

Administrative bonds as official documents for proving private real estate ownership in the Algerian legislation

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Send Article Date: 22 /08/2023

Date of acceptance of the article: 27/08/2023

Abstract:

Due to the complexity of the real estate material and its many legislations, which were often characterised by instability, this has resulted in a multiplicity of types of bonds proving real estate ownership, especially administrative bonds, which many are unaware of the types generated by the legal arsenal dealing with the real estate crisis. In this study, we aim to show the most important and most traded bonds and the extent of their authority in proving both issued before or after real estate surveys with revealing their role in the stability of real estate transactions in Algeria, especially since they assume an official character as issued by competent administrative bodies.

Keywords: Administrative deed, proof, real estate ownership, real estate book, title deed, certificate of possession.

المخلص:

نظرا لتشعب المادة العقارية وكثرة تشريعاتها التي اتسمت في غالب الأحيان بعدم الاستقرار، فقد نتج عن ذلك تعدد في أنواع السندات المثبتة للملكية العقارية، لاسيما السندات الإدارية التي يجهل الكثير أنواعها التي أنجبتها الترسنة القانونية المعالجة لأزمة العقار، وفي هذه الدراسة نهدف إلى بيان أهم هذه السندات وأكثرها تداولاً ومدى حجيتها في الإثبات سواء الصادرة قبل أو بعد عمليات المسح العقاري، مع الكشف عن دورها في استقرار المعاملات العقارية في الجزائر، خاصة أنه يفترض فيها الطابع الرسمي باعتبارها صادرة عن هيئات إدارية مختصة.

الكلمات المفتاحية: السند الإداري، الإثبات، الملكية العقارية، دفتر العقاري، سند الملكية، شهادة الحياة.

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Introduction:

The tracker of the stages of real estate ownership regulation in Algeria monitors the degree of fluctuation and lack of stability at the level of the arsenal of legal legislation that has been issued in order to address the problem of proving it, this is primarily due to the historical stages that real estate ownership has passed through in Algeria, which made it not known in harmony, which created the real estate crisis, which is still held hostage to many obstacles, and to establish it, the legislator had to develop solutions to ensure that real estate credit is not destabilised, and to address various transactions by adjusting a legislative system based on regularising the status of real estate and clearing real property of customary indiscriminate use of land without any proof of ownership, and to achieve the desired objectives of the organisation of real estate ownership it was necessary to have fixed real estate vessels with bonds that have legal force in proving the right of real estate ownership.

The legislator has issued law 75/74 containing the preparation of the land survey and the establishment of the cadastral register, which considers the cadastral book to be the only evidence to prove ownership of real estate after the completion of surveys, and pending the completion of these operations, notarial, judicial and administrative bonds remain as bonds of an official nature and means to prove this ownership, perhaps administrative bonds are one of the most crucial to monitor the most important types of these administrative bonds, which are listed according to the historical stages that passed through before and after independence, as many are unaware of these types based on these data, we will try to focus on the most commonly traded administrative bonds in proof, namely the certificate of ownership in accordance with decree 73/23, followed by the certificate of possession in accordance with the real estate directive law 90-25, down to the two most important bonds, the real estate book by completing surveys and the title deed after the real estate investigation in accordance with law 07-02, and from this point of view, we wonder about what these bonds are and how the Algerian legislature organised them to be an official document to prove real estate ownership any dispute about its ownership, and the problematic of the study can be formulated as follows:

How authoritative are the proven administrative bonds of real estate ownership before and after surveys? What is its role in the stability of real estate transactions in Algeria Is an administrative document necessarily an official document? In order to answer the posed problem, we decided to follow the descriptive analytical approach that appears through the definitions of these bonds and explore the legal texts that dealt with them by analysing and drawing the desired conclusions.

First topic: Proven administrative certificates of real estate ownership before surveys

There are many real estate conditions for lands imposed on administrative bodies to grant certificates confirming ownership to their owners, which varied according to the circumstances of each case, including the certificate of ownership, which is handed over to those recognised as owners of private agricultural lands or intended for agriculture, accurately indicating the type, location, area and boundaries of the land, the condition of the common, if any, and the costs and agreements burdened for them according to the form prepared and attached to decree 73/32 containing proof of private ownership (the first requirement), and within the framework of organising the municipal real estate index, which includes a general inventory of all real property located on the territory of the municipality, the legislator Algerian how to prepare a certificate of possession and hand it over under article 39 and the following of the law real estate directive 90-25 (second requirement).

The first requirement: A certificate of ownership

Certificates of ownership have been used since the existence of the colonial administration in Algeria as the lands of the people under the law dated 26/07/1873, and the Algerian legislature followed the same procedures then to prove the right of ownership of agricultural real estate for owners who lack written title deeds in the framework of the implementation of the agricultural revolution, and by decree No.73/32 concerning the proof of private ownership, the state property department issues ownership certificates to be handed over to these owners ¹, but as soon as the general land survey is established, the ownership certificates are replaced by real estate books, which have become the only proven document of private real estate ownership, which was confirmed by the supreme court in its decision No.197.920, which stated: "The real estate books drawn up on the basis of the set of municipal real estate cards and the updated land survey constitute the only starting point for establishing evidence in the origin of real estate ownership" ², and the details of the certificate of ownership will be discussed through its definition, the conditions for its preparation (first) as well as the procedures for its delivery (second).

First: Its definition and conditions of preparation

1- Definition of the certificate of ownership: it is an official document, which is handed over to the recognised owners of private agricultural land or intended for

¹ -Mahmoudi Abdelaziz, mechanisms for clearing private real estate property in Algerian legislation, Baghdadi house for printing, publishing and distribution, rouiba, Algeria, 2009, p. 43

² -Abdelhafid Ben Obeida, proof of real property and real property rights in Algerian legislation,, edition 06, Dar Houma for printing, publishing and distribution, Algeria, 2009, p. 127

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cultivation, accurately indicating the type, location, area and boundaries of the land, the condition of the common, if any, and the costs and agreements burdened with it according to the form prepared and attached to decree 73/32 containing proof of private ownership ¹.

The order 71-73 on the agricultural revolution issued on 08/11/1971 in articles 77, 78 of it and articles 12, 15 of decree 73-32 dated 05/01/1973 on proving the right of private ownership on agricultural land or intended for agriculture and the possibility of proving private peasant ownership in the absence of a bond in the first place, as has recognised the initiation of field investigation procedures from specialised committees ending with the delivery of certificates of ownership, and these operations assigned to the real estate investigation the property, insofar as it was mainly aimed at issuing nationalisation and consolidation decisions for non-urgent peasant lands or for those areas in excess of the boundaries surveyed for ownership in order to be included within the national fund for the agricultural revolution. It is well known from the law of the agricultural revolution that it prohibited real estate transactions and restricted them in the field of ownership and exploitation of peasant real estate, all with the aim of achieving the success of nationalisation processes, which are a blatant infringement on the right of private real property.

Thus, the certificate of ownership is an official document proving private agricultural ownership in the absence of a document proving this ownership, despite the fact that he is the undisputed owner of the land, and the municipal land statistics committee, during its investigations, reaches proof of ownership of the holder of agricultural land and receives this certificate from the competent state property department locally, based on the governor's decision in accordance with the following conditions and methods ².

2- Its terms

According to the text of article 12 of decree 73-32 of 05/01/1973, every exploiter of private agricultural land or intended for cultivation and whose ownership is not confirmed or confirmed by the documents and contracts indicated in articles 03, 04, 05 of this decree shall submit to the competent investigative committees during the land census the following documents:

¹ - Hamdi Pasha Omar, protection of private real property, Houma printing, publishing and distribution house, Algeria, 2004, p. 50

² - Decision No. 197.920 dated 28/06/2000, judicial Journal, first issue, year 2000, p.249.

- A statement to the expanded municipal people's council explaining the nature by which this land is exploited.
- This permit must be accompanied by all information related to the location, type and area of agricultural land.
- The actual exploiter must provide all his civil status documents.
- To submit written certificates, tax documents and all documents that would prove his right to the exploited land ¹.

Second: The procedures for preparing and handing over the certificate of ownership

1. Its procedures

The municipal technical committees used in application of article 77 of the order 71/73 containing the law of the agricultural revolution, after receiving the statements and documents of the actual exploiter, shall collect all information from the neighbouring owners of the real land owner ², and that this land is outside the lands of the throne and the lands of the endowment or public peasant lands, or the owner's lands confirmed by an official deed in the concept of articles 3, 4, 5 of decree 73/32, to be prepared a provisional report to be deposited at the headquarters of the municipal people's council for 15 days.

As for the real owners, an important part of the nationalised lands was recovered during the recourse of the nationalized to justice to recover their lands, and as for those whose disputes were not resolved, they were settled under law 90-25, whether by restoring their lands, or by compensating them financially in case their lands are occupied by beneficiaries located on them, without objection, the municipal technical committee shall, within the next 08 days, edit a final report or express reasoned opinions on objections, if any, and this property is free of costs and burdens or any right of public groups ³.

The final report shall be deposited with the municipal people's council for transmission to the governor, for ratification by a decision, and any person with an interest or objection can within 30 days from the date of publication of this decision by

¹ - Mahmoudi Abdelaziz, Ibid., pp. 41-42

² - National Seminar of the real estate judiciary, Directorate of Religious Affairs, National Bureau of educational works zaralda days 16, 15 in 1993, p .22.

³ - Mahmoudi Abdelaziz, Ibid., p. 42

the appeal procedures before the state appeal committee, according to article 68 paragraph 02 of the order 71/73 containing the agricultural revolution.

2- Editing the property certificate and handing it over:

Article 21 of the aforementioned decree 73/32 dated 05/01/1973 states: "The final minutes and the papers supporting them shall be forwarded by the municipal people's council to the governor for ratification".

It is handed over to the recognised owners of agricultural or agricultural private land, which accurately indicates the type, location, area and boundaries of the land or land plots ¹.

In the case of a common occurrence, the names of the heirs or partners in the property are mentioned in the certificate of ownership, as well as the burdens and agreements burdened with the property that may have appeared at the stage of investigation.

In addition, the certificate of ownership is registered free of charge after completing the registration procedures, to form sets of municipal real estate cards, and after editing and registering in the registration department and in the municipal real estate card set, and handing it over to the holder becomes an official proof document until the completion of the general land survey procedures, to replace this certificate with the real estate book, which becomes the only official document to establish evidence in proving real estate ownership, and as long as the general real estate survey is not completed and requires a long time to complete, the certificate of ownership and other proof documents remain valid until the delivery and circulation of the real estate book².

The second requirement: Certificate of possession

The small percentage of documented ownership, inherited from the colonial era, in addition to the rural displacement that Algeria experienced after independence, and the resulting many problems, especially in the illegal exploitation of land plots, and the difficulty faced by the public authorities in restoring the situation to what it was before, led the Algerian legislator to try to solve the problem of proving real estate ownership in a transitional way by handing over the certificate of possession to the apparent owner³.

Within the framework of organising the municipal real estate index, which includes a general inventory of all real estate properties located on the territory of the

¹ - Mahmudi Abdelaziz, Ibid., p. 43

² - Abdul Hafid Ibn ubayda, Ibid., p. 130

³ - BonshadaHouria, head of department at the State Council, certificate of possession, study Day on real estate disputes in the Administrative Judiciary, State Council , 02 April 2015, p.03.

municipality, the Algerian legislator has determined how to prepare a certificate of possession and hand it over in accordance with article 39 and the following of the real estate directive law 90-25, and to activate this, decree 91-254 of 27/07/1991 was issued specifying how to prepare a certificate of possession and the surveys did not include a possession deed called a certificate of possession ¹, which is what prompted us to touch on the concept of a certificate of possession (first) and its procedures (second).

First: The concept of certificate of possession

1-Its definition

The certificate of possession is more like a contract or an administrative decision that has an official character and it does not exceed its status as a deed of possession and not a contract of ownership, because the beneficiary of this certificate, as confirmed by article 43 of the real estate directive law ², exercises powers aimed at upgrading the investment of real estate money for holders, in the direction of separating ownership and use to ensure rational and beneficial exploitation of land, and when interpreting the text of article 47 of the real estate directive law ³, it is understood that the liquidation of the legal status of real estate and determining the real status of it concerned with the certificate of possession will be on the occasion of completing and preparing general land surveying and formation of the cadastral register of the relevant municipality ⁴.

Therefore, the certificate of possession is an official document that proves to the holder the right of possession of the property subject to the certificate, after completing the registration and publicity procedures, and may not amount to a title deed, but it is a strong basis for the acquisition of ownership through the statute of limitations gained in accordance with the legal procedures in force ⁵.

When reading article 39 of the real estate directive law carefully read: "every person who, according to article 823 of order 75/58, exercises continuous, uninterrupted, quiet and openly and without suspicion on private property lands whose contracts have

¹ - Mahmoudi Abdelaziz, Ibid., p. 236

² - Article 43 of the real estate directive law, the delivery of a certificate of possession does not entail a change in the legal status established by him for the property.

³- Article 47 of the same law: "the legal status applicable to the real estate concerned by the certificate of possession established by this law on the occasion of the preparation of the public land survey, and the formation of the cadastre in the municipality concerned shall be liquidated by order 75/74 of 12/12/1975 containing the preparation of the public land survey and the establishment of the cadastre.

⁴ - Mahmudi Abdelaziz, Ibid., p. 250.

⁵- Abdul Hafid Ibn ubayda, Ibid., p. 133.

not been drawn up, can obtain a deed of possession called a "certificate of possession", which is subject to the formalities of registration and real estate month, in areas where the land survey register has not been prepared, and the delivery of a certificate of possession in pastoral areas remains subject to the special law announced in article 64 below".

Taking into account article 2 of executive decree No. 91/254 dated 27/07/1991¹, we come to the definition of a certificate of possession as: "a nominal possession deed prepared by the chairman of the municipal people's council in accordance with legal forms and within the limits of his powers and competence includes the month of possession based on the request of permission from the holder and subject to registration formalities and real estate month".

From these two materials it is possible to derive the characteristics of the certificate of possession, which are as follows:

A- The certificate of possession is a nominal certificate, i.e. of a personal nature, and that is required, if its owner dies, the heirs or other participants in the possession have one year starting from the date of death to request the delivery of a new certificate of possession in their name, noting that the new certificate of possession is prepared on a mandatory basis and delivered to the beneficiaries after registration with the registration and stamp authority and its month in the real estate governorate, and if the renewal of this certificate is not requested within the legal time limit, it is cancelled by force of law².

B- The certificate of possession is inalienable, in the sense of prohibiting any act of sale, gift, will or other transfer of ownership.

C- A certificate that does not change the legal status of the property, according to article 43/1 of the real estate guidance law³.

2-Conditions for applying for a certificate of possession

Pursuant to article 39 of the amended and supplemented real estate directive law and pursuant to article 20 and the following of decree No. 91-254, any holder of a property whose official contract has not been drawn up⁴, provided that it is a non-public private property, located in a municipality whose territory has not been subject to land

¹ - Article 02 of Executive Decree No. 91/254 dated: 27/07/1991, specifying how to prepare a certificate of possession and hand it over.

² - Azzouy Hazem, mechanisms of clearing private real property in Algerian law, master's note, University of Batna, academic year 2009/2010, P. 101

³ - Refer to Article 43 of law 90/25 dated: 18/11/1990 containing the real estate directive law.

⁴ - Resolution No. 572.238 dated 14/01/2010 : "do not hand over a certificate of possession of a land plot despite the availability of conditions of possession if this land plot has a title deed" Supreme Judicial Journal, special issue 2010, p. 133

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surveying procedures, and such possession is continuous, quiet, public and without suspicion for at least one year, may apply for a certificate of possession¹.

This requires that possession meets its legal conditions, and therefore if there is a dispute about this possession and one of the opponents fulfils its legal conditions, while the other opponent has no title to it, and based on the testimony of witnesses, or based on other evidence that does not benefit his possession, in this case possession that meets its legal conditions is based on the presumption of ownership of the holder². After the previous conditions of possession are met, the application can be submitted to the municipality in whose jurisdiction the property is located by a petition containing data on the nature of the property, its location, area and status, if necessary, the rights and burdens burdened by the property, with the designation of beneficiaries, and the application necessarily includes the full identity of the holder, or holders.

Second: The procedures for preparing and handing over the certificate of possession

The individual procedure and the collective procedure for preparing the certificate of possession is the difference between them because the holder in the first procedure is not limited to submitting the application within a certain period, he submits it to the municipality whenever he wants, and does not lose his right to do so, as for the collective procedure, the holder is obliged to submit the application within two months from the date of publication of the guardian's decision in the press, otherwise his right to possession will lapse³, so how is the collective action done?

Before we discuss the explanation of the procedure, it can be noted that decree 91-254 dated: 27/07/1991 specifies how to prepare a certificate of possession and hand it over. It guarantees simple and quick procedures and short deadlines for the preparation and preparation of the certificate of possession, after the formation of the aforementioned file by the holder, and is deposited with the competent municipality for the investigation and investigation procedures carried out by the competent mayor regionally, including the recognition of the correct real estate possession of the concerned and ending with the editing and delivery of the certificate of possession, according to the form specified by the decree regulating it, and subject to registration procedures and public notary⁴. After the aforementioned file is filed before the competent municipal authorities, it is the role of the regionally competent mayor

¹ - Abdul Hafid Ibn ubayda, Ibid., p. 133

² - Abdelbaser Tawfik Al-Attar, proof of ownership by possession and by Will, distribution of the House of Arab Thought, Egypt in 1978, p.147.

³ - This is the fact that the collective action is carried out in accordance with rural or urban modernization programs of public benefit, or real estate regrouping programs.

⁴ - Refer to Article 03 of executive decree 91-254 dated: 27/07/1991 specifying how to prepare and hand over the certificate of possession.

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to carry out his role of editing the certificate of possession, where article 39 of the real estate directive law, which introduced the certificate of possession and its implementing decree, granted the authority to edit and prepare the certificate of possession to the chairman of the regionally competent municipal people's council.

The applicant for the certificate of possession submits his technical file, which takes into account all legal forms, as well as meets the legal conditions of possession set out in article 524 of the code of civil and administrative procedure, and the decision issued by the governor, which includes initiating the collective procedure, is deposited and the territorial area concerned with the procedure is determined by the concerned municipality or municipalities concerned with the procedure. This decision is announced to be deposited by posters at the headquarters of the concerned municipality and its public places for a period of two months, and the poster announcement indicates that every person exercising title-free possession of a property of private ownership, under penalty of loss of his right, is obliged to submit a petition for the delivery of the certificate of possession within two months from the date of publication in the press, in addition, the decision is published in one of the regional or national newspapers at a rate of four bulletins renewed every 15 days.

The petition containing the certificate of possession shall be deposited with the competent authority to receive such applications in the concerned municipality. As for the chairman of the municipal people's council, he opens a special register, numbered and signed by the chairman of the regionally competent court, and, if necessary, notifies the petitioner within eight days following the filing date of all the additional information he deems useful, and then publishes a summary of the petition by means of an announcement affixed to the municipal headquarters for two months, within 15 days following the filing date in order to open the objection¹. He also notifies the head of the National Property Authority within 15 days of the mandate to clarify the legal status of the property subject to the application, to exclude its dependence on national property, and the response is mandatory under the personal responsibility of the head of the National Property Authority. In the event that no objection to the request for a certificate of possession is filed either by the head of the state property authority or by other parties within the specified deadlines², the chairman of the municipal people's council shall draw up a report proving the absence of any objection within the next eight days following the date of expiration of these deadlines³.

After that, he prepares a certificate of possession according to the form attached to the executive decree, which is in the form of an administrative decision, the first article of

¹ -- Abdul Hafid Ibn ubayda, Ibid., p. 137

² - Refer to Articles 10, 11 of Decree 91/254

³ - Abdul Hafid Ibn ubayda, ibid., pp. 137 and below.

which includes recognizing the possession status of the person or persons in possession with the identification of the person in possession, assigning the property by its type, area and boundaries, then assigning the proportions belonging to each holder in until the registration and publicity procedures are completed, the certificate of possession is no longer a condition restricting the practice of litigation possession is subject to the provisions of the civil code, they do not restrict the claim for possession¹.

The second topic: The real estate book and the title deed in accordance with law 07-02 as official documents proving real estate ownership

The first time the Algerian legislator used the term real estate book was in the text of article 32 of decree No. 73/32 dated 05/01/1973 on proving the right of private property² (the first requirement), and law 07-02 was introduced as an exceptional law equivalent to order 75/74 on land surveying and the establishment of the real estate registry through which a title deed is issued according to a real estate investigation carried out at the request of the concerned (the second requirement).

The first requirement: the real estate book as an official document to prove real estate ownership

Article 32 of decree No. 73/32 of 05/01/1973 on proving the right of private property stated that he hands over to the owners, a real estate book instead of certificates of ownership, and that it constitutes the only basis for establishing evidence regarding real property, and the legislator did not give an exact definition of the real estate book, but only mentioned it, also in articles 18 and 19 of order 75/74, article 18 of which stated: "on the occasion of the first article 19 adds: "All rights existing on a property at the time of publicity are recorded in the land registry, in the book that constitutes the title deed". The process of preparing the real estate book is the last stage of establishing the real estate register, so that the owner can prove the totality of his rights contained on a particular property, and this will be detailed.

First: The content of the real estate book

With reference to the text of article 45 of decree No. 76/63, the real estate book is identical to the model specified by a decision of the minister of finance, and this was

¹ - Decision 386.808 issued on 14/02/2007: "the legislator did not make the certificate of possession a condition for the exercise of possession claims subject to the provisions of articles 817 et seq. of the Civil Code and articles 413 of the code of civil procedure (Article 524 et seq. of the current code of civil and Administrative Procedure), Journal of the Supreme Court, special issue 2010, Ibid., p. 137.

² - Decree 73/32 dated 05/01/1973 containing the proof of private real estate ownership, which came in implementation of Order No. 73/71 dated 08/11/1971 containing the law of the agricultural revolution, the latter of which was repealed by Article 75 of law 90-25 containing the real estate directive.

embodied by the ministerial decision dated 27/05/1976 containing the content of the real estate book¹.

The latter consists of the stamp and six tables, as the stamp is the defined data set of the property assigned to the ledger, and includes: municipality, department, property group, survey capacity ,as for the tables, the first one designates the property group with a mention of the natural match (location, area, number of constituent lots...),the second relates to those initial actions of the month of real estate rights, as well as all subsequent real estate transactions on the property, in which the owner or owners are identified in terms of their identity (name, surname, profession, nationality...), the third table records all the procedures related to subscriptions in the interval with the positive and negative agreements of the real property group with the references of its declaration in the corresponding field, and also indicates all changes or finishes that are attached to the famous rights, and the fourth table includes the sum of rights related to particles and burdens, such as the case of the fifth table indicates all privileges and mortgages on the property group, and the sixth table concerns the certification visa, through which the real estate governor certifies and under his responsibility two things:

- 1- It is the certification of the date of delivery of this notebook to its owner.
- 2- The conformity of the two visas indicated in the book with the approved real estate card, and it is certified by putting the official seal of the governorate, and the signature of the real estate governor².

Second: How to prepare a real estate book

The rules for preparing the real estate book are not much different from the rules for real estate cards³, and article 45 of decree 76/63 has included the rules for preparing and marking on the real estate book, as the marking is done in indelible black ink and in a clear, easy-to-read way, and it is crossed out on the whiteness with a horizontal line, it also prevents stuffing, scraping, and mistakes, and in case of error or omission, the inclusion of a word or information is used except in special cases or graduates numbered and certified by the real estate governor, and when writing the names of the owners, the surname is written in capital letters, the name is written in small letters as the sheets of the real estate book are numbered, and the first procedure must be underlined in red ink, with the reasons for cancellation referred to in the notes box, and any note received on the real estate card must be indicated in the real estate book, and the real estate governor can automatically correct the visas contained in the real

¹ - Decision of the minister of Finance dated:27/05/1976 containing the real estate book form, Official Gazette No. 20 dated 09/03/1977, P.376.

² - The decision of the minister of Finance on the model of the real estate book, op.cit.

³ - Article 33 of Decree No. 76/63, dated: 25/03/1976 on the establishment of the land registry, official gazette of 1976, No. 30.

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estate cards and he can warn the request of the real estate book holder in order to adjust and correct the latter¹.

Due to the importance of the real estate book, the legislator has required that it be accompanied with the filed documents, otherwise the publicity procedure is refused by the real estate governor, however, there are cases where the publicity procedure can be done without presenting the real estate book, namely²:

-In the case of establishing a group of real estate cards (cadastre)³.

- In the case of contracts or judicial decisions issued without the assistance of the real owner or against him.

- In the case of registration of a concession, legal or judicial pledge.

The real estate governor may indicate the real estate cards , but it is difficult for him to transfer these visas on the real estate book due to the holder's refusal to provide it, so the legislator authorised the real estate governor the right to hand over another real estate book to the new owner with reference to this in the real estate card of this property, this is after the governor notifies the holder of the book to carry out the procedure by a recommended letter with a receipt notification that includes a warning to the concerned about the need to deposit the book within 15 days from the date of receipt of the notification the recommended letter in order to adjust it and this warning remains without result, and in the event that the owner requests to correct an error, the real estate governor should request to deposit the real estate book to confirm the existence of the error, in case of refusal of the correction, the real estate governor must inform the owner of his decision to refuse, by a recommended letter within a maximum period of 15 days from the date of filing the application⁴.

Third: Delivery of the real estate book

The real estate book is handed over to the owner whose right has been established on a surveyed property, and a real estate card has been created showing the legal status of the property in question, each transfer of ownership does not lead to the creation of new cards, but only the real estate book deposited by the old owner is seized to be handed over to the new owner, in the case of a sale, for example, the book in the seller's possession is deposited with the sales contract drawn up by the notary at the real estate governorate, when the contract is made public, the real estate book indicates the transfer of ownership, and the same real estate book is handed over to the new owner (the buyer).

¹ - Article 51, of Decree 76/63.

² - Article 50, of Decree 76/63.

³ - Refer to Article 13 of the order 75/74 containing the preparation of the General Land Survey and the establishment of the cadastre.

⁴ - Article 51, paragraph 2 of Decree 76/63.

On the contrary, if it is necessary for the real estate governor to prepare a new real estate book, such as the case of dividing the property group into several shares, property plots or other property groups bearing new numbers, the real estate governor, based on article 49 of decree No. 76/63 in order to create a new real estate book, he must receive the previous book and indicate it in the approval card, however, in practice, this book is not destroyed but kept aside in the archive and indicate on its pages that it has been cancelled.

The basic principle is that as soon as the owner's right becomes valid on the occasion of the creation of a real estate card¹, a real estate book is handed over to him, except if the property is owned by the community, then one real estate book is prepared and deposited with the real estate governorate, unless the partners agree to appoint an agent to keep this book, in which case the corresponding real estate card is indicated to the person to whom the book was transferred².

It should also be noted that in case of loss or destruction of the real estate book, the person from whom this book was lost can submit a written request, a reason and prove his identity in order to obtain another book, with the indication on the card approving this process³.

4- Finally, we conclude by saying that the final goal of all these operations is to prepare a real estate book and hand it over to the owner, according to which he proves his ownership over a particular property.

Thus it can be considered that the cadastral book represents the actual embodiment, the legal establishment of the cadastre, and that it serves as an object of real estate ownership that derives its soul from the survey documentation⁴.

As the lesson is in the real estate book of the ownership group and not by the owner, because each ownership group has one real estate book, and the owner can have more than one real estate book if he owns more than one ownership group, and one ownership group has one real estate book even if there are multiple owners.

The second requirement: The title deed updated by law 07-02

¹ - Article 46 of the same decree.

² - Article 47 of the same decree.

³ - Articles 52 and 53 of the same decree.

⁴ - Majid khalfouni, real estate book, notary magazine, National Chamber of notaries, eighth issue, 2008, p.15.

The decision No. 259.635 dated 21/04/2004 stated: "the real estate book, as a title deed, is handed over after completing the investigation and the legally prescribed procedures, and not relying on mere statements", Journal of the Supreme Court, special issue 2010 Ibid., p. 257.

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The legislator has introduced law 07-02 as an exceptional law equivalent to order 75/74 on land surveying and establishment of cadastre.

The purpose of this law is to establish a procedure for the inspection of the right of real estate ownership and the delivery of deeds by conducting a real estate investigation¹, the purpose of which is to hand over title deeds to real estate that has not been subject to the land surveying operations provided for in the above-mentioned order 75/74.

First: The procedure for preparing the title deed

The real estate investigation includes properties whose owners do not hold title deeds or for which title deeds were issued before the first of March of 1961, which no longer reflect the current real estate situation, as except national real estate properties, throne lands and endowment properties are excluded from the provisions of this law.

Real estate investigation every natural person or legal person who exercises possession of a property directly by himself or through other persons can request the opening of this real estate investigation in order to inspect his ownership right and hand him a title deed², and this request is addressed to the competent state real estate conservation manager regionally, in exchange for the delivery of a receipt on the identity of the applicant and the capacity in which he acts either as a holder, individual owner or common owner, and specifies all negative and positive agreements that can transfer the property under investigation to the ownership of the applicant or not, and the application must be accompanied by a topographic map of the property and a position that will be at the expense of the applicant and completed by a real estate expert engineer, and this is in accordance with the decree executive No. 08-147 dated 19/05/2008 concerning the real estate investigation operations in articles "3" and "4", but if the request to open a real estate investigation is for a collective operation, the governor is the one who determines the decision on his initiative or from the chairman of the competent municipal people's council to open a collective real estate investigation³.

The task of real estate investigation is assigned to the real estate investigator from among the staff of the state property inspectors, who performs several tasks, the most important of which is to receive the applicant's statements regarding the facts and circumstances that were practiced on the requested property, and to carry out all investigations to prove the real existence of the claimed property to protect the rights

¹ - Article 01 of the law 07-02 dated 27/02/2007, which includes the conduct of a real estate investigation.

² - Article 04 of the law 07/02.

³ - Article 05 of Executive Decree No. 08/147 dated 19/05/2008 on real estate investigation, official gazette No. 06, issued on: 25/05/2008, P. 03

of others, in order to prepare an interim report that is legally justified containing the results of the investigation¹.

He also restricts the objections that may be raised during the real estate investigation, in a special open register to be placed with the official of the state real estate conservation interests, as well as to schedule conciliation sessions of the parties, if they reach an agreement, the real estate investigator draws up a record of this, and in case of non-conciliation he also draws up a for publicity, the real estate conservancy manager informs the relevant applicant, and the investigator thus continues real estate in the procedure of its realisation without taking into account the protest or objection².

Second: Delivery of the title deed

After the completion of all the investigation procedures, the real estate investigator shall prepare a final report in which the results will be included, accordingly, if the ownership right is established as a result of the real estate investigation, the official of the state real estate conservation interests shall issue a decision related to the real estate numbering in the name of the concerned owner of the property under investigation and sent to the competent real estate governor regionally for implementation.

The real estate numbering decision is announced by marking in the set of temporary real estate cards, therefore, the notification procedure implemented in the sense of article 88 of decree No. 76-63 dated 25/03/1976 amended and supplemented and related to the establishment of the real estate register at the starting point of the property right that it enshrines³, the real estate numbering decision is a deed of ownership.

As for article 24⁴, it abolished decree No. 83/352 dated 21/05/1983, which provides for the procedure of limitation of earnings and the preparation of a contract of goodwill containing the recognition of ownership, and the title deed resulting from the minutes and numbering decision can be concluded that it is an administrative decision, and therefore falls within the administrative bonds proving real estate ownership.

In addition, the Algerian legislator cancelled the notary's authority by cancelling the certificate of fame as a declaratory contract and embodied a qualitative shift by transferring these tasks to the real estate governor, the title deed is based on the statements of his student. As for the real estate investigation, realistically and

¹ - Articles 9 and 10 of law 07/02 .

² - Article 17 of executive decree 08/147 on real estate investigation.

³- Article 20 of the same decree.

⁴ - See Article 24 of it.

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practically it cannot achieve stable and objective results, but the legislator aimed to protect real estate whose owners do not have title deeds to ensure their right to own it, and to make it a means of proof in the event of a judicial dispute about it.

Conclusion:

After all the above, we conclude by saying that despite the intervention of the Algerian legislator in order to put an end to the problem of proving and controlling real estate ownership by issuing many legal texts on it, however, the application of what was stated in it was not easy, especially in front of the widespread phenomenon of customary contracting, in addition to the indiscriminate occupation of land after independence, with the difficulty of completing the survey process, which requires a long time to clear real estate ownership and reach the formation of real estate vessels proven by bonds with legal force by establishing the land registry, and therefore we conclude a set of results with some proposals that we saw that serve the subject.

First: The results

- Administrative bonds of various types are considered the most important bonds proving real estate ownership as they are issued by competent administrative bodies in the state.
- The real estate book is the only document to prove real estate ownership after the real estate survey process.
- As long as the general real estate survey is not completed and requires a long time to complete it, the certificate of ownership and other proof documents remain valid until the delivery and circulation of the real estate book.
- The certificate of possession is a valid document, which helps the municipal land surveying Commission, when it initiates the procedure of land surveying operations at the municipal level.
- Law 07-02 aims to establish a procedure for the inspection of the right of real estate ownership and the delivery of deeds by conducting a real estate investigation, the purpose of which is to hand over title deeds to real estate that has not been subject to the land surveying operations provided for in order 75/74.
- Due to the slowness and difficulty of survey operations, which are due to several reasons, including technical and human, the intended purpose of clearing real estate property, is still hostage to the obstacles it faces from the lack of bonds provided by the occupants of land, especially agricultural, as well as customary actions that overwhelm the real estate market despite the requirement of formality in the actions focused on the property due to the lack of awareness of the citizen.

Second: Suggestions

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- Reactivating the real estate survey process with setting deadlines for its implementation by framing the human element supervising the property, whether for engineers in cartography, or in land surveying, and this by programming a series of training courses inside and outside the country.
- Doubling the material and human means to raise the capacity of the survey, which has not been conducted at a rapid pace since 1976, which kept the real estate crisis.
- Encourage direct survey in accordance with law 07/02 by the properties at the expense of the applicant for investigation and inspection.
- Encouraging people to resort to real estate transfer procedures and thus ensuring the stability of real estate transactions through a decrease in the rates of tax fees imposed on registration and tax on surplus value.

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