

## The Cadastral Process in Algeria -The Agricultural Real Estate -

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### **Abstract:**

*Real estate plays a prominent role in achieving sustainable development by providing the basic basics for building the economic entity of contemporary countries, and in order to achieve a well-defined real estate market from all legal, economic and social aspects , the Algerian legislator paid great attention to the disinfection of real estate property through the development of the general land survey system through a set of regulatory procedures and harnessed all the material and human potential until this system is generalized throughout the country.*

*However, the survey process, in addition to the slowdown that it experienced since its inception, faced legal problems that emerged, especially in the agricultural property, which necessitated reconsidering many points and amending some procedures to settle these legal problems that hindered the clearance of real estate property in Algeria .*

**Keywords :** *agricultural property; land survey; real estate property clearance*

### **1. Introduction :**

The legislator adopted the in-kind month system, instead of the personal month system in the surveyed areas, with the continuation of the personal month system temporarily for real estate that was not covered by the surveys, in order to clean up the real estate arena and eliminate the chaos that sweeps it, and to achieve a well-defined real estate market in all legal, economic and social aspects, by determining the natural scope of real estate and enabling its owners from the title deeds, which ensures the publicity of all actions related to real estate ownership,

guaranteeing rights, credit stability and the growth of the economy by establishing the rules of a solid real estate preservation system, and this is shown by the volume of efforts and material, human and organizational capabilities harnessed by the state in this field.

**1.1. Research Problem:** The research problem is to clarify how the agricultural real estate hinders the land survey operations in Algeria? Which in turn raises many important questions, which we summarize as follows : What are the problems and obstacles that appear in the agricultural property during the survey

process? How effective are the legal texts in solving these problems?

**1.2. Objectives of the research:** This study aims to highlight the reality of the legal nature of real estate, especially agricultural property in Algeria, by clarifying the process of general survey of the property and highlighting its importance and implications for real estate policy, and the effectiveness of this mechanism in clearing real estate property in general and agricultural property in particular and reducing judicial disputes.

**1.3. The importance of research:** The general real estate survey is the most important measure adopted by the state in order to disinfect the agricultural property, as it creates a documentary base for each municipality, and it has proven its practical and scientific effectiveness in the countries that adopted it as one of the procedures entrusted with disinfecting the property in general and agricultural real estate in particular, which will inevitably lead to the stability of transactions and give greater impetus to investment and the mobilization of multifaceted potential in various fields.

**1.4 Methodology of the research:** The nature of the subject requires, through the problem at hand, to study it according to the descriptive and analytical approach by extrapolating and analyzing some legal texts and devising the most important procedural amendments to determine their effectiveness in addressing this problem.

**2. Land Survey:** The process of establishing the real estate registry is preceded by a major process that is the basic pillar and the backbone on which this system is based, and the Algerian project called it "General Land Survey". It was

adopted by Algeria in 1975 through the issuance of Order 74/75

### **2.1. Land Survey Concept:**

Real estate ownership within each country is divided into public or private ownership, and in order to determine each property and limit the area of each owner, it was necessary to comprehensively count the properties for the purpose of material and factual information, by knowing the area of each property accurately and making sure of the owner's bonds and matching the documents with the survey and field accounts, all this in the so-called real estate survey process; we know the latter and show its characteristics and types according to what the Algerian legislator dealt with in various laws and regulations and then talk about the desired objectives of it.

#### **2.1.1 Definition of Land Survey:**

The Algerian legislator did not know the real estate survey, but clarified among the objectives of the process, where the survey of public land on the total national territory constitutes a material basis for the real estate registry, where it determines and defines the natural scope of real estate and determines the properties in order to prepare an organized plan.

The general survey preparation process includes the identification of all properties located in the areas where the process was opened, regardless of their type or class and whoever their owners are, in terms of the following:

- The material strength, the nature of the land and the patterns of agricultural crops that are accomplished with regard to rural real estate.

- The material texture and the pattern of use of the buildings constructed or

exploited and described according to each floor in relation to urban real estate.

- Determining public and private properties  
The apparent owners and holders of rights in kind and how to exploit.

The borders must be of various types and according to need embodied in a permanent manner, either by stone markers or by other markers, in accordance with the instructions of the authority in charge of surveying the lands .

Accordingly, the process of surveying the land is: "This technical and legal process, which aims to establish the identity of the property by fixing and determining the locations of the real estate, determining its full descriptions and accurately controlling the area of each piece. It is intended to prepare an organized plan for the region of each municipality and to indicate its legal status by identifying the names of its owners, the reasons for ownership and the in-kind rights incurred by them or them."

### 2.1.2. Properties of the real estate survey:

**A- The real estate survey is an administrative and technical legal process:** The cadastral process is a **legal process** based on a set of legal texts ; through which the Algerian legislator determined the system of the process in all its stages and procedures .

The cadastral process is an **administrative** process that is opened in each municipality based on an administrative decision issued by the regionally competent governor, in which the opening date of the cadastral process is determined and a committee is established to set the boundaries for the municipalities

concerned by the decision under the supervision of administrative bodies headed by the National Survey Agency.

The real estate survey process is also a **technical** process as it is based on technical field bases; taking pictures and developing topographic maps on the municipality's territory with the aim of completing plans by specialists and technicians in the field of surveying .

**b- Real estate survey is specific and identifies the natural status of real estate :** The survey determines and defines the natural scope of real estate in terms of determining the physical strength and nature of rural lands, but it determines the physical strength and nature of the occupation and exploitation of urban real estate, setting borders, and calculating the area (الدين، 2014، صفحة 177)

**C- The real estate survey is specific and identifiable to the owners of the real estate sample:** The survey identifies the owners of the real estate and the apparent in-kind rights holders, whether they are natural persons or legal persons, by identifying the full identity of the persons concerned by requesting the proof documents, whether official or customary, to prove the actual possession of the real estate to be surveyed, regardless of the type of real estate, whether peasant, urban or redevelopable, and gives each property in the municipality subject of the survey an account number consisting of five numbers , and this number is considered as an identification card for each owner, as it is sufficient to know this number until all other information about the various properties that he owns is numbered according to their order within the survey

department, and this number is given in alphabetical order for property owners, and the public bodies and institutions located in the municipality's territory are first started to move to natural persons within the schedule of accounts, and the land survey record of each owner is prepared for each account number (بوشناق، 2006، صفحة 69).

## 2.2. Types of Land Survey :

With reference to the various legislative and regulatory texts regulating real estate in Algeria, we find that there are two types of land survey. The first is the general land survey referred to in the aforementioned Order 75-74 and Decrees Nos. 76-62 and 76-63. The second is the forest land survey referred to in the aforementioned Executive Decree No. 2000-115.

**2.2.1. General Land Survey:** The real estate survey process in this matter is characterized by the fact that it is carried out at the level of a specific municipality, which is divided in view of the type of property and its consistency into two parts: rural and urban :

**a- Urban real estate:** It is represented by real estate that is not built or built, located on roads that are regularly numbered for the fixed residential entities of municipalities with a population of more than 2,000. Real estate is identified in extracts, tables, copies or pictures deposited by indicating the street and the number... "As for all other real estate, it is considered rural real estate .

**b- Rural ( agricultural) real estate:** Agricultural land and land with a agricultural orientation are represented in every land that has human-induced

production during a certain period of time directed to industrial production and human and animal consumption. The rural survey is in agricultural land (مصطفى، صفحة 542) and is in municipalities with a population of less than 2000 people. The area is calculated in hectares according to plans .

Municipal real estate is divided according to the preparation and reconstruction tools represented in : Land Occupancy Plan : in which the rules and rights of land use and construction in terms of the urban form of buildings determine the maximum amount of permitted construction that serves as the only urban summary of all construction rules (الدين هـ، الحماية الراشدة للساحل في القانون الجزائري، 2011، صفحة 389).

The Master Plan for Preparation and Reconstruction : A tool for planning and managing the urban field in which the basic directions of urban policy are determined and the future expectations of reconstruction within the framework of land use rationalization, taking into account the designs of preparation and development plans .

**2.2.2 Forest survey:** National forest property means forests ,forest-oriented lands, and other forest formations .

The most important thing that made the Algerian legislator issue a special regulation for surveying forest lands is their nature, which changes according to each place and time. However ( According to Article 2 and Article 9 of Law No. 84-12 of 23/16/1984, which includes the General System of Forests : All lands covered by forest species in the form of forest communities in a normal state. The latter means each cluster containing at least : - one hundred (100) trees per hectare in a state of maturity in arid and semi-arid

areas. - Eight hundred (300) trees per hectare in a state of maturity in humid and sub-humid areas) forest land surveys are no different from the general survey of lands in essence. However, due to the limited experience of forestry agents and the lack of means, they resort to the administration in charge of surveying public lands (الغاني، 2010، صفحة 13), starting with the issuance of a decision by the regional governor to open the process and ending with the month of survey documents in the real estate governorate.

- As for the desert survey based on Instruction No. 01 dated: 23-5-2009 issued by the General Directorate of National Property to fill the large void that was in the vast desert areas estimated at hundreds of thousands of bare hectares that can not be surveyed in the field, its survey is done by satellites and aerial photography and established a final number directly for the benefit of the state once deposited in the competent real estate governorate, and this is contrary to the rules of Decree No. 76-63, which stipulates that real estate owners who do not have valid promulgated bonds do not benefit from the final numbering until two years have passed from the date of deposit.

### 2.3. Objectives of the cadastral process:

The Algerian state seeks to achieve the desired objectives of this process in the short, medium and long term. The most important ones can be limited to:

**2.3.1. The legal objective of the cadastral process:** According to the text of Article 2 and 3 of the aforementioned Order No. 75-74, the real estate base is organized in the form of real estate plots, sections, units, and this organization is emptied in cadastral

documents that include the schematic drawing and real estate inventory of the lands located within the borders of each municipality. Determining ownership rights and other in-kind rights and their publicity in the real estate registry.

This is with the aim of enabling the owner of the property from the real estate book, which is the only document to prove his possession of the surveyed property, whether the person is a natural or a legal person, which facilitates the process of legal clearance of land and reform of the real estate system on the basis of the in-kind registry system and the gradual disposal of the personal real estate declaration system, with the aim of establishing fixed and stable real estate ownership on a sound material and legal basis (مصطفى ز.، 2011، صفحة 17). The real estate dilemma and the means of real estate ownership and real estate rights cause many disputes that are presented to the judiciary, (زروقي، 2000، صفحة 22). Considering that the right to property is one of the rights guaranteed under the Constitution, the Civil Code and the Criminal Code, individuals are forced to respect the limits of their ownership and not (بوضياف، صفحة 9) to attack the property of others. The owner of the property has judicial protection that makes him immune from illegal violations and breaches. If the attack is proven, the injured party may resort to the judiciary. The real estate book and survey documents shall be the basis for proving the neighboring borders of each party to the dispute, which facilitates the work of the judicial authorities before which the dispute is submitted.

The real estate survey process aims to settle the middle ground in the agricultural sector and urban preparation, which depends absolutely on a material, technical and legal basis for the real estate judiciary (عمار، 2014، صفحة 82).

**2.3.2. The economic objective of the cadastral process:** Real estate ownership is one of the most important wealth on which economic systems are based, and the organization of this wealth to ensure real estate credit and encourage investment in various fields can only be done by technical and legal means by the real estate survey as a first stage and then the real estate registry as a final stage of disinfection. The survey process gives the economic face of the country at the international and national levels. The delay in the process in Algeria prompted the International Monetary Fund in its 1998 report on Algeria to emphasize the acceleration of the implementation of the survey process to determine the legal basis for the declaration of property, with the requirement of some areas to be surveyed and the setting of specific deadlines to end this process.

In light of the market economy, the preparation of the land survey has become more than necessary because it plays a major role in the stability of real estate transactions and the achievement of economic development by enhancing confidence, reviving commercial movement and advancing the investment process. In the absence of a comprehensive survey of all lands, the national economy remains idle to a certain extent. The fact that the uncleared property does not contain bonds proving its ownership in an absolute and final manner always remains an obstacle in

the face of investors, constituting chaos in the real estate market. It is also difficult for banks to enter into borrowing and contributing to the free real estate market because of the lack of real estate credit.

**2.3.3. The tax objective of the cadastral process:** The tax role of the land survey process is considered its original role, as the public authorities are able to know the real estate properties in terms of their type, area as well as nature, and determine the identity of their owners in order to assess the real estate tax imposed on each owner (property tax or dealing in real estate) (شامة، 2004، صفحة 116) based on the official document of the surveyed property represented in the real estate book. Although Algeria is an oil state, it does not exaggerate real estate royalties (حاجي، 2009، صفحة 28), as real estate collection is the most important financial resource to cover the public expenditures of the modern state.

### **3. Problems of the real estate survey process – agricultural property –**

The property under survey is burdened with a number of problems that arise, especially in the land of the agricultural destination due to the vastness of the area and the difficulties imposed by the nature of agricultural properties in itself, with the dependence of the survey agents on primitive means, with the aim of numbering the surveyed properties and handing over the real estate book to its beneficiaries. The Algerian legislator has allowed every stakeholder to claim the reconsideration of real estate numbering by resorting to the judiciary at both the ordinary and administrative poles. The most important of these obstacles is the problem of properties

unknown to the owner; and the problematic differences in spaces between ownership visas and cadastral measurements. We explain real estate numbering and problems and how to settle them.

### 3.1 Real Estate Numbering in Surveyed Areas

In accordance with Article 11 of the aforementioned Decree 76/63 on the establishment of the Land Registry and Order 75/74, which includes the preparation of the general land survey and the establishment of the Land Registry, the Land Governor shall number the surveyed properties in the Land Registry as soon as he receives the survey documents upon completion of the survey work in the territory of a municipality. Real estate numbering is considered to have been done since the day of signing the minutes of handing over the land survey documents. The agents in charge in the governorate record the information in the land survey record in the numbering section of the surveyed real estate, which is handed over by the director after being marked to the real estate governor. The numbering varies on the basis of the proof of ownership documents submitted, as follows

**3.1 .1. Property numbering Final numbering:** The property numbering is final numbering directly if the owner of the property is fixed with publicized title deeds, whether notarial contracts or judicial rulings proving the real estate rights in rem, as well as if the proof is in customary contracts fixed on the date before 01-01-1971 and handed over to the owner the real estate book. (خلفوني، 2008، صفحة 16)

**3.1.2. Temporary numbering of the property:** Temporary numbering is organized on the basis of the quality of contracts and documents in the hands of their owners when the land survey teams pass, to the following cases:

- The property shall be numbered temporarily for a period of 4 months if the property is without a title deed and the owner has proof of possession for a period of 15 years, then a final number shall be numbered and the real estate book shall be delivered to the owner after 4 months in accordance with Article 13 of the aforementioned decree.

- The property shall be numbered temporarily for a period of two years in accordance with Article 14 of the aforementioned decree, for properties whose apparent owners do not have sufficient proof documents, and after the lapse of two years from the date of the minutes, it shall be numbered definitively.

And when the numbering becomes final, it is granted to its owner a real estate book, which is the title deed in its new form, and it is for the property as the national identification card for the person, and each property creates its own book. If the property has several owners, such as heirs or joint owners, they must license one of them under a power of attorney to withdraw the real estate book.

Protests may be raised during the period of temporary numbering. Under the provisions of Article 15 of the aforementioned decree, those who claim to possess in-kind rights over the surveyed real estate must communicate their objection to

both the real estate governor and the opposing party by a registered letter. It is registered within the deadlines specified in Articles 13 and 14 of the aforementioned decree, and in the event that objections are raised outside the legal deadlines and the numbering becomes final, the objectors do not remain except to go to the competent administrative court, and the consequences of the final numbering is not to make the publicized rights effective against others, but rather to make it a title deed, and also gives evidential force to the official contract (ليلي، 2012، صفحة 134)

If objections are raised within the legal deadlines, they shall be recorded in the objections register at the level of the real estate governorate (مراحي، 2006، صفحة 114). The real estate governor shall try to reconcile between them. In this case, we shall distinguish between the three possibilities:

- The first possibility: reaching a reconciliation; in this case, the real estate governor writes the reconciliation report and has special binding power.
- The second possibility: Failure to reach a reconciliation; the real estate governor writes a report of non-conciliation, and informs the parties to have in this case a period of six months from the date of notification to file a lawsuit before the real estate department of the court of first instance.
- The third possibility: It is the failure to respond to the calls of the real estate governor, which makes the latter in doubt about the quality of the decision to be taken, but according to his authority and within

the limits of his powers, he may send three consecutive summonses at different times to hold the reconciliation session, and if the two parties do not respond to him, he writes a record of the absence of the two parties and shows that the attempt to reconcile has failed and the record is communicated to the two parties with alerting the opposing party of the time limit for filing the lawsuit (رشيد، صفحة 10).

During the period of temporary real estate numbering, the real estate governor does not hand over the real estate book, but only delivers a temporary numbering certificate, and the real estate book is not granted until after the final numbering.

- The Finance Law of 2018 added the numbering of real estate for a period of 15 years for real estate not claimed during the land survey works, and the Land Survey Department and during the activity of its agents created a realistic numbering case called: the case of the anonymous account, which later needed the intervention of the Ministry of Finance represented by the General Directorate of National Property to issue instructions to settle this situation

### 3.2. The problem of properties registered in an anonymous account

Real estate registered in an anonymous account is the most important problem facing the process of general survey and establishment of the land registry, we explain what is meant by it and how to settle.

**3.2.1. What is meant by the problem of real estate registered in an anonymous account:** Plots or lands that the real estate investigation has proven after exhausting

all methods of investigation, whether at the level of the real estate governorate or at the field level during the survey process, that their owner is unknown, i.e. unknown, and no one claimed them during the surveys .It emerges as a particular problem for land that is a peasant destination.

**3.2.2. Procedures for the settlement of an anonymous account:** The idea of an anonymous account has become increasingly apparent as the survey work progresses(4 صفحة 4), and this situation has posed a serious problem that reflects on the stability of real estate ownership and on the process of establishing and preparing the real estate registry in Algeria, which prompted the legislator to make several reforms and amendments in this field. (خليفة و الطيب، صفحة 13) the most important of which are the following:

**A-Procedures for settling the unclaimed real estate account in accordance with the Finance Law of 2018 :**

As a result of the large number of properties registered in the anonymous account, the General Directorate of National Property intervened through memoranda and instructions aimed at settling the status of these properties.

The legislator also intervened through the Finance Laws of 2015, where real estate has become unknown owner registered in the state account, but this law was reluctant by the Directorate of Real Estate Conservation and the Directorate of State Property because of the problems it causes, especially at the level of the judiciary .

In the event of a justified protest against a legal title, the real estate governor shall be eligible within fifteen (15) years from the date of depositing the survey documents with the real estate governorate to undertake, in the absence of any dispute and after an investigation carried out by the state property interests and the usual audit and based on the opinion of a committee consisting of representatives of the interests of the directorate in the wilaya for real estate conservation, real estate preservation, state property, land survey, agriculture, religious affairs, endowments, and municipality, the numbering of the property claimed in the name of its owner.

The legislator then tried to remedy the matter through a second amendment in the Finance Law 2018, Article 89 of which amended the provisions of Article 23 bis of the aforementioned Order 75-74, real estate became privately owned and the surveying authorities were unable to identify its owner or possessor and it was not requested during the land survey operations in an account called the unclaimed real estate account during the land survey works and it numbered a temporary number for a period of fifteen (15) years, from the date of depositing the survey documents in the real estate governorate.

On 05 April 2018, the Directorate General of National Property issued Memorandum No. 4060 regarding the settlement of unclaimed real estate during the survey works. This Memorandum came to explain and explain how to apply the text of Article 89. This Memorandum aims to explain the new measures and clarify the scope of their

application and the procedures to be followed in this regard. After completing the survey phase, the Survey Department shall hand over all the documents resulting from the real estate investigation to the real estate governorate. After the governor studies these documents and data and examines them for the governorate archives. If he finds that there is no information about this land, he numbers it temporarily in an account called the unclaimed real estate account for a period of fifteen (15) years, from the date of depositing the survey documents in the real estate governorate. If the period expires and no objection or protest is submitted, the numbering becomes final, and thus the plot becomes a state property.

The aim of the temporary numbering is for the legislator to try to protect the right of ownership of persons. If an objection is registered, this type of real estate is settled at the level of the competent real estate conservation directorate. The settlement procedures vary according to the documents submitted as follows :

- The objector submits a settlement request attached to the undeclared contracts (official or customary) and in the case of possession (tax certificates, construction contracts decisions, administrative decisions, administrative or judicial documents) and in the event that the documents submitted are insufficient to prove the fact of possession, a certificate of possession can be requested.

When all the conditions related to the settlement are met, the Director of Real Estate Preservation orders the real estate governor to temporarily number the

property for a period of two years starting from the date of submitting the settlement request. In the meantime, the real estate governor must register the objections in this regard from the concerned parties and settle them in accordance with Article 15 of Decree 76/63. At the end of the temporary numbering period, the property shall be registered directly in the name of its owner as a public asset and then given a final number, and the department in charge of the survey shall be notified.

- The objector submits a settlement request attached to official publicized documents: In the event that there is a publicized deed related to this property, it is registered directly in the name of its owner as a public asset and then gives it a final number, and notifies the department in charge of the survey. In this situation, we distinguish between two possibilities :

- The first possibility: that the official document submitted includes the same area recorded in the survey documents, and here this case does not raise the slightest problem, and the real estate governor only has to carry out a series of final numbering procedures and submit a real estate book to the objector owner.

- The second possibility: The document invoked by the objector includes a reference to an area that covers only a part of the fixed area in the temporary numbering. In this case, some procedures are required, as the matter is related to the borders and the owner. Here, the field inspection is required by an approved real estate expert engineer in addition to an official notification to the survey department.

After the expiry of a period of 15 years and the final numbering of the property in the name of the State, the objector shall have recourse to the competent administrative court to request the re-numbering of the property in his name on the basis of ownership or possession .

**B- Procedures for settling the unclaimed real estate account in accordance with Memorandum 707 dated: 23-01-2020 and Memorandum 910 dated: .2020-01-29 :** The bidders faced difficulties in benefiting from the settlement within the framework of the procedure set out in Central Administration Instruction No. 4060 dated 05-04-2018, which includes the administrative settlement of the properties registered in the account of " properties not claimed during the land survey works".

Due to the abstention of the Land Surveying Services within their response allocated to the Real Estate Conservation Services within the framework of the aforementioned procedure, they attach the real estate card (T10) and the investigation card (T7) , in return for which they require that they be provided in advance by the Real Estate Conservation Services with copies of the minutes of change in the identification of natural or legal persons (PR12) , considering that this is in conformity with the content of Instruction No. 16 dated 24-05-1998 related to the conduct of real estate survey and numbering operations.

Therefore, Memorandum No. 707 dated 23-01-2020 was issued with the aim of reminding the Land Surveying Services of the legal methodology to be followed by the Surveying Services and the Real Estate Conservation Department and unifying the

settlement measures and procedures as required by the provisions of Article 11 of the aforementioned Order No. 75-74, as the provisions of Article 11 of the aforementioned Decree No. 76-63.

Article 89 of the Finance Law of 2018, as well as the Central Administration Memorandum No. 4060 dated 05-04-2018, and that the land surveying authorities are obligated to prepare the real estate card (T10), including all elements related to the material content of the property group subject to the settlement request, as well as the survey references to be sent to the real estate governorate. In the event of a claim to settle part of the property group, the real estate card (T10) must be attached to the real estate investigation card (T07) and the measurement document prepared by the real estate expert engineer and certified by the land surveying authorities. In return, the real estate governorate conducts the real estate numbering and sends to the surveying authorities a change document in the identification of natural or legal persons (PR12) in order to apply and update the survey documents at the level of the surveying authority. The latter sends to the real estate governorate a copy of the updated survey book (M4).

Memorandum 910 dated:29-1-2020 was clear and decisive regarding the necessity of abandoning the provisions of Memorandum No. 5590 dated 06/06/2013 by the relevant departments, and at the same time confirming that it has become ineffective due to the issuance of the provisions of Article 89 of the Finance Law 2018 , and did not include practical provisions related to the subject of its organization(13 مصطفي ب.، صفحة 13)

**3.3. Problems of differences in spaces between ownership visas and cadastral measurements :** While the survey agents are conducting the real estate investigation process, especially the agricultural property, they often help in the problem of the differences in spaces between ownership visas and cadastral measurements. We explain what is meant by them and how to settle .

**3.3.1. The problem of differences in spaces between ownership visas and cadastral measurements:** The ownership documents submitted by the apparent owners of the properties are examined in order to ensure that the information contained in the ownership document matches the reality. Through the inspection process, it is often clear that the area contained in the contract submitted by the owner does not match the measured area, many of which are not accurate .

The public shall be able to view them by depositing the survey documents upon completion of the technical operations at the headquarters of the municipality for a period of one month, to ensure their conformity with what is written in the real estate survey document and to submit complaints before the survey committee headed by a judge. This committee shall submit its opinion to the head of the survey team so that he may make the necessary amendments. The determination of the area of real estate to be surveyed is obligatory in the presence of neighboring owners or their authorized representatives, regardless of the legal capacity of the owner. If the matter concerns the boundaries of real estate belonging to the state, the State Property

Authority is entrusted with representing the state, using all the documents collected from the archives of the State Property Directorate, which is regionally competent (لطيفة، صفحة 388).

Failure to follow these procedures or neglecting them leads to the commission of errors that result in disputes, the most important of which are related to errors in measuring and calculating areas, especially the vast areas in agricultural lands. As the measurements carried out by the surveying agents during the general land surveys show differences between the areas mentioned in the title deeds that exist before the surveys submitted by the concerned parties and those resulting from the cadastral measurements carried out by the topographic surveyors when calculating the areas belonging to their real estate properties, which causes them to lose parts of their property.

**3.3.2. Legal settlement procedures for disputes of cadastral differences between ownership visas and cadastral measurements:** In the event of differences in terms of area between ownership visas and cadastral measurements resulting from the cadastral survey process, the settlement shall be in accordance with Instruction No. 3883 dated July 24, 2004 , as follows :

**A- In the event that the difference does not exceed the legally permissible percentage:** If the difference - increase or decrease - does not exceed the permissible percentage estimated at 1/20 and the investigation card prepared during the installation of the boundaries of the property in question, explicitly refers to the

full references to the title deed indicating the real area, it can be declared in accordance with the law at the real estate governorate, but if the difference exceeds that, these situations must be settled, especially if the committee fails in its tasks.

Whereas, the concerned party submits a petition containing the request for investigation in order to correct the errors contained in the areas directly to the Director of Land Survey, either in writing or orally, provided that he submits a copy of the property contract previously notarized.

However, if the concerned party submits the application before the real estate governor, the latter shall write to the Land Survey Directorate within three days following the date of arrival of the concerned petition. The Survey Authority shall carry out the verification and possible corrections within 15 days from the date of contacting it by the concerned party or the real estate governor. In the case of correction, the new papers from the land survey matrix shall be deposited with the real estate governorate before the expiry of the specified period of 15 days, after which the real estate governor shall have 48 hours to carry out the correction on the basis of the new paper.

If the person concerned does not discover the error until the numbering becomes final, he shall only have recourse to the administrative judiciary in order to obtain a decision stipulating the re-survey of the land plot.

**B- If the cadastral difference exceeds the legally permissible percentage:** Article 47 of the Finance Law of 2005 specifies how to

settle cases of a difference in the increase that exceeds the permissible limit, between the area mentioned in the title deed and that resulting from the cadastral measurement, as the settlement in cases of expansion on plots of land owned by the state according to the case: - **The first case** : The excess area cannot form usable plots. The sale is made to the occupant with the indication in the real estate investigation card that the matter is related to an excess area, in exchange for a price representing the current commercial value specified by the State Property Authority. To determine the plots of land that can be built, it can be taken as the standard of the smallest area plot in the concerned retail or that its form allows the construction of a building.

Where the occupant is notified by letter of the possibility granted to him under the aforementioned Article 47, to purchase the excess space and the State Property Administration is informed by letter, it is not necessary to prepare an administrative contract for the assignment. In this case, the State Property Authority is satisfied with preparing a hand lift and handing it over to the occupant of the surplus area. After the latter pays the total purchase price, the numbering in the real estate registry is based on this hand lift document at the level of the real estate governorate and the numbering is final in the name of the occupant. In the event that the occupant does not submit a hand lift after the expiry of the two-year period, the real estate governor shall issue a final numbering in the name of the state.

The possibility of resorting to the administrative judiciary in order to obtain a

decision stipulating the re-survey of the land plot remains if the concerned person does not discover this defect, after the numbering becomes final.

- **The second case:** If the excess part can form a usable plot of land, this part shall be registered in the survey record in the name of the state. (لطيفة ح., 2023، صفحة 390)

#### 4. Conclusion:

There is no way to cleanse real estate ownership of various types except by conducting a comprehensive real estate survey throughout the country, as the real estate survey is the only way to determine the natural and legal scope of the property to be surveyed and enable its owner to possess the title deed that gives him the right to dispose of his property, provided that he does not violate the laws in force, which ensures the publicity of all actions related to real estate ownership to stabilize it and support real estate credit. In this context, Algeria has known two systems for real estate registration; the personal system and the in-kind system that depends on the preparation of the general land survey, which is the completion of field and technical works, the preparation of which began upon the completion of the operations of the agricultural revolution.

The Algerian legislator has recruited several administrative bodies for the success of the real estate survey process, starting with the National Land Survey Agency established in 1989, which replaced the department in charge of state property and real estate affairs due to its limited human and material capabilities, passing through the survey

committee subordinated to the judge appointed specifically for that purpose and the agents conducting the real estate investigation and ending in the real estate governorate, which is the last station for the publication of survey documents. Finally, the real estate book, which is the only document proving real estate ownership, is released.

**4.1. Results :** The general land survey process faced problems that affected its success and prevented reaching the objectives of the in-kind register. The most important of which are the real estate properties registered in an anonymous account in the agricultural property; due to the vast area and the difficulties imposed by the nature of agricultural property; errors in measuring and calculating the areas; identifying the real owner and the problem of customary contracts, with the administration relying on simple primitive means and not widely publishing the governor's decision to start the survey process, in addition to the negligence and indifference that the agents encounter by some owners because they do not have sufficient culture of the importance of surveying and their absence from the field of investigation, and the failure to provide the necessary information and documents within the legal deadlines.

The legal provisions governing real estate ownership did not actually begin to be applied until several years later.

This necessitated the need to rectify and address the matter through administrative instructions and notes and legal amendments that allowed the settlement of many cases of numbering for the unknown

account and unclaimed real estate in the agricultural property.

However, despite the volume of efforts and the material, human and organizational potentials harnessed by the state in this field , this process has not been completed to date.

**4.2. Recommendations:** Based on the above, we can conclude the following proposals:

- Supporting the administrative bodies in charge of the general survey of land, especially in the agricultural property, by technical and human means, while providing training and framing to reactivate and activate the survey process and set fixed and strict deadlines for its completion across the entire national territory.

- The need to pay attention to the aspect related to publicity and advertising for the start of the survey process , as the information of the residents of the area to be surveyed should be comprehensive and public in all ways and methods according to the nature of each area,

- Following the policy of improvement and quality through the establishment of committees whose tasks are to inspect the survey directorates through a national and regional inspection .

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