

# THE REAL ESTATE REGISTER AS A DOCUMENT FOR REAL ESTATE OWNERSHIP IN ALGERIAN LEGISLATION

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## Article:

*The real estate register is an official document prepared in the specialized real estate department regionally through the land registry. Its purpose is to establish property ownership. It contains information about the property, such as location, area, boundaries, current owner, and related property rights. Additionally, the real estate register records all real estate transactions, formal and legal procedures, including sales contracts, gifts, and mortgages. Therefore, it is considered a certified document of property ownership, providing legal evidence of property rights and all associated real rights. It ensures legal security for the parties involved in real estate transactions*

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## INTRODUCTION

Most of the world's legislations have given significant attention to regulating real estate ownership by enacting legal rules that govern all transactions and dealings related to it. Among the most important documents that prove real estate ownership is the land registry. One of the key issues directly related to the land registry, which many citizens are unaware of, is the submission of these properties to the procedures of the general land survey as stipulated in Ordinance No. 75/74 dated November 12, 1975, concerning the preparation of the general land survey and the establishment of the land registry.

The importance of this research topic lies in the close connection between the land registry and the constitutionally enshrined right of ownership, which is considered one of the fundamental and essential elements upon which the rule of law and institutions are built. In addition, this research aims to clarify the legal texts related to the land registry and remove any ambiguities surrounding them.

This study addresses the conceptual framework of the land registry by defining it and exploring its legal foundation. It also aims to clarify the nature of the land registry, identify the administrative body responsible for issuing it, and examine its evidentiary value in proving real estate ownership.

So, what exactly is the land registry?

This topic is studied according to the following outline:

### Chapter One: Definition and Legal Foundation of the Land Registry

- Section One: Definition of the Land Registry
- Section Two: Legal Foundation of the Land Registry

### Chapter Two: Nature of the Land Registry and the Competent Administrative Authority

- Section One: Nature of the Land Registry
- Section Two: Competent Administrative Authority for Issuing the Land Registry

### Chapter Three: Evidentiary Value of the Land Registry in Proving Real Estate Ownership

- Section One: Land Registry as an Irrefutable Document in Proving Real Estate Ownership
- Section Two: Land Registry as a Non-Definitive Document in Proving Real Estate Ownership

In the conclusion, the study presents the main findings and offers some proposed perspectives on the subject.



## Chapter One: Definition and Legal Foundation of the Land Registry

The land registry is one of the key documents that establish real estate ownership. In this chapter, I will address the definition of the land registry in the first section, and then move on to discuss the legal framework and foundation, which include the legal texts related to the land registry within Algerian legislation.

### Section One: Definition of the Land Registry

When examining the laws, orders, and decrees that govern the land registry within Algerian legislation, we find that there is no clear, explicit, or direct definition of the land registry. This lack of a formal definition has led legal scholars to develop their own interpretations and definitions of this document. Among the various definitions proposed, one commonly accepted definition is: The land registry is a legal document in which all property rights and the burdens imposed on them are recorded<sup>1</sup>.

Another definition describes the land registry as: "An administrative document that serves as conclusive evidence of real estate ownership, according to Article 19 of Decree No. 76/63 dated March 25, 1976, concerning the establishment of the land registry. This document is issued to the owner of the surveyed property and conforms to the model specified by a decree from the Minister of Finance<sup>2</sup>."

Here is the translation of the provided text:

"A complete and accurate document that outlines the legal status of the property, where the information in the property cards is transcribed<sup>3</sup>. It is also defined by others as: 'The ownership deed of a person for the real property right<sup>4</sup>.' It is also known as 'the natural spokesperson for the current status of the property, and it is only issued to the property owner after a field verification<sup>5</sup>.'"

It is also defined as: "An administrative document issued by an administrative service, represented by the land registry office, to property owners whose rights to the property have been confirmed after the completion of the land survey. It must conform to the model specified by the decision issued by the Minister of Finance.<sup>6</sup>"

It is also defined by some as: "The real estate register is the natural spokesperson for the legal status of the property, drawing its essence from survey documents. It is created based on property cards and issued by the land registrar to the owner as proof of their rights. It is considered the only document that confirms ownership.<sup>7</sup>"

It is also known as: "That document which serves as the birth certificate of the property, confirming a person's ownership of a property or real property rights, making it a legal proof against third parties.<sup>8</sup>"

Professor Mazaud also defines it as: "A document that protects real estate ownership and serves as a means to inform third parties about transactions that have occurred on the property.<sup>9</sup>"

The real estate register is described as an administrative document issued to property owners whose rights have been confirmed after the completion of the general land survey and the establishment of the land registry. It is issued to the rightful owner upon the creation of a corresponding property card. This document is defined by a specific model in accordance with the decision issued by the Minister of Finance on 17/05/1977, and it reflects the current legal status of the properties<sup>10</sup>. In light of the above, we can say that the real estate register is an official legal document issued by the regionally competent land registrar, which confirms the owner's rights to their property and reflects the current legal status of the property. Its authority is based on survey documents.

### The Legal Basis for the Real Estate Register

The Algerian legislator first introduced the term "real estate register" in Article 32 of Decree No. 73/32 dated January 5, 1973, concerning the proof of private ownership, issued in implementation of the provisions of Ordinance No. 71/73 dated November 8, 1971, which includes the Law on Agricultural Wealth.

This article states that after the completion of the survey operations stipulated in Article 25 of the Ordinance on Agricultural Revolution, real estate registers shall be issued to owners instead of



ownership certificates. This real estate register constitutes the only document proving private property ownership in surveyed lands. Under Ordinance No. 75/74 on the preparation of the general land survey and the establishment of the land registry, issued on November 12, 1975, the second section addresses the real estate register in Articles 18 and 19, stating the following:

- Article 18: "A real estate register shall be provided to the property owner during the initial procedure, in which the information contained in all property cards is transcribed."
- Article 19: "All rights existing on a property at the time of registration shall be recorded in the land registry and in the real estate register, which constitutes proof of ownership."

Executive Decree No. 76/63, mentioned above, regulates the real estate register in Articles 45 to 54. The model of the real estate register was determined by a decision issued by the Minister of Finance on May 27, 1976.

### **Section Two: The Nature of the Real Estate Register and the Administrative Authority Responsible for Issuing It**

The nature of the real estate register varies depending on the perspective. Some view it as an administrative contract, while others see it as an administrative decision, which I will explain in the first section. Additionally, the issue of the administrative authority responsible for issuing the real estate register will be addressed in the second section.

#### **Section One: The Nature of the Real Estate Register**

Scholars and researchers have differed in defining the nature of the real estate register. Some consider it an administrative contract, while others regard it as an administrative decision.

##### **Firstly: To what extent can the real estate register be considered an administrative contract?**

The various legislations related to administrative authorities and their activities do not explicitly define administrative contracts, though they do reference them, leaving the task of defining them to jurisprudence, which varies in its interpretation.

#### **Section Two: The Nature of the Land Registry Book and the Competent Administrative Authority for Its Issuance**

The nature of the land registry book varies among different perspectives; some consider it an administrative contract, while others view it as an administrative decision. This will be discussed in the first subsection. Additionally, the issue of the competent administrative authority responsible for issuing the land registry book will be addressed in the second subsection.

##### **First Subsection: The Nature of the Land Registry Book**

Scholars and researchers have differed in defining its nature. Some consider the land registry book an administrative contract, while others see it as an administrative decision.

##### **First Point: To What Extent Can the Land Registry Book Be Considered an Administrative Contract?**

Different legislations related to administrative authorities and their activities have not explicitly defined administrative contracts, but they have alluded to them, leaving the task of definition to jurisprudence, which has varied on this matter.

For example, Muhammad Suleiman Al-Tamawi defined it as "a contract concluded by a public legal entity with the intention of managing or organizing a public utility, where the administration's intention to apply public law principles is evident. This is indicated by the inclusion of exceptional conditions not commonly found in private law, or by granting the contractor the right to participate directly in the management of the public utility."

Professor Nasser Labad defined it as "a contract in which at least one party is a public legal entity, specifically an administrative person, aimed at ensuring the operation of a public utility, and includes clauses that are uncommon in private law."

Professor Dr. Ammar Boudayef defined it as "a contract concluded by a public law entity with the aim of managing a public utility or in the course of its operation, where the intent to apply public law methods is evident through the inclusion of one or more clauses that are not common in private law contracts."<sup>11</sup>



Professor Dr. Mohamed Al-Saghir Baali defines it as "a contract or agreement concluded by a public legal entity with the intent of managing a public utility, following the methods of public law by including exceptional conditions not commonly found in private law."

From these definitions, it can be concluded that an administrative contract contains three essential criteria: the administration must be a party to the contract, the contract must be connected to the operation of a public utility, and the methods of public law must be followed. Therefore, we can apply these elements of an administrative contract to the land registry book to determine whether they apply or not.

### **To What Extent Do the Elements of an Administrative Contract Apply to the Land Registry Book?**

#### **1. Is the Administration a Contracting Party in the Land Registry Book?**

An administrative contract fundamentally requires the presence of two parties, at least one of which must be a legal public entity. When we examine the definition of the land registry book, we find that the administration is represented by the person of the land registrar, but it is not a contracting party; rather, it is the issuing authority. Consequently, a contract in which none of the parties is a public law entity cannot be considered an administrative contract. It is widely agreed that the first element of a contract is the alignment of two wills, which is not present in the case of the land registry book.

#### **2. The Extent of the Land Registry Book's Connection to the Management and Organization of a Public Utility:**

An administrative contract involves the contractor with the administration in executing or managing a public utility. The land registry book, as a document that certifies ownership, primarily relates to proving an individual's (natural or legal) ownership of a property. It does not connect the land registry book to the operation or management of a public utility, unlike an administrative contract. Therefore, the land registry book does not fulfill the second criterion, which is its connection to the operation of a public utility.

#### **3. The Extent of Applying Public Law Methods in the Land Registry Book (The Concept of Exceptional Conditions):**

For a contract to be considered administrative, it must include exceptional conditions that are not commonly found in other contracts. The law grants the administration the ability to follow public law methods in administrative contracts by incorporating exceptional conditions not typically found in civil contracts. However, the land registry book does not include these exceptional conditions or privileges that are usually associated with the administration and the efficient operation of a public utility<sup>12</sup>.

Based on the above considerations, the land registry book does not meet any of the criteria for an administrative contract, and therefore, it cannot be classified as one.

### **Secondly: To What Extent Can the Land Registry Book Be Considered an Administrative Decision?**

To answer this, we must define what constitutes an administrative decision, highlight its elements, and attempt to relate these elements to the land registry book.

The Algerian legislator, in the law governing the State Council, recognized the competence to review disputes related to administrative decisions. However, it did not define what an administrative decision is, preferring to leave this to jurisprudence and the judiciary. Therefore, it is necessary to refer to jurisprudence, which defines an administrative decision as "a declaration by the administration of its binding will, by virtue of the authority granted to it by laws and regulations, in the form required by law, with the intent of producing a specific legal effect, provided this is legally possible, and is motivated by the pursuit of the public interest."<sup>13</sup>

#### **The Extent to Which the Elements of an Administrative Decision Apply to the Land Registry Book?**

##### **1. The Land Registry Book as an Administrative Expression Issued by a Unilateral Will and in the Form Prescribed by Law:**

For a document to be considered an administrative decision, the administration must express its will in the form prescribed by law. Referring to property legislation, we find that the legislator has



mandated that the administration express its will by preparing and delivering the land registry book to the concerned individual or their agent. This is stipulated in Article 18 of Ordinance No. 75/74, which states: "A land registry book containing the data recorded in the property card collection shall be issued to the property owner upon the first procedure." In accordance with this provision, Decree No. 76/63, dated March 25, 1976, as amended and supplemented, concerning the establishment of the land registry, specifies the characteristics and data of the land registry book in Article 45.

When we consider these texts together, we conclude that the land registry book meets the first characteristic of an administrative decision because it is a unilateral act and an expression of the administration's will, executed in the form prescribed by law.

## **2. The Land Registry Book Issued by an Administrative Authority:**

Article 20 of Ordinance No. 75/74, dated November 12, 1975, stipulates the creation of land registry offices managed by land registrars who are responsible for maintaining the land registry and completing procedures related to land publicity. This is to initiate the new publicity system established by this ordinance.

The land registry office is an internal unit under the Directorate of Property Conservation, headed by a land registrar who is under the supervision of the Ministry of Finance. The administrative nature of the land registry office is derived from Article 1 of Decree No. 76/63 concerning the establishment of the land registry, which states that the land registry office is established within the sub-directorate of state property and real estate affairs at the wilaya level.

In terms of administrative law, the land registry office is an entity of administrative decentralization due to its lack of legal personality; it does not have independent legal existence<sup>14</sup>. Accordingly, we conclude that the second characteristic of the administrative decision applies to the property register.

## **3- The property register is issued by unilateral will:**

The register is issued by unilateral will and bears the signature of the property registrar alone. While the delivery of the property register represents the final stage in attributing a property in a specific location to a particular entity or individual, the process of creating the register is preceded by other stages primarily handled by the province, the surveying administration, and the municipality. Although the preparation of the property register requires significant preparation, lengthy procedures, and the involvement of multiple bodies—municipality, district, province, surveying administration—and even the participation of individuals is necessary, it still retains a unilateral nature<sup>15</sup>. The pre-issuance and signing stages are merely preliminary and preparatory, necessitated by the nature of the register as it announces a real right pertaining to a property.

## **4- The property register produces legal effects:**

Since the property register is a legal act, it generates legal effects by creating new legal positions that did not previously exist, as well as modifying or canceling existing legal positions. It reveals the legal status of properties and the rights associated with them, and it identifies the true owner of the property, as it is only issued to the property owner after a thorough field investigation. The property register serves as a reflective mirror of the property's status and the real rights attached to it, making it the sole and robust document that confirms property ownership. As such, no person can claim anything contrary to what is stated in the property register<sup>16</sup>.

In summary, it can be said that the property register is a unilateral voluntary act issued by an administrative body, namely the property registry office. It is executed according to the form prescribed by law and produces legal effects. Therefore, the property register is considered an administrative decision as it contains the elements of such a decision.

Section Two: The Administrative Authority Responsible for Issuing It The legal basis for the administrative authority responsible for issuing the property register is found in Ordinance No. 75/74, dated 8th Dhu al-Qi'dah 1395 AH, corresponding to November 12, 1975, which pertains to the preparation of the general land survey and the establishment of the property register. According to Article 20, it states: "Property registries shall be established, managed by property registrars who are responsible for maintaining the property register and completing procedures



related to property publicity, in order to implement the new registration system established by this ordinance.<sup>17</sup>

**First: Definition of the Property Registry Office:**

It is defined as "a public administrative body that operates under the supervision of the Minister of Finance and is managed by a property registrar."<sup>18</sup>

It is also defined as "a public service whose primary function is the preservation of contracts and various documents subject to registration, which involve the transfer, creation, or modification of property rights and other real rights, whether primary or accessory. This is done after their registration and entry into the collection of property records. It is also known as the Registry of Mortgages."<sup>19</sup>

It is also defined as "an administrative body under the Ministry of Finance, managed by an official tasked with registering real estate transactions and land survey documents to create the property register."<sup>20</sup>

**Second: Issuance of the Property Register:**

Article 32 of Decree No. 73/32, previously mentioned, states that after the completion of the general land survey process, property registers are issued to owners instead of ownership certificates and serve as the sole document for proving ownership.

The property register is issued to the owner whose right to a surveyed property has been established, and a property card is created to reflect the legal status of the property in question. Any transfer of ownership does not result in the creation of new property cards but simply involves updating the property register deposited by the previous owner so that it can be handed over to the new owner. For example, in the case of a sale, the register held by the seller is submitted along with the sales contract drafted by the notary to the property registry office. When the contract is registered, the property register is updated to reflect the transfer of ownership, and the same property register is then issued to the new owner (the buyer).

On the contrary, if the situation requires, the property registrar must prepare a new property register, such as in the case of dividing a property into several shares, plots, or other property units with new numbers. According to Article 49 of Decree No. 76/63<sup>21</sup>, the property registrar is required to create a new property register and must destroy the previous register, making a note of it on the corresponding property card. However, in practice, the previous register is not destroyed but is instead kept aside in the archives, with annotations on its pages indicating that it has been canceled.

Typically, once the owner's right is established through the creation of a property card, a property register is issued to them<sup>22</sup>. An exception to this occurs when the property is co-owned (held in common), where a single property register is prepared and deposited with the property registry office, unless the co-owners agree to appoint an agent to keep the register. In this case, the corresponding property card will indicate the person to whom the register has been entrusted<sup>23</sup>.

It should also be noted that in the event of loss or damage to the property register, the person who lost it can submit a written and justified request, providing proof of identity to obtain a replacement register<sup>24</sup>. The corresponding property card must be annotated to reflect this process. In conclusion, we can say that the ultimate goal of all these procedures is to prepare a property register and deliver it to the owner, which then serves as proof of ownership of a specific property. Therefore, the property register can be considered the actual embodiment and legal foundation of the property register system. It acts as a physical representation of ownership, drawing its essence from the land survey documents<sup>25</sup>. The key aspect of the property register is the property unit itself, not the owner, meaning that:

- Each property unit has only one property register.
  - An owner may have multiple property registers if they own more than one property unit.
  - A single property unit has only one property register, even if there are multiple owners.
- After the initial registration is completed following the land survey process, the owners whose rights have been definitively established are issued what is known as the property register<sup>26</sup>. This



register contains information related to the property and records all subsequent transactions involving the property, including any rights and burdens that may affect it<sup>27</sup>.

According to Article 45, paragraph 2 of the aforementioned Decree 63/76, the property register issued to each owner must be clearly and legibly marked with indelible black ink. Any corrections must be made by striking through errors with a line, while tables are to be numbered and signed. Alterations and erasures are strictly prohibited, but in cases of mistakes or omissions, errors are corrected through references. It is important to note that any crossed-out words and numbers, as well as references, must be numbered and recorded after being reviewed and validated by the property registrar<sup>28</sup>.

To ensure that the annotations in the property register are clear and free from any ambiguity, the legislator requires the property registrar to use indelible black ink for all annotations. Family names of the parties must be written in uppercase letters, while first names are written in lowercase letters in the designated space. Additionally, it is essential to draw a line in ink after each entry to prevent any unauthorized alterations or unjustified additions<sup>29</sup>.

When the property registrar performs an automatic correction, as granted by Article 33 of Decree 63/76 mentioned above, which pertains to the annotations written on property cards, this correction must be communicated to the concerned parties. Additionally, a notice is sent to the holder of the property register, requiring them to submit it for adjustment based on the registrar's request, under the conditions specified in Article 50 of the same decree.

If the owner, under Article 33 of the same decree, requests the correction of annotations written on the property card, the property registrar must comply with this request according to paragraph 2 of Article 51 of the same decree, after the property register has been submitted. If the registrar refuses to make the correction, their decision must be communicated to the owner via registered mail with a return receipt requested, within 15 days from the date the request was submitted<sup>30</sup>.

### **Section Two: The Evidentiary Value of the Property Register in Proving Real Estate Ownership**

There are differing opinions regarding the evidentiary value of the property register in proving ownership. One group views it as a document with absolute evidentiary value (First Subsection), while another group considers it a non-conclusive document in terms of evidence (Second Subsection).

#### **First Subsection: The Property Register as a Document with Absolute Evidentiary Value in Proving Real Estate Ownership**

Some legal scholars assert that the property register has absolute evidentiary value and serves as a conclusive document in proving real estate ownership, which cannot be contested. They present the following arguments in support of this view:

- Advocates of this position argue that, given the advantages of the real property registration system (as opposed to the personal registration system), particularly the fact that multiple ownership documents for the same property unit can exist within the same time period, the information recorded on the property card has absolute evidentiary power against everyone. Therefore, the registered transaction cannot be contested. According to these proponents, the Supreme Court has confirmed this evidentiary power in several rulings. Once the registration procedures are completed and the property register is obtained, the legal transaction is considered free from any defects and its validity cannot be challenged. It has absolute evidentiary power that is enforceable against all parties. This evidentiary power is based on the guarantees provided by the registration procedures, meaning that the effects of property registration extend beyond the mere transfer of ownership; they also include the purification of the document from any defects. According to Article 23 of Ordinance No. 75/74 mentioned earlier, any party harmed by errors made by the property registrar in the course of their duties has the right to seek state liability<sup>31</sup>.

- Advocates of this view argue that the property register is the sole document for proving real estate ownership and that it must be accorded absolute evidentiary power. They justify their position with the following reasoning:

Article 33 of Decree No. 73/72, mentioned earlier, states: "The property registers, based on the collection of property cards created by the municipality and the established land survey, will



constitute, according to the methods to be determined in subsequent texts, the new and sole basis for establishing proof of real estate ownership."

The property register is prepared based on property cards that rely on land survey documents. In the future, once the land survey operations are fully implemented nationwide, this register will serve as the sole and conclusive proof of real estate ownership. This has been affirmed by the Supreme Court in several of its rulings<sup>33</sup>.

With the issuance of Ordinance No. 75/74, it became clear that the Algerian legislator adopted the real property registration system (known as "systeme du titre foncier")<sup>34</sup>, which is based on the principle that the property register constitutes the only proof of ownership. All existing rights on a property at the time of registration are recorded in this register.

According to the advocate of this opinion, the property register represents the true and accurate reflection of the current legal status of real estate. It is only issued to the owner after thorough property investigation procedures, including strict and lengthy land surveys. As such, no one can claim anything contrary to what is contained in the property register. The purpose of the general land survey operations is to grant absolute evidentiary power to property rights, thereby facilitating real estate transactions, promoting mortgage credit, and establishing clear property ownership. This document serves as a definitive statement of real estate ownership, drawing its authority from the land survey documents<sup>35</sup>.

According to the proponent of this view, if a person suffers harm as a result of the cleansing effect of the real property registration system, they have no recourse but to approach the competent judicial authority to seek protection under general legal principles. These principles only entitle the injured party to claim compensation for the damage suffered. The law does not grant them the right to request any modification of the rights that have been registered.

#### **Second Subsection: The Property Register as a Non-Conclusive Document in Proving Real Estate Ownership**

Proponents of this view argue that absolute evidentiary value cannot be attributed to the property register in the context of proving real estate ownership. They believe that the property register is not conclusive and can be contested. This perspective is supported by the following points:

- Advocates of this position assert that certain rights resulting from the final registration of properties, and the subsequent issuance of property registers to their owners, do not acquire absolute evidentiary value and are not immune to challenge. Whether these rights arise from final registration—where challenges can be made according to Article 16 of Decree 76/63 mentioned earlier and Article 85 of the same decree—or from legal transactions following final registration, challenges can be made according to the general principle established in Article 24 of Ordinance 75/74. Challenges to subsequent transactions are limited to the contracting parties and their successors, while third parties are protected under Articles 85 and 86 of Decree 76/63 mentioned earlier<sup>38</sup>.

The fact that the Algerian legislator allows challenges to final registration indicates that it does not fully endorse the cleansing effect of final registration. According to proponents of this view, the refusal to fully adopt the cleansing effect of final registration is a logical result of the need to protect the rights of original owners. No matter how thorough the registrar's oversight and how precise the survey operations are, certain specific cases make it difficult, if not impossible, to conduct accurate investigations. The primary goal of establishing the real property register is to ensure the stability of transactions and trust in the data recorded in the register. This requires protecting third parties who rely on the property register and the apparent situation, rather than solely protecting the registered owner's rights. Therefore, most countries that rely on the real property register do not apply the cleansing effect absolutely; they introduce exceptions and allow challenges to subsequent transactions after the initial registration, as seen in Moroccan and Libyan law<sup>39</sup>.

- Proponents of this view argue that the property register does not possess absolute evidentiary value in proving real estate ownership<sup>40</sup>. Their reasoning is that the Algerian legislator has adopted this perspective. Through Article 16 of Decree 76/63, the Algerian legislator has





somewhat diminished the absolute evidentiary value of the registered rights. They have deviated from the principles established under the real property registration system by allowing individuals the possibility of revisiting established rights through the judiciary, even after the final registration of properties at the property registry<sup>41</sup>, thereby permitting challenges to the property register.

- This opinion is further supported by Leila Zerouki and Omar Hamdi Bacha, who assert that the ability to reconsider registered rights makes the evidentiary power of the registration non-absolute<sup>42</sup>.

When comparing the two perspectives on the evidentiary value of the property register in proving real estate ownership, particularly concerning the property register resulting from the initial registration in the property register, or the first final registration, it appears that the view considering it a non-conclusive document has valid justification. The legislator has allowed challenges to final registration through Article 16 of Decree 76/63 and Article 85 of the same decree. Land survey operations and the subsequent issuance of the property register should not be a means to deprive original rights holders of their rights. There are situations that justify such challenges, such as the invocation of acquisitive prescription during the survey process, which may affect state property, waqf property, and property belonging to minors and those lacking legal capacity. In fact, an occupant of a property might not even need the period required for acquisitive prescription to have the property registered through the survey process. Despite the lack of such a period, the property remains registered for two years, after which the occupant can obtain the property register. Moreover, practical cases encountered during the survey process can impact the final registration's evidentiary value at the initial registration stage:

1. The absence of the true holders or owners during the land survey process, who may possess ownership documents, whether registered or unregistered, can lead to others claiming ownership. Since the survey process relies heavily on individuals' statements, this may result in the registration of non-owners or non-holders as the property owners.

2. Errors may occur during the survey process when identifying real estate properties, which is a plausible issue given the complexity of the task. These operations are conducted daily and often depend on the statements of the owners. Errors in property identification can arise from the survey team or the owner themselves, potentially harming neighboring property owners. This has been proven in practice.

3. Mistakes made in property identification due to the reliance on documents and plans created during the French colonial period in Algeria are also a concern. Despite the importance and necessity of using these documents, practical experience has shown that errors do occur. Therefore, considering the property register as a non-conclusive document at the initial registration stage, with the possibility of challenging it, is seen as a fair and just approach to prevent the rights of the original rights holders from being lost under the pretext of survey operations and subsequent registration in the property register.

Regarding the evidentiary value of the property register after the initial registration (i.e., subsequent transactions following the initial registration), particularly when the register has been transferred to a third party with defects, the view that opposes the cleansing effect maintains that the legislator allows challenges to the property register according to the general principle established in Article 24 of Ordinance 75/74<sup>44</sup> mentioned earlier. According to this view, a third party acting in good faith should be protected under Articles 85 and 86 of Decree 76/63 mentioned earlier and should not be adversely affected by such challenges. The third party relies on the apparent situation and the information in the real property register, without the obligation to investigate how the first person obtained the property register (i.e., the register resulting from the initial registration).

### CONCLUSION

Through this modest and simple study, we observed that the Algerian legislator has consistently sought the best methods to maintain the stability of real estate transactions and encourage mortgage credit. This has been achieved through the adoption of the real property registration system, which focuses on regulating real estate transactions by linking them directly to the



property itself, regardless of the individual involved. The process culminates in the issuance of a property register to the holder of a real right, which is considered a strong document for proving ownership that can only be challenged through the judiciary and specific legal procedures.


However, the property register is not the only document for proving real estate ownership. There is also the title deed resulting from property investigation processes under Law No. 07/02 dated February 27, 2007, which establishes a procedure for verifying real estate ownership and issuing title deeds through a property investigation. This type of ownership applies to properties not subject to general land survey procedures.

In conclusion, I suggest and recommend the following:

1. Enrich the legal framework with more provisions regarding the property registrar, their duties, responsibilities, and the procedures for challenging their actions, as well as provisions related to the annulment of the property register.
2. Establish specialized administrative real estate courts to resolve disputes related to this subject matter.
3. Create a National Institute for Real Estate Studies with the participation of the Ministry of Higher Education and Scientific Research, the Ministry of Justice, the Ministry of Agriculture, the Ministry of Housing, the Ministry of Interior and Local Government, and the Ministry of Finance. This institute should focus on studying real estate law and related disputes.
4. Conduct training sessions and study days at universities under the supervision of professors specialized in real estate law to address issues arising from current laws and develop recommendations that could help reduce disputes.
5. Strengthen specialization in the field of real estate and administrative judiciary.
6. Enhance communication between property registrars, state property administrations, land survey offices, real estate preservation offices, municipalities, and other stakeholders such as lawyers, notaries, bailiffs, and real estate experts, to facilitate the resolution of obstacles in each respective field.
7. Address the inadequacies in the real estate training of judges, which has led to inconsistencies between judicial rulings and the legal texts governing property ownership, causing confusion and instability in real estate ownership.
8. Introduce explicit provisions in Ordinance No. 75/74 concerning the general land survey and the establishment of the property register, specifically stating the principle of absolute evidentiary power and excluding the principle of relative evidentiary power of the property register in proving real estate ownership in surveyed areas.

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  33. Supreme Court, Real Estate Chamber, Decision No. 197920 dated 28/06/2001, Judicial Journal, Issue 01, 2001, p. 249.
  34. Article 19 of Ordinance 75/74 mentioned earlier states that "All rights existing on a property at the time of registration are recorded in the real estate register and in the book that constitutes the title deed."
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  38. Article 86 of Decree 76/63 mentioned earlier states that "The rescission, annulment, cancellation, or revocation of real property rights, when having retroactive effect, cannot be invoked against a specific successor of the rightful owner unless the condition under which the



rescission, annulment, cancellation, or revocation occurred was previously registered, or if the rescission, annulment, cancellation, or revocation occurred by law, in accordance with the law."

39. Mohamedi Slimane, "Previously cited reference," p. 193.
40. Naima Haji, "Previously cited reference," p. 122.
41. Decision No. 108200, "Previously cited reference," p. 80.
42. Zerouki Leila and Hamdi Bacha Omar, "Previously cited reference," pp. 48-51.
43. The Algerian legislator has recognized the validity of unregistered documents, specifically those with a fixed date prior to 1971, through Article 89 of the previously mentioned Decree No. 76/63, as amended and supplemented by Executive Decree No. 93/123. The article states: "The rule listed in the first paragraph of Article 88 above is excepted."
44. Article 24 of the aforementioned Ordinance 75/74 states: "The decisions of the real estate registrar are subject to appeal before the competent judicial authorities."