	Agreement, valuation and ledger

Calculation/control	Method	Evidence
Stamp and fees	Apply State instrument classification, market value, duty, surcharge and registration fee.	Current State schedule and adjudication
Exposure	Quantify encumbrances, arrears, interest, possession loss, cure cost and remedy value.	Searches, statements and legal model

Practical transaction application

1. Classify the transaction and every interest. 2. Complete title, authority, encumbrance, litigation, land-use and possession diligence. 3. Map the Act and State overlays to the instrument. 4. Reconcile consideration, taxes, possession and completion. 5. Preserve closing and enforcement evidence.

Authority, consent and execution controls

Confirm legal identity, capacity, title, board/partner/trustee/co-owner/lender consents, power-of-attorney scope, execution, attestation, witnessing and document custody.

Stamp duty and registration alerts

Apply current State instrument classification, market value, duty, surcharge, registration fee, adjudication and impounding rules. Registration does not cure defective title or prohibited transfer.

Evidence and document-retention checklist

Retain title chain, searches, authority, valuation, tax and KYC records, executed instrument, witness evidence, registration receipt, consideration, possession, originals handover and notices.

Performance, delivery and payment controls

Define conditions precedent, long-stop date, escrow/retention, possession condition, risk transfer, taxes, apportionments, originals handover and post-closing filings.

Breach, loss, mitigation and remedy framework

Separate invalidity, rescission, specific performance, injunction, possession, redemption, foreclosure/sale, damages, restitution and indemnity. Prove causation, market value and mitigation.

Limitation and forum controls

Select relief-specific limitation and forum: civil/Commercial Court, RERA, DRT/DRAT, NCLT, consumer, revenue or arbitration. Compute notice, cure, termination, appeal and enforcement clocks.

Arbitration and mediation interface

Assess arbitrability, rights in rem, statutory forums, third-party interests, interim protection, lis pendens, possession and limitation. Preserve source and evidence during settlement.

Company, partnership, GST and tax overlays

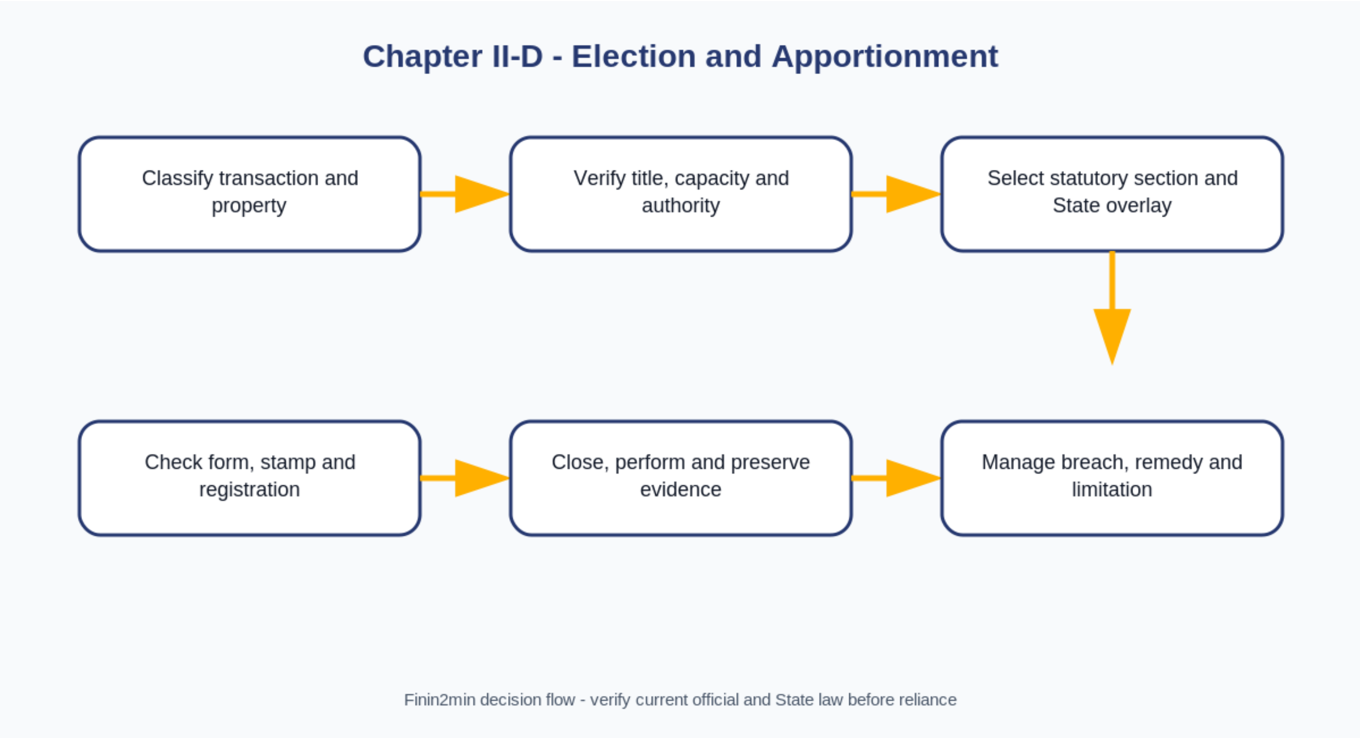
Apply entity authority, charges, RERA, GST, TDS, capital gains, valuation, FEMA, benami, PMLA/KYC, insolvency moratorium and secured-creditor priority.

Finin2min Q&A;

First classify the transaction and title. The common failure is execution or payment before State stamp/registration and third-party rights are verified. A contract does not always transfer title. Maintain a reproducible source, title, authority, closing and remedy file.

Chapter-specific decision flowchart

Classify transaction -> verify title/capacity -> select section and State overlay -> check form/stamp/registration -> close and preserve evidence -> manage breach, remedy and limitation.



Official source: https://www.indiacode.nic.in/bitstream/123456789/2338/1/A1882-04.pdf

Legal-use note: verify current official and State law and obtain matter-specific advice before execution, registration, enforcement or litigation.