

Algerian real estate investment - a study in the concept and guarantees

Khadidja Guemmar *

University of Djilali Bounaama
(Algeria), k.guemmar@univ-dbkm.dz

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Abstract:

Real estate investment is one of the most successful ways of investing money made by buying or owning a number of properties with the aim of reselling or leasing them and taking advantage of them to generate and generate a steady and abundant material return; Through this study, we have tried to highlight the concept of real estate investment by identifying its characteristics, its rules, as well as the risks that underlie it, while highlighting the most important guarantees of the Investment Act 22-18 in an effort by the legislator to provide the appropriate investment climate for the development of real estate investment.

Keywords: Real estate investment; Investment rules and conditions, risks and guarantees; Investment Act 22-18.

**Khadidja Guemmar*

1. INTRODUCTION

The real estate market is not new, as its conditions, provisions, legislation and regulations that govern it have undergone several changes and developments affected by periods of prosperity or recovery and periods of recession and economic depression, so the real estate investor was roaming and reaching between profit and loss according to the variables of the real estate market.

The importance of the subject appears in considering investment as a cornerstone, especially in developing countries due to its prominent role in the economic field, so Algeria is working to provide a suitable investment climate for the advancement of the real estate sector, as well as in order to attract national or foreign investors, Algeria has done with the aim of attracting national and foreign investors to carry out many important economic reforms to keep pace with the economic developments taking place, which made the political authority issue many laws and legislations that changed according to the economic approach adopted in the state, and after the adoption of the system Free Economy The principle of free investment, which emerged in Law No. 16/19, which witnessed several amendments, the latest of which was Law 22/18, was enshrined.

From it, we pose the following problem: **Is it possible to develop the real estate investment system to change the way investment decisions are made in the real estate field?**

To answer this problem, we used the descriptive approach to adjust some of the basic concepts related to the subject of the study and the analytical method to clarify the most important new guarantees brought by Law 22/18 for the development of real estate investment in Algeria.

2. Defining the concept of investment

Investment is to deal with money or use it in order to obtain profits and by abandoning money now and taking risks for the purpose of obtaining returns in the future and includes investment in its general sense both real investment and financial investment, as real investment means buying and selling production assets for the purpose of increasing wealth such as investing in the purchase of real assets such as real estate, productive assets, factories ... The second type is financial

investment, where it is done through the sale and purchase of securities and various financial instruments, or in other words, the purchase of financial assets that result in profits with the lowest possible risks.

The difference between the two investments is that the first is usually followed by a real increase in the overall output of the economy, while the second type may not follow such an increase in production because it represents the transfer of ownership of the means of production from one party to another, which may not result in an increase in the productive capacity of the economy, where securities or what is called financial investment constitute the most important aspect compared to its real estate investment counterpart¹.

2.1 Terminology :

On a personal level, we find that if an individual owns an amount of money and wants to invest it, he may buy a number of shares of securities, establish a commercial or industrial project, or erect a residential building to rent to others, all in order to obtain a return in the future².

2.2 Economic definition:

The concept of investment from an economic point of view, investment is "the employment of resources in the possession of the institution in order to maximize its future value by maximizing profits"

2.3 Financial Definition:

As for the concept of investment in the financial sense of investment, it is the employment of capital at a certain time and waiting for the financial flows resulting from it, in the long term, that is, it is the acquisition of financial assets only, and in this sense the investment becomes a financial investment in securities and various financial instruments such as shares, deposit bonds... Etc.

2.4 Accounting Definition:

As for the concept of investment in the accounting sense, it is an increase in the assets of the institution, as it expresses the various movable property, including movable and immovable, tangible and

¹ Jaque morguvin et jerard A, choice of investments, Dunod edition, 2013, p 25.

² Jameel Al Zaidatin Saudi Arabia, Fundamentals in Financial Machinery Practical Perspective, Wa 'el Publishing House, 2012, Saudi Arabia, p. 215

intangible, and dealing with them to obtain profits, in other words, abandoning these properties for a specific period of time in order to obtain future financial flows that compensate for the present value of the invested funds³.

The investment also achieves several goals, including the economic goal, which is to achieve a material return to society, as is the case in spending on increasing the productive capacity of the state, and a social goal by achieving the welfare of the citizen, such as spending on education, health, means of communication, roads... etc., in addition to political goals represented in achieving a political return and raising the status of the state politically.

3. The concept of real estate investment

Real estate investment is considered the investment of funds in owning an eye, whether it is land or building, for the purpose of raising its price in the future or exploiting it to obtain material value when mortgaging or renting it, as it is a building or other property, which generates income through rent or resale⁴.

Real estate investment also represents the purchase of a property or participation in shares in the establishment of a commercial, residential, administrative real estate project Investing in real estate is one of the most successful types of investments in the world, as it is considered the most valuable way to save money in tangible and visible assets, while the process of buying and selling or participating in construction operations is studied properly based on foundations and statistics about the target market to buy, so the results from the investment are more guaranteed and this is what differentiates the investor in general from the average buyer is the study and scrutiny of the process before its implementation⁵.

Real estate investment has several forms that differ in terms of investment category, target market, capital cycle and risks that can be

³ C Pierre , *La gestion financière de l'entreprise*, Volume 2, Dunod edition, 1985, p 45.

⁴ Muhammad Nda Nada Lada, *real estate investment and its role in the global financial crisis, a comparative jurisprudence study*, 2009, Cairo, p. 98.

⁵ Mohammed Dawood Osman, *Real Estate Investment*, Dar al-Thakr, First Edition, 2013, Marginal Kingdom of Jordan, Amman, p. 27

faced during the process, and its forms are as follows: buying an apartment, buying a villa. Buying a commercial - residential - administrative building, buying land, buying an entire floor of a building, participating in the process of establishing a property, participating in land or the construction process.

3.1 Characteristics of real estate investment:

All investors seek a reasonable profit, plus security for their invested assets, real estate is an effective tool to provide both, and the three main types of return on any real estate investment are fixed income, rise in price or capital returns, and protection against taxes.

3.1.1 Income:

Rental income is one of the first incentives for real estate investment, whether the rental income is from adjacent apartments, or from annual vouchers between a public tenant and private individuals, the attraction is the same for the investor. The periodic profit from rental vouchers is at the heart of most long-term real estate investment projects.

Towards the end of the eleventh century, the returns on real estate investments witnessed a significant and predictive increase, as real estate investors addressed the deteriorating conditions experienced by fixed-income real estate, and the reason for the losses that affected real estate investments is due to two factors⁶:

The first factor is due to the decrease in fixed income with the rise of empty units and the reduction of rents.

The second factor is due to the decline in real estate values when real estate investors demand higher returns on the remaining rent, whatever it is.

3.1.2 Increasing value and capital returns:

By this we mean the escalation in the basic value of the property and it is a type of cash flow that every real estate investor seeks, but few forms of investment have risen in price and escaped losses caused by inflation.

Inflation is basically a phenomenon related to monetary policy when a country "prints more currency" to cover its budget deficit, which

⁶ Mohammad Dawood Osman, *ibid.*, p. 28.

negatively reflects on the purchasing power of this currency and decreases, which will lead to a higher price to buy the same commodity, which means that the commodity has increased its price.

The result is that any increase in price is caused by a depreciation in the value of money, which is the main factor in which all the governments of the world have plunged in, resulting in a terrible deficit in the state budget that has led to a massive injection of liquid cash.

Few investments can benefit from the same amount of real estate from the input of management expertise, and a smart and sharp-sighted investor can update or expand a property, or even redirect how the property is used, and adventurous management can add great value to any investment in real estate, and these gains in value increase the value of the property, and follow it with capital gains, which is one of the most important incentives for the typical real estate investor.

3.1.3 Protection against taxes:

A tax is any "monetary contribution imposed on taxpayers according to their contributing capabilities and which, through the Authority, transfers the collected funds, definitively and without specific consideration, towards the achievement of the objectives set by the public authority"⁷, as well as "a monetary deduction, with authority, final, free of charge, made for the benefit of regional communities or for the benefit of regional public bodies"⁸.

There are those who consider it "a sum of money that the individual pays forcibly to the state or one of the local public bodies permanently as a contribution from him to the public costs and burdens, without any special benefit in return for paying this tax."⁹

In the field of real estate, the law included subjecting the entrances coming from the sale by private parties of a completed or unfinished building to a tax on public income at a fixed rate of 5%, while profits from the sale of a building owned for a period of more than 10 years are exempted from this imposition, and the rental of individual houses will

⁷ Pierre Beltrame, *Fiscalite in France*, HACHETTE LIVRE, 6th edition 1998, p12 .

⁸ Raymond Muzellec; *Finances Public*, Dalloz 8 edition, 1993, p 423 .

⁹ Suzy Adli appealed, *Basic Public Finance*, First Edition, 2005, Publishing House, Beirut. p. 115.

be pumped to a public income tax rate of 10%, while the rate of 7% remains applicable to income derived from renting housing for collective use¹⁰.

3.1.4 Use as collateral:

Almost all types of investment assets can be used as collateral to repay a loan, and while real estate has lost some of its luster for loan grantors in recent years, it has retained significant value as collateral, that it is a real asset and cannot be transferred, its ownership is registered and legally protected, and it can be mortgaged as a repayment guarantee with the guarantee of its title right.

If the property has a fixed income confirmed from a long-term lease, the loan amount can be determined based on this secured income in light of the input used by the assessor, such a loan can exceed the amount invested in the property, allowing the landlord to recover all the money he invested in the property while still retaining his ownership¹¹.

This loan declined after the recession, but if the tenant of the property is of weight and prestige and the proceeds of the lease are long enough, even in a post-recession environment, lenders can make large loans on real estate, and there are new patterns and practices in commercial real estate that may reduce the value of the leverage of the real estate investor, a new term that enters the world of commercial real estate loans.

3.1.5 Legal protection:

Considering that the land is a tangible asset that can be seen and touched, it has a specific shape and size, and it cannot be lost or placed in a wrong place, it gives its owner a sense of security, financial support, and legal stability, especially since the legislator obligated its registration, and registration is the legal declaration on the existence of the owned property, as well as except through real estate publicity, which is considered a public order so that the legitimacy of documentary contracts applies from the day of their month in the

¹⁰ Act No. 16-14 of 28 December 2016, containing the Finance Act of 2017, Official Gazette No. 77 of 29 December 2016.

¹¹ Mohammad Dawood Osman, op. cit., p. 29.

governorate¹². Real estate, and it is also legally established that the legislator has given real estate ownership legal protection to prevent the infringement of others on it¹³.

3.2 Real estate investment conditions:

For the success of investment in the field of real estate, a set of conditions must be met that economic jurisprudence deems necessary and necessary for a profitable real estate investment:

3.2.1 Investment in land:

During the investment and purchase of land, it must be taken into account that it is done in new places before the spread of construction operations, as this contributes to the significant increase in capital in addition to maintaining its value from declines when economic fluctuations occur in other markets¹⁴.

3.2.2 For real estate:

It must be taken into account to determine the ways to benefit from it when building and determine its type: residential, commercial, administrative, location, care to choose the method of construction, the more the site and design is more suitable for the purpose, the more the property becomes an appropriate return¹⁵.

3.2.3 Knowledge of the real estate market:

Real estate is considered a long-term investment and durable goods, so that the residential units vary and vary according to the designs, spaces, finishes and decoration, so the real estate investor must know the cost of making real estate deals, by having sufficient knowledge and the necessary information regarding the cost of research, the cost of transportation, the cost of land, real estate taxes, registration fees, and others¹⁶.

¹² Hamdi Basha Omar, Real Estate Court, in light of the most recent decisions of the State Council and the Supreme Court, House of Hama Algiers, 2004 edition, p. 7.

¹³ Decree No. 52039 of 05/04/1989, GBP 1990, No. 03, p. 45.

¹⁴ Free Encyclopedia, International Information Network, Real Estate Investment Robert Kyusaki, 15/10/2009, p. 01.

¹⁵ Sami Swilm, Real Estate Investment, Arab Planning Institute Edition, 2010, Lebanon, p. 02.

¹⁶ Farid Raghav Al-Najjar, Investment, Finance & Mortgage, Economics - Risk - Restructuring, University House 2009, Alexandria, P.28

Before entering the real estate market, the investor must take all the risks related to the length of the various procedures that must be followed to prepare the property for sale and know the real estate prices, this is one of the most important conditions that the investor must be sufficiently aware of because real estate prices affect the flexibility of the price and the demand for real estate units

3.3 Types of real estate investment

Real estate investment is divided into three types, which are as follows:

3.3.1 Type I - Purchase of property:

It allows the investor to choose between four types in which the ownership is exploited in different ways:

- **Residential ownership:** It is an investment of money in owning multiple residential facilities, such as apartments, houses, and residential buildings.

- **Industrial property:** It is the investment of funds in the ownership of industrial facilities such as factories, warehouses and industrial complexes.

- **Hotel ownership:** It is the investment of money in owning hotels, tourist offices, gardens, parks and others.

- **Ownership of fallow lands:** in preparation for dividing them with the intention of establishing one of the various investment projects.

However, when choosing one of these tools, the investor should be really familiar with the chosen local real estate market, the degree of economic growth in it, and the taxes and exemptions imposed.

3.3.2 type II - buying shares in real estate investment companies:

These shares can be speculated on stock exchanges by buying and selling.

3.3.3 type III investment in real estate investment funds:

These funds are commercial entities that are created specifically for investment in the field of real estate (sale, rent, brokerage), and capital is collected from several people and divided into units in which each person owns a unit according to his paid money and these funds work

to provide a range of real estate services, starting from locating the property, ending with contracting for a fee and these investment funds are considered income-generating funds, where the investor by buying a unit in a fund, and then determining how it receives income on a regular basis once or twice a year¹⁷.

The real estate economy includes a set of rules governing real estate growth, and the tools used by the real estate investor to analyse real estate problems, specifically:

- The real estate investor must rely on real estate economics because it is the scientific method that explains real estate phenomena and real estate technology that explains the demand and supply of real estate wealth.
- The real estate investor must understand the real estate policies that determine real estate investment and financing and real estate legislation that determines the real estate market.

3.4 Real Estate Investment Rules and Risks:

Making a fortune of real estate is a long-term decision, so that real estate profits are realized from real estate trading operations by buying and selling.

The lowest interest rates, the longest repayment period and the lowest down payment are obtained when requesting a bank loan because bankers know that real estate has the lowest risk or bank losses, insurance programs must be available for real estate loans, real estate revenues open an opportunity to repay the mortgage, as there are grace periods before the beginning of the payment of mortgage installments, and there are tax exemptions on the installments paid on the mortgage loan, and there are risks of non-payment of borrowed funds for real estate financing, and revenues must be The property is larger than the installments required to be paid to avoid negative cash flows¹⁸.

The value of real estate increases with time, allowing the purchase of other real estate, so the systematic method of real estate investment

¹⁷ Mohamed Nada Nada Labda, real estate investment and its role in the global financial crisis, a comparative jurisprudence study, 2009, Cairo, p. 100-101.

¹⁸ Farid Rageb Al-Najjar, previous reference, pp. 87-88.

requires searching for real estate as an investment wheel and conducting a search for the real estate market to choose the opportunity, with a plan to invest and manage money to achieve the desired goals.

4. Real Estate Investment Risks and Guarantees:

Due to the inaccuracy of real estate information, investors do not have the necessary real estate information, with the different knowledge, experience and interest of the parties to the real estate system, the absence of geographic information systems, the absence of real estate governance in many real estate companies, the spread of centralization in urban planning and the lack of access to information to decision-makers and implementers, lack of integration in boards of directors.

4.1 Real Estate Investment Risk:

As for the risks of real estate investment, there are many risks in the real estate investment decision, so these risks must be measured:

4.1.1 Real estate operating risks: It lies in fraud and theft, real estate market risks and real estate financial risks.

4.1.2 Risks of building and construction materials: This is due to inflation, high prices, building and construction materials, monopoly and control of building materials, import risks and commercial fraud, risks of real estate misuse.

4.1.2 Real Estate Financing Risk: It is manifested in exchange rate risk, interest rates, credit risk, capital risk, liquidity risk, real estate refinancing risk, engineering error risk, legal, political risk, and finally market risk¹⁹.

4.2 Guarantees of the Investment Law 22/18:

The Investment Law is the first gate that encourages and stimulates the attraction of foreign and protected capital, according to the guarantees it contains, whether legal, financial or institutional, that make the investor feel safe by investing his money with the least amount of risk, and the Investment Law 22 -18 included a number of

¹⁹ Fred Raghieb Al-Najjar, previous reference, pp. 110-111.

guarantees granted to foreign and national investors, in Chapter IV of the Promotes in their entirety a favorable investment climate²⁰.

4.2.1 Legal Guarantees:

The most important of which is the guarantee of freedom of investment, which is enshrined in the 2020 Constitution in Article 61: "Freedom of trade, investment and entrepreneurship is guaranteed and exercised within the framework of the law", which is the same principle stipulated in Article 3 of Law 22-18 "Every natural or legal person, whether national, resident or non-resident, wishes to invest and is free to choose to invest", which is the same guarantee stipulated by the legislator in Law 16-09 in Article 03, ensuring transparency and equality in dealing with Investments, especially after the digitization of the investment sector, by creating a platform at its level that takes place all transactions and procedures and is also considered a bank of information for the investor.

Narrowing guarantee from the rule of 51-49% stipulated in the 2020 Finance Law, Article 50 of which has specified the sectors that are subject to the rule, namely the mining sector, energy, military industries, railway lines, ports and airports, pharmaceutical industries, and from it, the real estate investment sector is not subject to this rule, in addition to the adoption of the Algerian legislator Dana legislative stability, and it means the state's pledge not to issue any new legislation that leads to a breach of the economic balance of the contract and harm to the contracted investor, and among the advantages brought by the law 22/18 In this regard, the State continues its contractual obligations even if the law is amended, except at the express request of the investor in accordance with the text of Article 13 of Law No. 22/18.

4.2.2 Judicial and administrative guarantees:

Under the current Law No. 22/18 on investment, the Algerian legislator has devoted a set of legal means and mechanisms to resolve disputes that may arise between investors and each body or agency charged with implementing the Investment Law, article 12 of which sets

²⁰ Ben Obaid Saham, The Role of Law 22/18 on Investment in Improving the Investment Climate in Algeria, Journal of Legal and Political Thought, vol. 07, No. 01, 2023 (521-540), p. 524

the general framework for how to resolve disputes in the event of a dispute between the investor and the Algerian state²¹, which reads as follows: "... Any dispute resulting from the application of the provisions of this law between the foreign investor and the Algerian State caused by the investor or due to a measure taken by the Algerian State against him shall be subject to the competent Algerian judicial authorities, unless there are bilateral or multilateral agreements ratified by the Algerian State whose provisions relate to conciliation, mediation and arbitration, or the conclusion of an agreement between the Agency... acting on behalf of the State and the investor, allowing the parties to resort to arbitration." It is considered one of the amicable mechanisms for resolving disputes arising from investment. Article 11 of Act No. 22-18 on investment also establishes another mechanism for investors who consider themselves to have been harmed by any administration or body charged with implementing the Investment Act²².

4.2.3 Structural guarantees:

It is a public institution of an administrative nature, enjoying legal personality and financial independence. Working under the tutelage of the Prime Minister, it is responsible for supporting and accompanying national and foreign investors in the realization of their investment projects.

- Promotion and valorisation of investment in Algeria as well as abroad and the attractiveness of Algeria, in liaison with the Algerian diplomatic and consular representations abroad;
- Informing and sensitizing the business community;
- ensuring the operation of the investor's digital platform;
- Registration and processing of investment files;
- Accompany the investor in completing the procedures related to his investment;

²¹ Mekrin Yusuf, Privacy of the Resolution of Investment Disputes in the Provisions of Law 22/18 on Investment - Judicial Settlement and Investment Arbitration Model, *Journal of Law and Political Science*, vol. 09, No. 01, 2023, (309-322), p. 310

²² Jalal Azizi, Wahiba Marzouq, Privacy of Administrative Appeals in Disputes Arising from the Application of the Provisions of Law 22-18 on Investment, *Journal of Legal and Political Research*, vol. 08, No. 03, 2023 (151-162), 152

- Management of benefits, including those related to the portfolio of projects authorised or registered prior to the date of promulgation of Law 22-18;
- Follow up the progress of investment projects.

conclusion

Since real estate is an important factor in achieving real estate investment, the Algerian state has paid attention and within the framework of its various policies to develop and promote investment to achieve the desired sustainable economic development, real estate investment is the process of buying, owning and operating real estate with the aim of achieving financial return, real estate investment is one of the most common and popular forms of investment around the world. It provides an opportunity to benefit from real estate market improvements and achieve a sustainable financial return in the long term, so that real estate investment provides many advantages and benefits that can make it an attractive option for investors.

The legislator dealt with the Real Estate Investment Law through several legal texts due to the effective role it plays in advancing the national economy, perhaps the most prominent of these laws is Legislative Decree No. 93-12 related to investment leading to the new Investment Law No. 22-18, where this law relied on the development of three incentive systems that grant the investor several incentives and advantages in order to attract investors.

From it we can suggest the following:

- ✓ Work to provide the appropriate investment climate for the development of this field in order to contribute to sustainable economic development.
- ✓ Devoting the principle of legislative stability in order to reflect the stability of the state or its legal security in order to create more real estate investment opportunities.
- ✓ Giving more special advantages, including tax and financial, to attract foreign investors in this field.

✓ Eliminate administrative bureaucracy and administrative corruption to facilitate administrative procedures in the field of real estate investment.

5. Bibliography List :

1. Books :

- Jaque morguvin et jerard A, choice of investments, Dunod edition, 2013, p 25.
- Jameel Al Zaidatin Saudi Arabia, Fundamentals in Financial Machinery Practical Perspective, Wa 'el Publishing House, 2012, Saudi Arabia, p. 215
- C Pierre , La gestion financière de l'entreprise, Volume 2, Dunod edition, 1985.
- Muhammad Nada Nada Lada, real estate investment and its role in the global financial crisis, a comparative jurisprudence study; Cairo 2009.
- Mohammed Dawood Osman, Real Estate Investment, Dar al-Thakr, First Edition, 2013, Marginal Kingdom of Jordan, Amman;2010.
- Pierre Beltrame, Fiscalite in France, HACHETTE LIVRE, 6th edition 1998
- Raymond Muzellec;Finances Public, Dalloz 8 edition, 1993.
- Suzy Adli appealed, Basic Public Finance, First Edition, Publishing House, Beirut, 2005.
- Hamdi Basha Omar, Real Estate Court, in light of the most recent decisions of the State Council and the Supreme Court, House of Hama Algiers, 2004
- Sami Swilm, Real Estate Investment, Arab Planning Institute Edition, Lebanon, 2010.
- Farid Raghab Al-Najjar, Investment, Finance & Mortgage, Economics - Risk - Restructuring, University House, Alexandria 2009.

2. Journal article:

- Ben Obaid Saham, The Role of Law 22/18 on Investment in Improving the Investment Climate in Algeria, Journal of Legal and Political Thought, vol. 07, No. 01, 2023 (521-540)
- Mekrin Yusuf, Privacy of the Resolution of Investment Disputes in the Provisions of Law 22/18 on Investment - Judicial Settlement and Investment Arbitration Model, Journal of Law and Political Science, vol. 09, No. 01, 2023, (309-322)
- Jalal Azizi, Wahiba Marzouq, Privacy of Administrative Appeals in Disputes Arising from the Application of the Provisions of Law 22-18 on Investment, Journal of Legal and Political Research, vol. 08, No. 03, 2023 (151-162)

