

*The system of the real estate transactions and its role
in achieving legal security in Algeria*

نظام شهر التصرفات العقارية ودوره في تحقيق الأمن القانوني بالجزائر



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Abstract:

Registration of real estate transactions is one of the most important procedures carried out by the real estate governor through the control he imposes on each action or procedure submitted to him, as this study aims to know the various types of real estate registration system and the various practical stages that it goes through, so through this system the legal situation stabilizes and the owner of real estate or real estate rights becomes immune from disputes , and ownership of real estate and other rights becomes an absolute explanatory power, which leads to achieving legal security in the field of real estate transactions , and in order to reach various outcomes related to evaluating the real estate registration system, we relied on analyzing and discussing various legal texts and Doctrinal opinions related to the subject of study

key words: disputes , numbering , property , registration , Transactions .

ملخص:

تعتبر عمليات شهر التصرفات العقارية من أهم الإجراءات التي يقوم بها المحافظ العقاري من خلال الرقابة التي يفرضها على كل تصرف أو إجراء يقدم له ، حيث تهدف هذه الدراسة الى معرفة مختلف أنواع نظام التسجيل العقاري و مختلف المراحل العملية التي تمر بها ، فتستقر من خلال هذا النظام الأوضاع القانونية و يصبح صاحب العقار أو الحقوق العقارية بمنأى عن المنازعات ، و تصبح ملكية العقارات و الحقوق الأخرى قوة تبوئية مطلقة ، مما يؤدي الى تحقيق الأمن القانوني في مجال المعاملات العقارية ، و من أجل الوصول الى مختلف النائج المتعلقة بتقييم نظام التسجيل العقاري اعتمدنا على تحليل و مناقشة مختلف النصوص القانونية و الآراء الفقهية المتصلة بموضوع الدراسة
الكلمات المفتاحية: التسجيل ، العقار ، التقييم ، المنازعات ، المعاملات .

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Introduction:

The legislator has adopted the registration system as a result of many problems identified by real estate transactions, where the registration in the real estate register is defined as a set of legal and technical procedures and rules that aim to inform the public of all legal actions related to real estate, whether it is original or dependent, a carrier detector or removed, as these rules can only be implemented.¹

The purpose of the application of this system is its ease of application, as it simplifies the registration process and enables individuals to complete the procedures quickly and accurately. It is also characterized by clarity and ease of disclosure of the data of the real estate unit in the register compared to the disclosure of data under the personal registration system, and this registration avoids errors associated with the similarity of the names of real estate owners, because the search in the register is not done by searching for the name of the owner, but rather the owner and his data are identified through the Register of the real estate unit. One of its most important advantages is also that it allows the stability of ownership and real estate rights, and it leads to the decisive separation of the disputes that arise between the contractors, and the careful organization of information dedicated to Real Estate allows to achieve confidence to the dealers on the property, by facilitating the identification of everything related to the property easily and easily, and this system also allows sometimes while doing Some problems may arise related mainly to the filing of survey documents and conflict with them in some cases, as well as the emergence of disputes related to proof of possession, **as well as the problem of determining the boundaries of private property of individuals among themselves or between state property.. ?**

On this basis, and to answer these various problems, we will rely on the historical approach to the most important developments that the real estate month system has known in Algeria, in addition to the descriptive and analytical approach to analyze and discuss various legal texts and doctrinal opinions related to the subject of study, relying on a bilateral plan, where we will discuss the development of the real estate month system in the organization of real estate transactions (**the requirement the first**), and then we touch on the function of the real estate month in achieving legal security (**the requirement the second**).

The requirement the first: Evolution of the real estate registration system: The real estate registration system is a system approved in many countries, and it includes a set of procedures that aim to confirm ownership of real estate or real estate rights to a specific person or persons towards others. These rules and procedures will be after they have been determined. The real estate survey registers the latter, along with the ownership right or other real

¹-Leila Zerrougui, Real Estate Disputes, Dar Houma, Algeria, 2015, p. 42.

**The system of the real estate transactions and its role
in achieving legal security in Algeria**

estate rights contained therein, in records prepared for this purpose. Thus, the right registered in this way acquires absolute evidentiary force, and based on these records and the entries contained therein, third parties can deal with any of the registered real estate. With the owner of the right to it with full confidence and reassurance, he does not then hesitate to acquire it through purchase, and he also accepts the creation of real rights that are ancillary to his interest, such as a mortgage right, for example.¹

On this basis, through this requirement, we will address the definition of a process Register Real estate and the historical development of this system through **(First section)**, Then we turn to systems Register Real estate through **(Second section)**.

The first section : the concept of a system register real estate and its developments

System register real estate is a procedure that aims to record the various transactions related to real estate and real rights, in order to regulate real estate ownership, ensure the stability of real estate transactions, prevent speculation, and achieve trust between individuals. This system put an end to these defects by making it the right to ownership of real estate and other real rights. It is absolutely fixed, which makes others feel confident about these rights, which makes it characterized by many characteristics that contribute to the stability of real estate transactions.

Firstly: Definition of system register real estate

There are many definitions for this system, the most important of which is that it is a set of procedures and formalities that are implemented by a public authority called the “Real Estate Conservancy.” This organization includes providing information about the rights existing on real estate in order to protect real estate ownership and other real rights and is called This system is based on the physical record.

It is also the system that aims to restriction Legal transactions aimed at establishing, transferring, amending or canceling real estate rights².

Where as, if a person wants to buy a specific property, he can do so through: Register To know all the transactions he is charged with, as well as all the previous transactions that took place on this property. The most prominent definition is the one that defines this procedure as “a real right enforceable by its nature against everyone, so it is the duty.” Record it That is, finding a way to facilitate the interests of the public dealing with his presence as long as this right applies to him so that he can take it into account and include it in his account when dealing with others, and registration Real rights are achieved by recording the legal actions that are their source in records in which all people can view the

¹- Edward Eid, Real Estate Systems, Dawn Publishing House, Egypt, 1996, p. 11..

²- Hussein Abdelatif Hamdan, rulings register real estate, University House, Beirut, 1995, p. 11.

data and transactions contained therein.”

In general, this system is: registration All official contracts and documents transferring and declaring real estate rights, such as notarial and administrative contracts drawn up by state property, or by municipalities transferring real estate rights in exchange for or free of charge, such as selling, donating, and benefiting from plots of land for reclamation, for example, which requires writing and notarizing all transactions that It requires time to implement it in order to avoid the risks of denial and loss of rights.

secondly: Historical development of the system register real estate

In order to learn more about this system that the Algerian legislator adopted, we must study the most important historical stages that the real estate registration went through, as well as research the impact of the previous systems to which real estate transactions were subjected in Algeria on the current real estate system, and the matter here should not stop. At the limits of studying developments during the period of the French occupation, and even understanding the aspects of the current real estate system requires first understanding the foundations of this system by returning it to its historical origins, and this in turn requires expanding the scope of historical research to before the colonial era, especially in the period of Ottoman rule, without neglecting the impact of traditions. And the customs of thrones, which proved their worthlessness through their coincidence with all the regimes that ruled Algeria without being able to erase their traces in public life.¹

1-The real estate system in Algeria before French colonialism:

Before France occupied Algeria The Ottoman Empire had extended its influence over Algeria, but political submission to the authority did not have a general impact on the real estate system, so that the central authority, which was based in the city of Algiers, was unable to extend its influence over the entire region, so it was limited to the coast and some inland cities, while the Ghalia enjoyed Internal regions enjoy independence within the framework of tribal rule based on traditions and customs².

Because of this dual system that prevailed during the Ottoman presence, real estate ownership and the provisions related to real estate trading, acquisition, and exploitation were not subject to a unified legal system, despite the efforts of the authority at that time to unify the provisions, as the coastal areas and some inland cities witnessed the application of Ottoman laws. While the other interior regions, as well as the desert regions, remained subject either to the Islamic regime or to tribal customs and traditions.

On this basis, the Ottomans tried, by entering Algeria, to apply to the Algerian lands the same system applied in Turkey, especially the Meri land system

¹- Wes Fathi, Register real estate in Algerian law and comparative laws, Dar Houma, Algeria, 2014, p. 191.

²- smain chama, Legal System for Real Estate Guidance, Dar Houma, Algeria, Year 2003, p. 09.

The system of the real estate transactions and its role in achieving legal security in Algeria

similar to the Throne lands system. These lands constituted an important part of the area of exploited lands, while the rest of the lands were either owned or endowment lands, or Oasis and desert lands that remained subject to the customs that preceded the Ottoman presence. In general, the lands during the Ottoman presence were represented by the lands of the beylik, the hermitage, the king, the lands of the storeroom, and the lands of the throne. For each type, there is a legal system that governs it and determines the methods of acquiring it, dealing in it, and transferring it. And the nature of the tax paid on it.

2-The real estate system in Algeria during French colonialism:

The colonial period was characterized by the density of legal texts related to the real estate system and their succession in close periods in a way that clearly reflects the difficulty and complexity of the real estate situation that French colonialism inherited from the Ottoman period. The evidence for this is that the French administration did not succeed, from the first glance, in subjecting real estate transactions between the people to the laws. The French did not know how to deal with situations unknown in French civil law, such as confiscations and throne lands. It was also difficult for the colonial administration to count state property in order to include it in the French state property. What made the task of the French authorities difficult was the disappearance and destruction of the Ottoman administration's records. By the Ottoman employees before they left and left a void that is difficult to correct in light of the emergence of a kind of illegal speculation carried out by some people in selling agricultural lands to the expatriate colonizers without them owning them, and without having documents for them, which resulted in a state of chaos. Chaos and disputes between residents due to successive hands on the same property¹.

Anyone who follows the path of the French occupation's real estate system in Algeria sees that the latter did not succeed in establishing a successful real estate system, as the texts were conflicting and ambiguous, which ultimately ended in leaving an ambiguous and troubled real estate situation regulated by inaccurate legal texts that it bequeathed to the independent Algerian state, which It found itself facing a complex situation that required a radical reconsideration of this situation, which required reorganizing real estate ownership again. This was evident in the decision issued by the Supreme Court (formerly the Supreme Council) in 1967, which considered all colonial laws regarding real estate ownership to be inconsistent with sovereignty. Patriotism must be abandoned and it was decided not to implement it.

Second section: Systems register real estate

The Primary purpose of the system register it is to achieve greater stability of real estate ownership in a way that ensures the recovery of the economy and the achievement of the legal and physical image of the real estate that constitutes the territory of the state. In order to achieve this goal, systems have been developed

¹- Wais Fathi, op. cit., p. 201.

to record real estate transactions of all kinds, which are recorded in books in the form of public records, which constitute a basic reference for others who He would like to know the financial and legal status of a property¹Algeria, like other countries, has two basic systems to sign upThey are a systemRegisterPersonal and real.

Firstly: System register personal

It is a system that many countries have adopted and the French authorities have tried to implement in Algeria. In it, the person is taken into consideration as he relies in announcing real estate transactions on the names of those responsible for them. This is done according to a register that is kept in alphabetical order and another register that is kept on the basis of the chronological order for submitting the desired transactions.He tied her up however, the actions that...register in this system, it does not have absolute evidentiary power, as the employee in charge of operationsRegisterHe plays a negative role and does not have the authority to examine the defects related to the procedure or conduct, and every interested party must object to the conduct and request its annulment despiteRecord itAccordingly, the person who acquired the right remains threatened if the behavior of the person to whom it was transferred was defective, or if he sold someone else's property to him. The month does not prevent a claim for entitlement from someone who acquired it by prescription, for example, because registrationThe act that transfers ownership does not add anything to the right itself, so the right is transferred with the defects attached to it and notto sign upIt has a purifying effect, as it is a means of informing others of this behavior to enable those who have an interest to use their right to dissent².

This procedure depends mainly on the transfer of real estate rights once the contract is concluded, considering that consent is the essential condition for the transfer of real estate rights. Therefore, once the contract is concluded, the legal positions of both parties change and the buyer becomes the owner of the right that he acquired, and hence the binding effect of the contract is inevitably linked to the effect. The transferor of the real estate right, and there is no need to resort to any formal procedure, and registration within this system constitutes only one of the means of informing others about the completed real estate transaction.³.

This system is also distinguished in that registerIn it, it is only a path to publicity and not a reason for transferring ownership rights or other real rights, because the valid transfer must be based on a valid contract. If it is based on an invalid contract or its invalidity is decided, then the person to whom it is transferred does not acquire a right because publicity does not purify the defects of the contract. Accordingly, the contract registered in the systemRegisterThe

¹- Hamidi Mohammed Lamin, Torrance Real Estate Registration System and its Applications in the Algerian Real Estate System, Dar Houma ,2015.

²- Laila Zarrouqi, op. cit., p. 46.

³- Hamidi Mohammed Lamin, previous reference, p. 15.

The system of the real estate transactions and its role in achieving legal security in Algeria

personal transfer does not lead to a final and irrevocable transfer of ownership, and therefore does not protect the buyer against the claim of the real owner, as it remains within the latter's ability To file a lawsuit to recover his property, given that the registered sales contract was issued by a non-owner. As a result, mere registration is not considered in this system to transfer ownership or be sufficient to transfer it. Rather, the transfer of ownership is based on a registered contract issued by the real owner.¹.

Therefore, the person here cannot transfer to others more rights than he possesses. Registration does not increase the right or the disposal in any way. Rather, the right or disposal remains threatened by all the defenses and appeals that can be invoked against the disposer, since the actions that register In this system Restrict As it is, if it is correct, it remains so, and if it is defective for any reason, it is famous as it is, and for this reason Register According to this system, a valid contract is not invalidated and an invalid contract is not corrected, that is, it declares the actions as they are.

Through our study of the system Register We touched on the most important characteristics on which it is based, and we find that it contains a group of defects that led to the creation of many difficulties on the ground, among which are² It does not provide guarantees to anyone who wants to deal with the person to whom the right has been transferred, as a result of the right not being definitively established for him. It is subject to disappearing at any time as soon as a third party challenges this right, whether by invalidating it or canceling it, which has no effect on the record. It is clear that This defect leads to instability in real estate transactions and a lack of confidence in the records registered within this system, which causes third parties in good faith not to undertake a real estate transaction because the possibility of losing the right they may acquire exists, which leads to stagnation in commercial real estate transactions and Which reflects on the economy in general.

secondly: Real estate registration system

If most countries have adopted a system register however, it did not follow one path in achieving this principle, and this resulted in the establishment of two systems different, a system that relies on the names of rights holders as a basis to sign up It is known as a system register Personal, which is what we discussed, and a system that relies on real estate as a basis for this Constraint it is known as a system register the sample, which we are about to study.

Know this system By register in kind because the actions are in it restrict according to the property it self, because it is based on identifying the property by its location, regardless of the names of the owners, considering that these names change from one person to another, so the name of these people remains registered in the real estate registry because of their possession of the real rights

¹- Edward Eid, op. cit., p. 08.

²- Hamidi Mohammed Lamin, op. cit., p. 17.

mentioned in this registry. If a person wants to deal in a property, he can Referring to the real estate registry to know the exact condition of the property, by knowing the owner of the property and the actions that took place on his property, and the rights that this property represents, so he can proceed with the transaction with peace of mind. According to this system, every property has a special place in the real estate registry, and it is recorded in the real estate registry. This place is all the actions that happen on this property.

There fore, this system is based on registration real estate transactions on the property it self, i.e. the property subject to disposal, are characterized by maintaining a special register with the department registe One or more pages are allocated for each property, in which all transactions relating to it are recorded, along with specifying its location, area, number, and boundaries. The property in question is called the “real estate unit,” and the card assigned to it is considered its identification card. This record is called in Algerian legislation a “collection.” “Real estate cards.” Whoever wants to see the condition of the property and know the rights, obligations, and easements that burden it can request this information from the Department of Registration, as the people in charge of the transactions are of no importance under this system.

One of the most important characteristics of this system is that the registered registration in it is what creates the right, and such an effect does not result from a contract or disposition that is limited to arranging a personal obligation on the disposing owner to register the disposed right in the name of the transferee, meaning that the contract has no real effect. Whether between contracting parties or towards third parties, except from a dateTie him upTherefore, this system is based on a set of principles, the most important of which is:¹

-The principle of allocation, i.e. allocating a page or several pages of the real estate card for each real estate unit.

-The principle of evidentiary force, meaning that the actions recorded under the real estate registration system are conclusive evidence of ownership with respect to the property or the real right subject to it.RegisterThe disposal becomes sound and free from defects, regardless of their source, and the restricted right is considered to exist for everyone, and therefore it cannot be challenged, neither on the claim of invalidity nor on the claim of entitlement or recovery, and the disposer is safe from disputes, which reassures economic operators and encourages linked loans. By mortgage.

-The principle of legality means that the real estate governor must verify all desired actionsRegister itAccurately so that people's rights are not wasted due to the probative power of the registration, it is necessary to examine all documents and contracts, verify the validity of the transaction, the eligibility of the person disposing of it, and the absence of defects in his will, verify the title deed, the extent of the legality of the business, and the permissibility of dealing.

¹ - Laila Zarrouqi, op. cit., p. 48.

The system of the real estate transactions and its role in achieving legal security in Algeria

Accordingly, the countries that have taken With this whole system I assigned a judge to conduct proceedingsRegisterIt established an insurance fund to compensate those affected by the restriction by wasting their rights.

-The principle of absolute restriction, which means thatRegisterHe is the source of real estate rights. He is the one who creates them, modifies or removes them. Every unrestricted right does not exist, neither between the parties nor vis-à-vis others. Every restricted right is a proof for all, and no one can claim ownership of a real right withoutRegisterpre.

-The principle of not acquiring rights restricted by statute of limitations. If the statute of limitations is one of the reasons for acquiring ownership in a systemRegisterPersonally, it is excluded in the systemConstraintIn real terms, the person who seizes a property, no matter how long it has been acquired, cannot claim ownership of it if the title deed to it is published, because it conflicts with the principle of absolute evidentiary force and because possession is a presumption of ownership, and the latter is proven by registration in this system.

As for the position of the Algerian legislator on the two systems, we note that he adopted one registration system, this is clear from Order 75-74¹and the decrees applied to it 76-62 and 76-63 However, as previously mentioned, this system cannot be implemented unless a survey is carried out all lands This is because if registration in the real estate registry can be defined as a set of legal and technical procedures and rules that aim to inform the public of all legal transactions imposed on real estate, whether they are original or accessory, creating, revealing, transferring or removing, then these rules can only be implemented. After the survey, which determines the features of the land, divides it into ownership units, gives them special numbers, and draws their plans².

However, although the survey began in the early 1970, it did not progress much, as vast areas of land remain unsurveyed, and others have not concluded their contracts, despite the authorities' encouragement of those holding lands untouched by the survey to obtain title deeds, which were compensated.aWith the title deed that is delivered within the framework of the real estate investigation, and the granting of possession certificates by the mayors in the areas not touched by the survey, awaiting their consecration as owners after the survey.³.

The second requirement: job register real estate in achieving legal security

The first registration of real estate and other real estate rights is one of the most important stages that involves the transition from the personal registration

¹-Order No. 75/74 of November 12, 1975, including the preparation of the land survey and the establishment of the real estate registry, G.R. No. 92, of 1975.¹

²- Laila Zarrouqi, op. cit., p. 50.

³- Ibid., p. 51.

system to the new registration system, and therefore the Algerian legislator has surrounded it with a set of procedures in order to complete it as soon as possible, while giving it credibility, especially since it is a stage preceded and accompanied by disputes, and the fact that the real estate registration system came in order to stabilize real estate transactions, and create a starting point for dealing in real estate the person in charge of keeping the record Real estate is obliged to indicate within the data of this book the references of contracts or bonds that must be identical to the data recorded in the real estate card, so that the real estate book is a mirror of the real estate index, and from it a dedication to the credibility and evidentiary power of real estate registration.¹

This process begins with the deposit of the survey documents by the cadastral surveying departments with the real estate custodian departments, and this is of course after the completion of setting the boundaries of the municipalities and the various real estate units, and the preparation of the field investigation to identify the rights holders and their legal status in relation to the surveyed property, as well as the burdens and the preparation of plans. Surveying, so the survey documents that were prepared and deposited in the real estate governorate are identical to the current status of real estate ownership. The surveying departments are also responsible for depositing a copy of the survey documents at the headquarters of the relevant municipality so that they are at the disposal of the public, and enable it to view them under the responsibility of the President of the Municipal People's Council. The Survey Department keeps the third and final copy to serve as a technical reference for employees of this department and various public bodies and private individuals.²

There fore, the first registration process takes place within the framework of the general survey by depositing documents with the real estate governor, the latter of whose powers is to establish and maintain the real estate registry. This process begins after the completion of all survey procedures, namely determining the boundaries of municipalities and properties within each municipality, and investigation. In the field to highlight the rights holders and owners and prepare survey documents including plans and records showing the surveyed properties, numbering them, and drawing their boundaries. Then all these documents are deposited with the real estate governorate so that the governor is responsible for establishing the real estate registry.³

After depositing the survey documents, as a second stage, the delivery report is drawn up by the competent real estate governor. The date of writing this report is of great importance because starting from this date, the numbering completed by the surveying departments becomes effective, and since the deposit process may not be all at once, it must Opening a sequential index in which the dates of filing the sections are recorded, stage by stage, and in order to

¹- Hamidi Mohammed Lamin, op. cit., p. 219

²-Ibid, p. 220

³- Laila Zarrouqi, op. cit., p. 52.

The system of the real estate transactions and its role in achieving legal security in Algeria

inform others of this process, the real estate conservator must publish the minutes or minutes of delivery within a period of eight days from the date of receiving the survey documents. The purpose of this procedure is to inform others of the necessity of attending the real estate preservation services in order to Withdrawing the real estate booklet, or the temporary numbering certificate, or expressing protests regarding the course of the process and the manner in which their rights are numbered. In addition, every owner must submit a schedule in two copies, which is prepared with the assistance of the real estate custodian services by a notary, or someone who has the authority to draw up contracts in order for the booklet to be delivered to him. The real estate property must be accompanied by all the bonds and contracts confirming its real estate rights, and the table must include a description of the real estate according to the survey plan, mentioning the identity and eligibility of the rights holders and the various burdens burdened by each property.¹.

The Real Estate Governor then begins to number the properties, especially since delay in completing this process may result in the loss of the work of the surveying departments, because real estate transactions and various transfers do not stop during this period, but can occur several times before the last owner receives the real estate booklet, and the real estate numbering is completed. According to the data included in the real estate card, and this document shows some of the cases resulting from the survey process, and the legal status of each property, we find properties with bonds, properties without bonds in possession that enable the apparent possessor, during a certain period, to own them through the statute of limitations, and properties without a title. There is no element that enables the real estate governor to number the property in the name of an apparent holder and determine the extent to which the holder has rights over the property in question, and properties that were not the subject of a settlement request from any person, and according to these cases we are faced with Related operations BConstraintThe first, and this is what we will discuss in **(the first section)** Then we discuss the subsequent procedures for the first registration through **(the second section)**.

the first section: Operations related to the first registration to sign up real estate

It is within the powers of the Real Estate governor that, once the field work is completed, the documents resulting from this process are deposited with the Real Estate Governorate. These documents are examined and processed by the Real Estate Governor according to their legal nature and documentary authenticity, so that this process ends with the stage of numbering the properties and handing over the real estate booklet to the owner.

The principles governing the work of the real estate governor require taking into account two important rules, namely the official rule, according to which no

¹ - Hamidi Mohammed Lamin, op. cit., p. 221

editor can be subjected to real estate registration procedures unless he is an editor in an official form, and the second rule is what is known as pre-registration or additional effect, according to which the procedure to be recorded at the level of the real estate governorate must be based on the presence of an editor or an original bond that is also subject to prior registration.

The numbering is temporary in cases where the property is without a title, and is based only on material facts that allow the acquisition of ownership through prescription, such as in possession and derived from survey documents. This numbering is described as temporary because it will later turn into a final numbering, whether by amending the value of the rights in question. Or to whom are these rights assigned in addition or subtraction, or without modifying them, or radically amending them under a lawsuit aimed at canceling the numbering? It should be noted that in this type of numbering, the real estate booklet is not granted to the concerned parties because it constitutes the only title deed in the surveyed areas except after it is proven. Their right to own the rights related to the survey.

The real estate governor, within the framework of the numbering operations in the real estate registry that he carries out immediately after depositing the land survey documents, receives the regionally competent real estate governorate administration, during the temporary numbering period, a temporary real estate numbering certificate based on an explicit request submitted by the beneficiary of this numbering, and it is a document An administrative document issued according to the form specified by the General Directorate of National Properties, in which the real estate governor certifies that the property subject to the real estate registration certificate is limited to several periods.

Firstly: Temporary numbering for four months

The property in question will be numbered for a period of four months, starting from the date of depositing the survey documents in the Real Estate Governorate. The stakeholders who did not attend the survey process must express their objection during this period to the final numbering procedure for the benefit of the person referred to in the survey documents. This case also applies to the people to whom it was delivered. The possession certificate is issued by the mayors, which does not include an accurate designation of the real estate rights in it. Also, if the survey documents indicate the existence of legal possession under a deed, which allows ownership of the property through the statute of limitations, then the survey teams rely mainly when preparing the investigation card on extracting any Physical or legal evidence that justifies ownership or possession, and it must be recorded in the investigation card or document references. In the absence of any evidence, the survey teams receive

The system of the real estate transactions and its role in achieving legal security in Algeria

the statements of witnesses to the possession and record them in the investigation card and attach them to the investigation file.¹

secondly: Temporary numbering for two years

This applies to apparent owners who do not have recognized titles, but they are holders and have not been able to prove the legal period of possession that enables them to acquire ownership by prescription. The numbering can be objected to within a period of two years or the numbering can be withdrawn by the real estate governor after receiving confirmed information. For disputes in possession, such as the appearance of the real owner. A temporary numbering is applied for a period of two years for the benefit of the state regarding vacant properties that are not owned by anyone and whose owner is not known. The real estate governor hands over the real estate booklet to the owner if the specified period has passed and he does not receive any objection.²

Third: Final numbering

It is the numbering resulting from the right holder submitting a fixed and published title deed or a judicial ruling or decision that leaves no room for doubt as to his ownership of the property subject to the survey. Therefore, this property is the subject of a final numbering without a period of time to appeal it, and as a result the owners are granted Whether natural or concerned persons, the real estate booklet. However, if the property is shared between a group of owners, then in this case it is considered a single real estate booklet, which is kept at the level of the real estate governorate, or the parties agree among themselves to appoint an agent on their behalf with the intention of withdrawing it from the real estate governorate and keeping it. The Real Estate Governor shall obligatorily transfer, on the occasion of this numbering, into the Real Estate Registry the records of liens, mortgages, and allocation rights that have not been crossed out, that is, not purged and that are still valid and existing. The rest of the joint owners may request from the Real Estate Governorate a certified extract or summary of the Real Estate Registry. It is consistent with their real estate book³.

the second section: Procedures subsequent to the first registration to sign up real estate

After completing the first registration following the completion of the survey process, the owners whose rights have been permanently granted are given what is called the real estate booklet, which contains all the information related to the property, and all subsequent transactions on the property are recorded on it, including the rights and burdens that burden the property, and it is considered a card on it. A definition of the property and its actual civil status, as it outlines its entire legal life, which facilitates dealing with it. The real estate booklet is an

¹- Hamidi Mohammed Lamin, op. cit., p. 223

²- Laila Zarrouqi, op. cit., p. 55.

³- Ibid., p. 57.

administrative document, and challenging the validity of the information it contains is subject to the supervision of the administrative judge. However, some courts consider its validity incorrectly, such as the Administrative Chamber of the Supreme Court and the Council of State. After its establishment, they maintained their expertise to consider the appeal of cancellation in the real estate book.

The legislator also stipulated that all contracts signed for real estate be voided in an official form, otherwise the real estate governor would reject them, as the latter is the one who determines the validity of contracts and due judicial rulings. register And he can refuse to do so by registering it if the legal conditions are not met, and what is strange is that the State Council adopted, in its jurisprudence, a position completely contrary to this principle, as it considered that the appeal cannot be accepted as long as the notarial contract required to cancel the procedures Record it It is still standing, even though he saw that the real estate governor had risen register a contract drawn up in French violates the provisions of the Notarial Law, and this jurisprudence ignores the governing principles register in, which obligates the real estate governor to verify the validity of the contract he undertakes Tie him up Especially since in the case raised before the State Council, the matter is not related to the legality of the action, but rather to violating the form of the notarial contract. that It was completed Record it According to the law, one of the powers of the real estate governor is also to:

- He is responsible for preserving contracts and plans, in addition to all documents related to registration processes in the real estate registry and providing all information related to rights registered requested by the public.

- Collection of rights and related fees Registering real estate transactions, Which is different from the Rights received by the Registration Department on the occasion of concluding contracts for real estate and real estate rights.

Regarding disputes related to the procedures subsequent to the first registration, we note that the decisions of the real estate governor are subject to appeal before the competent judicial authorities regionally, and it is understood from this text that the Administrative Court is competent because the governor is a state administrative authority, and this is what the State Council confirmed in its jurisprudence.

Conclusion:

At the conclusion of this study, we concluded that the General Land survey process is closely related to the real estate registration system that came to determine the natural range of real estate, as this process is considered a tool to stabilize real estate ownership by obtaining real estate books and numbering schemes for the properties of owners and holders, which are necessary to protect real property, as the General Land survey process is closely related to the real estate registration system that came to determine the natural range of real estate,

The system of the real estate transactions and its role in achieving legal security in Algeria

in order to create an atmosphere of reassurance and confidence by identifying and registering these properties in accordance with the procedures of the real estate registration system .

This system has been adopted in Algeria gradually to achieve more regulation of real estate transactions because the personal registration system is the one that was and is still in force in a number of regions of the country until the start of survey work, and it is necessary to speed up the completion of these operations and the establishment of the real estate registry due to the advantages granted by this system, however, despite the importance of the latter in organizing and stabilizing real estate transactions and spreading credit between the parties, but it does not rise to the required level in regulating the various relations and transactions that On this basis, the role of the General Land Survey, which concludes with a real estate registration of these properties, aims to clear real estate ownership and thus eliminate or minimize disputes and facilitate their resolution.

Bibliography List

1-references

- Edward Eid, real estate systems, don publishing house, Egypt, 1996.
- Hussein Abdellatif Hamdan, Real Estate Registration Provisions, university House, Beirut, 1995.
- Hamidi Mohamed Lamine, Torrance Real Estate Registration System and its Applications in the Algerian Real Estate System, Dar Houma, Algeria ,2015 .
- Smain Chama, the legal system of real estate guidance, Dar Houma, Algeria, 2003.
- Leila Zerrougui, real estate disputes, Dar Houma, Algeria, 2015.
- Wais Fathi, Real Estate registration in algerian law and comparative laws , Dar Houma, Algeria, 2014 .

2-sources

- Order 75/74 of november 12, 1975 on the preparation of the land survey and the establishment of the cadastre, C.No. 92, of 1975.
- Executive Decree No. 76/62, of March 25, 1976, on the preparation of the General Land Survey, amended and supplemented by Decree No. 84/400 of December 24, 1984, C.R, No. 30, for the year 1976.
- Executive Decree No. 76/63 of March 25, 1976 on the establishment of the land registry, C.R, No. 30, of 1976, amended and supplemented by Decree No. 80/210 of September 13, 1980, C.R., No. 03, for the year 1980.